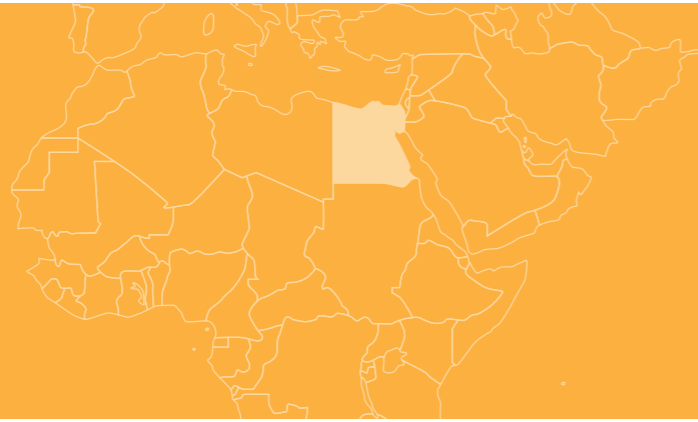


EGYPT



Equality in the Family is Necessary

- ▶ It sometimes takes women three or four years to obtain a divorce due to lengthy litigation proceedings and judges' stipulations for the availability of witnesses. There are an unimaginable number of cases in the Egyptian courts; some literature reviews state that the number of cases reaches half a million annually.
- ▶ Many judgements, especially those related to alimony, are extremely difficult to enforce due to the widespread corruption amongst the enforcing authorities, lack of adequate training, and the absence of effective punishments against husbands who do not obey court orders.
- ▶ Four years after the establishment of the family courts, the legal provisions and practical implementation of the courts have been a disappointment to all parties who engage with the system (family members, lawyers, NGOs, psychiatrists, social workers, and legal practitioners within family dispute resolution offices). This is due to a number of reasons, including:
 - The majority of family courts do not order temporary alimony for the wife or children, which is in violation of the law and increases hardships for women and children.
 - The lack of specialisation amongst some judges results in conflicting orders and judgements.
 - Psychologists and social workers are mostly recent graduates who are not sufficiently trained.
- The absence of a special enforcement administration for family courts (in violation of the law that created the family court system) creates problems.
- The husband can file an 'obedience warning' against the wife, which she has the right to object to within thirty days of receipt. If she fails to object, she is deprived of maintenance and is legally regarded as a disobedient wife who left the house without her husband's permission.
- Many family courts do not consider a wife's objection in a family court or family dispute resolution office as an adequate objection to an obedience warning.
- The family courts have not yet established adequate facilities to guarantee privacy and safety for the litigants, especially women and children, during family dispute resolution sessions.
- According to the law, family courts should be located within district courts that are close to litigants. However, this provision is not enforced and many litigants have to travel long distances to reach the courts.
- There is limited enforcement of a provision that requires prosecutors to investigate the income of the husband in order to guarantee that women is not left without alimony.
- The family courts do not offer enough publications and documentation to explain the system.

Personal status laws for Muslims in Egypt, as in many other Arab countries, are based on the Islamic *Shari'ah*, which identifies the regulations for marriage, divorce, inheritance, etc. This legal system is distinct from the rest of Egyptian legislation, which is based on the French civil code. The discourse on personal status laws is dominated by Al-Azhar and the Christian Coptic Orthodox Church, the two religious institutions in Egypt that take rather strict and regressive approaches to reform and *ijtihad* within the family law.

In 2000, a Procedural Personal Status Law, Law No. 1 of 2000, was passed that grants women the right of *khul'*. In 2004, a family court system was established to provide specific courts that litigants could use for family-related disputes. Although these law reforms were celebrated by the women's movement, implementation has been challenging and women still face injustices and inequalities.

Equality in the Family is Possible

- ▶ In an attempt to lift the hardship on Egyptian women in proving 'harm' as a ground for obtaining divorce, Law No.1 of 2000 introduced *khul'* and focused on presenting mechanisms to solve the problem of lengthy divorce procedures.
- ▶ In 2000, the marriage contract was amended to include a space in which the bride and groom can add some conditions to the contract.
- ▶ The family court system that was established in 2004, which provides specific family courts across Egypt, aims at guaranteeing the best interest of the family through providing various mechanisms to resolve family disputes and achieve justice through specialisation.
- ▶ Law 4 of 2005 introduced an amendment to custody rules. The mother's automatic right to custody ends when the child turns 15, at which time the judge asks the child to choose whether to remain with the custodian mother or not.
- ▶ In the current social, political and economic climate, Egyptian society seems ready for the changes being pushed by both civil society groups and governmental parties. This is further underscored by the existence of enlightened *fiqh* and ongoing dialogue with progressive religious leaders who call for the expansion of textual interpretation in line with the changing societal realities, which they argue can happen without violating the sacred texts.

Opposition from Religious Leaders

- ▶ Pope Shenouda III of Alexandria, the Coptic Pope, stated in 1996 that clear cutting texts govern Orthodox Christians in matters relating to their personal status, including being married only once and divorce being allowed only in cases of adultery. He stated that these are issues that are clearly defined and articulated in the Holy Bible. He also said that verses from the Bible and issues related to marriage contracts should not be the subject of public discussion, even by clerics.
- ▶ Sheikh Gadel Hak Ali Gadel Hak, former Sheikh of Al-Azhar, noted in July 1995 that the notion that equality between men and women requires a change in the traditional roles of men and women in the society and family disregards the nature of men and women. He stated that the texts of the Holy Qur'an and *Sunnah* do not allow these changes. He specifically spoke out against the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its aim to achieve equality between men and women.

Source: Report submitted to Musawah in Arabic by the Center for Egyptian Women's Legal Assistance (CEWLA), a non-governmental organisation that campaigns for the equality of women, with an emphasis on legal equality and the amendment of discriminatory laws.