

EGYPT¹

OVERVIEW OF MUSLIM FAMILY LAWS & PRACTICES

(Updated as at 31 May 2017)

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p>Equality of spouses in marriage</p> <p><i>Is there a Constitutional provision on equality and are there exceptions? Are there specific laws that recognise marriage as a partnership of equals i.e. are family laws and/or other laws relating to marriage and family relations codified or uncoded? If codified, what are the titles of all the applicable laws? If codified, do these laws apply to all citizens irrespective of religion? If not, do these laws apply to all Muslims or are there different codified laws for different sects within Islam? If uncoded,</i></p>	<p>Article 53 of the Constitution states that all citizens are equal before the law and prohibits discrimination on the several basis including sex.²</p> <p>Article 9 of the Constitution provides for equal opportunity for all Egyptians.³</p> <p>Article 10 of the Constitution states that the family is the basis of society and is founded on religion, morality, and patriotism.⁴</p> <p>Article 11 of the Constitution commits the State to:⁵</p>	<p>Family Courts were established in 2004 to streamline the hearing of family disputes with the aim of incorporating court mediation into the legal system to speed up the adjudication of such cases as well as reducing the burden of the judicial system generally.²⁰</p> <p>When deciding on personal status</p>	<p>Egypt has reservations to Articles 2, 16 and 29(2) of CEDAW.²⁴</p> <p>The Government of Egypt expressed its willingness to comply with Article 2 of CEDAW “provided that such compliance does not counter to Islamic <i>Shari’ah</i>”.</p> <p>In addition, the Egyptian</p>		<p>According to the 2016 UNDP Human Development Report, Egypt ranked 111 on the UNDP Human Development Index and 135 on the UNDP Gender Inequality Index.²⁸</p> <p>According to Egypt’s 2014 Demographic and Health Survey, about 13% of households in Egypt are headed by</p>

¹ This Musawah project to map Muslim Family Laws globally was led by Zainah Anwar and coordinated by Lead Researcher Sharmila Sharma, with substantive support from Salma Waheedi and students at the International Human Rights Clinic, Harvard Law School. For this Egypt country table, we would also like to thank Mulki Al Sharmani, Center For Egyptian Women’s Legal Assistance (CEWLA) and Mida Zantout for their inputs in its preparation.

² Article 53 of Egypt’s Constitution (2014), https://www.constituteproject.org/constitution/Egypt_2014.pdf

³ Article 9 of Egypt’s Constitution (2014), https://www.constituteproject.org/constitution/Egypt_2014.pdf

⁴ Article 10 of Egypt’s Constitution (2014), https://www.constituteproject.org/constitution/Egypt_2014.pdf

⁵ Article 11 of Egypt’s Constitution (2014), https://www.constituteproject.org/constitution/Egypt_2014.pdf

²⁰ Law No. 10/2004, <http://www.reunite.org/edit/files/Islamic%20Resource/Law%20No.10.pdf>; Nathalie Bernard-Maugiron, “Personal Status Laws in Egypt: FAQ”, (Promotion of Women’s Rights GTZ, Egypt, 2010), p. 15, <http://www.gender-in-german-development.net/custom/images/content/BilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

²⁴ United Nations Treaty Collection Website, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-8&chapter=4&clang=en

²⁸ UNDP, “Human Development Report 2016”, Table 5, pp. 214-217, http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf

<p><i>or if codified laws do not sufficiently address a particular issue, how is the issue addressed e.g. what Muslim school of law is applicable? Do these laws explicitly state gender-stereotypical roles between husbands and wives e.g. the husband is the head of the household or the wife is the primary caregiver?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c) Paras. 17-18 GR21 Paras. 54-55 GR29</p>	<ul style="list-style-type: none"> • Achieve equality between women and men in all civil, political, economic, social and cultural rights; and • Ensure women empowerment to reconcile the duties of a woman toward her family and her work requirements. <p>Laws that govern matters relating to marriage and family relations of the majority Muslim population in Egypt are not codified in one comprehensive and exhaustive piece of legislation. Instead, they are partially codified in a series of laws and include:⁶</p> <ul style="list-style-type: none"> • Law No. 25/1920 on maintenance and other personal status issues;⁷ • Decree Law No. 25/1929 on divorce and other personal status issues as amended by Law No. 100/1985 on personal status and Law No. 4/2005 on child custody;⁸ 	<p>matters, judges draw on a number of sources to justify their ruling. These include the relevant personal status laws and their accompanying explanatory memorandums (if any), court precedence, religious sources and customary norms.²¹</p> <p>Frequently, where codified law is silent on a personal status matter, “[j]udges simply refer to the Qadrī Pasha unofficial codification.”²²</p> <p>The Supreme Constitutional Court (SCC) has generally balances the views of feminist and conservative Muslim groups by adopting</p>	<p>government explained its reservations to Article 16 of CEDAW as follows: The reservation on Article 16 was made “out of respect for the sacrosanct nature of [Shari’ah] which govern marital relations in Egypt”. An important basis of marital relations in Egypt “is an equivalency of rights and duties so as to ensure complementarity which guarantees true equality between the spouses”. As a consequence of this complementary relationship, <i>Shari’ah</i> firstly, “lays down that the husband shall pay bridal money to the wife and maintain her fully and shall</p>	<p>women.²⁹</p> <p>The piecemeal codification of Egyptian personal status laws makes it more difficult for lay persons to fully understand their marital and familial rights. However, history shows that amending personal status laws in Egypt has proven to be challenging even under “reformist” regimes because of resistance by conservative Muslim groups. With the current re-Islamisation of Egyptian society, it is arguably more difficult today to re-examine all personal status laws and codify them into a unified code.³⁰</p> <p>According to civil</p>
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⁶ Nathalie Bernard-Maugiron, “Personal Status Laws in Egypt: FAQ”, (Promotion of Women’s Rights GTZ, Egypt, 2010), p. 5, <http://www.gender-in-german-development.net/custom/images/content/BilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

⁷ Law No. 25/1920, <http://www.mohamoon.com/montada/Default.aspx?action=ArabicLaw&ID=11>

⁸ Decree Law No. 25/1929, <http://www.mohamoon.com/montada/Default.aspx?action=ArabicLaw&ID=11>

	<ul style="list-style-type: none"> • Law No. 77/1943 on inheritance;⁹ • Law No. 71/1946 on testamentary bequests; • Law No. 12/1996 on Child Law;¹⁰ • Law No. 1/2000 on the reorganisation of certain terms and procedures of litigation in matters of personal status;¹¹ • Law No. 10/2004 on the establishment of family courts;¹² and • Law No. 11/2004 on the establishment of the Family Insurance Fund. <p>Article 2 of the Constitution provides that the principles of</p>	<p>a centrist position when deciding on matters of personal status.²³</p>	<p>also make a payment to her upon divorce, whereas the wife retains full rights over her property and is not obliged to spend anything in her keep” and secondly, “restricts the wife’s right to divorce by making it contingent on a judge’s ruling, whereas no such restriction is laid down in the case of the husband.”²⁵</p> <p>The Government of Egypt in its 2008 report to the CEDAW Committee asserted that the implementation of</p>		<p>society reports and academic research, in practice, the effectiveness of family courts in Egypt is impeded by several factors including:³¹</p> <ul style="list-style-type: none"> • The apparent conservatism of male judges, who form the majority of judges. However, as court reports on cases relating to personal status matters are unpublished, the merit of this assertion cannot be confirmed;
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²¹ Monika Lindbekk, “Inscribing Islamic Shari’a in Egyptian Divorce Law”, (Oslo Law Review, Issue 2, 2016), pp. 111, 115,

<https://journals.uio.no/index.php/oslawreview/article/view/4081/3561>

²² Nathalie Bernard-Maugiron and Baudouin Dupret, “From Jihan to Susanne: Twenty Years of Personal Status Law in Egypt”, (*Recht van de Islam*, 19, 2002), p. 3,

http://www.verenigingrimo.nl/wp/wp-content/uploads/recht19_dupret.pdf

²⁹ Egyptian Ministry of Health and Population, El-Zanaty and Associates and the DHS Program, “Egypt Demographic and Health Survey 2014”, Table 2.8, p. 23,

<https://dhsprogram.com/pubs/pdf/FR302/FR302.pdf>

³⁰ Nathalie Bernard-Maugiron, “Personal Status Laws in Egypt: FAQ”, (Promotion of Women’s Rights GTZ, Egypt, 2010), p. 5, <http://www.gender-in-german-development.net/custom/images/content/BilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

⁹ Law No. 77/1943, <https://goo.gl/YRHSNh>

¹⁰ Child Law (1996), https://www.unodc.org/res/cld/document/egy/2002/egypt_child_act_english_html/Egypt_Child_Act_English.pdf

¹¹ Law No. 1/2000,

<https://www.egypt.gov.eg/arabic/laws/download/قانون%20رقم%201%20لسنة%202000%20باصدار%20قانون%20تنظيم%20عض%20اوضاع%20واجراءات%20.pdf>

¹² Law No. 10/2004, <http://www.reunite.org/edit/files/Islamic%20Resource/Law%20No.10.pdf>

	<p><i>Shari'ah</i> are the main source of law in Egypt.¹³ According to Article 3 of the law promulgating the Law No. 1/2000, in the absence of codified laws that sufficiently address a particular matter of personal status of Muslims, generally, the rules of Hanafi jurisprudence (<i>fiqh</i>) apply.¹⁴</p> <p>Despite constitutional guarantees on equality, Egypt's codified and uncodified laws on Muslim personal status matters provide for a marital framework based on 'reciprocal' or 'complementary' rights (as opposed to 'equal' rights) between the two spouses, whereby in return for maintenance and protection from her husband, a wife is expected to obey him.¹⁵</p>		<p>equality "in the way stated in several paragraphs of Article 16 [or CEDAW] would diminish the rights women currently enjoy." The Egyptian government illustrated this point by stating the following:²⁶</p> <ul style="list-style-type: none"> • Under Islamic and Egyptian law, the man is required to provide his fiancé with a dower and gift of gold (engagement 		<ul style="list-style-type: none"> • The lack of specialised family court judges, thus impacting on the quality of the adjudication process; • The large workload and huge case backlog of judges that have led to delays in the disposal of cases coupled with the lack of physical infrastructure such as inadequate buildings housing family courts, which
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²³ Maha Muhammad Assad, "The Divinity of Personal Status Law in Egypt", 2016, p. 20, <http://dar.aucegypt.edu/bitstream/handle/10526/4795/The%20Divinity%20Of%20Personal%20Status%20Law%20In%20Egypt.pdf?sequence=3>; Pascale Fournier et al, "En-gender-ing Legal Reforms: Islamic Law in Africa and East Asia", (Amsterdam Law Forum, 3:2, 2011), p. 117, <http://amsterdamlawforum.org/article/viewFile/213/405>

²⁵ United Nations Treaty Collection Website, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtidsg_no=IV-8&chapter=4&clang=en

³¹ Information obtained from Egyptian advocates, February and April 2017; Monika Lindbekk, "Inscribing Islamic Shari'a in Egyptian Divorce Law", (Oslo Law Review, Issue 2, 2016), pp. 108, 110-111, <https://journals.uio.no/index.php/oslawreview/article/view/4081/3561>; Alliance for Arab Women, "Shadow NGO Report on Egypt", *Submission to the CEDAW Committee for the 55th Session*, 2009, p. 17, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/EGY/INT_CEDAWA_NGO_EGY_45_8670_E.pdf; Nathalie Bernard-Maugiron and Baudouin Dupret, "Breaking Up the Family: Divorce in Egyptian Law and Practice", (Hawwa, 6:1, 2008), pp. 10-14, <https://halshs.archives-ouvertes.fr/halshs-00339503/document>; Mulki Al-Sharmani, "Recent Reforms in Personal Status Laws and Women's Empowerment: Family Courts in Egypt", 2008, p. 57, <https://goo.gl/bp4MnO>

¹³ Article 2 of Egypt's Constitution (2014), https://www.constituteproject.org/constitution/Egypt_2014.pdf

¹⁴ Article 3 of the law promulgating Law No. 1/2000, <https://www.egypt.gov.eg/arabic/laws/download/قانون%20رقم%201%20لسنة%202000%20باصدار%20انون%20قانون%20تنظيم%20عضو%20امواضا%20واجراءات%20.pdf>; Nathalie Bernard-Maugiron and Baudouin Dupret, "From Jihan to Susanne: Twenty Years of Personal Status Law in Egypt", (*Recht van de Islam*, 19, 2002), p. 3, http://www.verenigingrimo.nl/wp/wp-content/uploads/recht19_dupret.pdf

¹⁵ Maha Muhammad Assad, "The Divinity of Personal Status Law in Egypt", 2016, p. 23,

	<p>Thus:</p> <ul style="list-style-type: none"> Pursuant to Article 1 of Law No. 25/1920, a wife is entitled to financial maintenance from her husband regardless of her wealth or religion. Article 1 also provides that a wife risks losing her financial maintenance if she: (i) refrains from giving herself to her husband voluntarily without rightful reason; (ii) leaves the marital home without her husband's permission; or (iii) goes out to work without her husband's consent;¹⁶ Pursuant to Article 11Bis-1 of Law No. 25/1929, if a wife refrains from obeying her husband unjustifiably and without any right, her financial maintenance will be discontinued from the date of disobedience.¹⁷ <p>Marriage and family relations of Egypt's non-Muslim minority communities (e.g. Egyptian Christians and Jews) are governed by principles of their</p>		<p>present) upon contracting the marriage. The woman is not required to do so.</p> <ul style="list-style-type: none"> The man is also required to provide for a marital home as a place of residence. The woman is not required to do so. Under Islamic and Egyptian law, a husband must financially maintain his wife throughout the marriage. The wife is not required to do so, even if she works and has an income. In a divorce, the man must pay the woman a deferred dower 	<p>has led to their comparison to "train stations rather than institutions carrying out the work of abstract justice";</p> <ul style="list-style-type: none"> A number of the challenges faced by the Egyptian family courts may be traced to the fact that the family courts system was introduced in 2004 without adequate training for court personnel and without adequate resources. <p>According to information on the ground, court mediation, which is now part of the legal process, often does not work well as an</p>
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²⁶ <http://dar.aucegypt.edu/bitstream/handle/10526/4795/The%20Divinity%20Of%20Personal%20Status%20Law%20In%20Egypt.pdf?sequence=3>

Egypt State party report, U.N. Doc. CEDAW/C/EGY/ (2008), pp. 74-75, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹⁶ Article 1 of Law No. 25/1920, <http://www.mohamoon.com/montada/Default.aspx?action=ArabicLaw&ID=11>

¹⁷ Article 11Bis-1 of Law No. 25/1929, <http://www.mohamoon.com/montada/Default.aspx?action=ArabicLaw&ID=11>

	<p>respective relations as per Article 3 of the Constitution.¹⁸ This is reiterated in Article 3 of the law promulgating Law No. 1/2000.¹⁹</p>		<p>and financial maintenance of up to a year depending on the duration of the marriage. There is no corresponding requirement for the woman.</p> <p>The Government of Egypt then emphasised that it has no intention of withdrawing Egypt's reservations to Article 16 of CEDAW "as doing so would diminish the rights of women under Islamic law and Egyptian law, which provide rights for woman and relieve women of responsibilities which men alone are required to bear."²⁷</p>	<p>alternative mechanism for dispute resolution in the pre-litigation process because of weak enforcement mechanisms, and also in some cases it re-produces gendered ideas about inequality of women and men which are present in the substantive laws.³²</p>
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¹⁸ Article 3 of Egypt's Constitution (2014), https://www.constituteproject.org/constitution/Egypt_2014.pdf

¹⁹ Article 3 of the law promulgating Law No. 1/2000,

<https://www.egypt.gov.eg/arabic/laws/download/قانون%20رقم%201%20لسنة%202000%20باصدار%20قانون%20تنظيم%20عضب%20اوضاع%20واجراءات%20.pdf>; Nathalie Bernard-Maugiron, "Personal Status Laws in Egypt: FAQ", (Promotion of Women's Rights GTZ, Egypt, 2010), p. 25, <http://www.gender-in-german-development.net/custom/images/content/BilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

²⁷ Egypt State party report, U.N. Doc. CEDAW/C/EGY/ (2008), p. 76, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

³² Information obtained from Egyptian advocate, April 2017

<p>Minimum and equal legal age for marriage</p> <p><i>Is there a minimum age of marriage? Are there exceptions to the minimum age (e.g. min. age at 18, with exceptions to 16)? Is there an absolute minimum age without exceptions? Is there equality in the minimum age of marriage? Does the minimum age of marriage match the age of majority? Is there a minimum age verification process before the marriage is concluded?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(2) Paras. 36-39 GR21</p>	<p>The minimum legal age for marriage is 18 for females and males based on Article 31Bis of the Civil Status Law.³³</p> <p>Article 31Bis prohibits the registration of a marriage of females or males below 18 and makes it mandatory for those wishing to get married to undergo a medical examination to ensure that they are free from diseases that may affect their lives or the health of either one of them or offspring. Registration of marriages contrary to Article 31Bis may be punished.</p> <p>The minimum legal age for marriage is below the legal age of civil majority. Under Article 44 of the Civil Code, the legal age of civil majority is 21 for both females and males.³⁴</p>		<p>The Egyptian government has developed a national strategy to prevent child marriage. It seeks to reduce prevalence of early marriages by 50% over a five year period.³⁵</p>	<p>Minimum age verification is conducted through the submission of a birth certificate and a doctor-issued certificate known as the “age-track certificate” prior to the registration of the marriage.³⁶</p>	<p>According to UNICEF’s 2016 State of the World’s Children Report, 17% of women aged 20-24 were first married by 18 and 2% by 15.³⁷</p> <p>According to UN World Marriage Data 2015, the average of first marriage among Egyptian females fell from 22.7 in 2008 to 22.0 in 2014 and among males, from 27.7 to 27.5 during the same period.³⁸</p> <p>According to Girls Not Bride and information on the ground, child marriages in Egypt are closely linked to economic hardships</p>
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³³ Article 31Bis of the Civil Status Law (1994), https://www.unodc.org/res/cld/document/egy/2002/egypt_child_act_english_html/Egypt_Child_Act_English.pdf

³⁴ Article 44 of the Civil Code (1948), http://www.wipo.int/wipolex/en/text.jsp?file_id=205494. According to a media report, the Egyptian cabinet has approved a suggested amendment to the law to lower the age of civil majority from 21 to 18, <http://english.ahram.org.eg/NewsContent/1/64/120441/Egypt/Politics-/Egyptian-cabinet-approves-amendment-to-lower-age-o.aspx>. However, as of to date, Article 44 of the Civil Code has not been amended.

³⁵ National Population Council, “Strategic Plan for the Reduction of Early Marriages (2015-2020)”, <https://goo.gl/zioiPH>; Girls Not Brides, “Egypt”, *Child marriages around the world*, <http://www.girlsnotbrides.org/child-marriage/egypt/>

³⁶ Information obtained from the Egyptian advocate, February 2017.

³⁷ UNICEF, “The State of the World’s Children 2016”, Table 9, pp. 150-153, https://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf

³⁸ United Nations Population Division, “World Marriage Data 2015”, <https://esa.un.org/ffps/Index.html#/maritalStatusData>

					<p>such as poverty and “deeply rooted” cultural norms, including: (i) the persistence of patriarchal norms around women’s sexuality; and (ii) community norms that dictate that as girls reach adolescence, they should be married.³⁹</p> <p>According to civil society and media reports, a draft legislation allowing for the lowering of the minimum legal age for marriage from 18 to 13 has been drawn up, with conservative Muslim clerics indicating that marriage at the age of nine for girls is acceptable. However, due to the mobilisation of the National Council of Women and others, the proposal did not advance.⁴⁰</p>
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³⁹ Information obtained from Egyptian advocate, April 2017; Girls Not Brides, “Egypt”, *Child marriages around the world*, <http://www.girlsnotbrides.org/child-marriage/egypt/>

⁴⁰ Girls Not Brides, “Egypt”, *Child marriages around the world*, <http://www.girlsnotbrides.org/child-marriage/egypt/>; Equality Now, “Egypt: Stop the lowering of the minimum

<p>Women's consent to marriage</p> <p><i>Is a marriage valid without the woman's consent? Is the practice of forcing women to marry against their will (ijbar) prohibited? Is there a standard marriage contract? If so, what are its broad provisions and is there anything particular in the contract that ought to be highlighted on the basis that it advances women's rights or otherwise? Is it mandatory to register a marriage?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(b) Paras. 15-16 GR21 Paras. 25-26, 33-34 GR29</p>	<p>A prospective bride who has reached the age of civil majority must consent to her marriage. Consequently, <i>ijbar</i> marriages are prohibited among females over 18.⁴¹</p> <p>Egyptian codified law is silent on the requirement for consent of a female to her marriage. Consequently, the rules of Hanafi <i>fiqh</i> apply, whereby, an adult woman who has attained the age of majority may contract her own marriage, and must consent to the marriage whereas a minor girl may be married off by her father without her consent and by force.⁴²</p> <p>The registration of marriages is implicit in Article 17 of Law No.1/2000 which generally prohibits courts from hearing a claim based on a marriage which is not supported by an official marriage document if the existence of the marriage is being denied by either party.⁴³</p>		<p>The Government of Egypt in its 2000 report to the CEDAW Committee asserted that, "In Egypt, marriage is a contract by mutual consent, and by law it must be concluded by the free, mutual consent of both parties."⁴⁵</p> <p>The Egyptian government in its 2008 report to the CEDAW Committee reiterated this position when it said that that "[a] woman is entitled to accept or reject a prospective husband. A marriage may not be contracted without her consent. Otherwise, it is considered void and</p>	<p>The presence of two male witnesses (or one male and two females) is required to testify that the marriage was consented to between the husband and the wife.⁴⁷</p> <p>There is a standardised marriage contract. A new standard marriage contract was introduced in 2000. There is a space at the end of the contract for spouses to stipulate any special conditions regarding their respective rights and responsibilities that they wish to include in the marriage contract.⁴⁸</p>	<p>Various sources suggest that forced marriages among young Egyptian girls is a serious concern:</p> <ul style="list-style-type: none"> • According to the US Department of State 2016 Trafficking in Persons report, "Individuals from the Persian Gulf, including Saudi Arabia, United Arab Emirates, and Kuwait, purchase Egyptian women and girls for "temporary" or "summer" marriages for the purpose of commercial sex, including cases of sex trafficking, as well as forced
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age of marriage for girls in Egypt", <http://www.equalitynow.org/action-alerts/egypt-stop-lowering-minimum-age-marriage-girls-egypt>; Tracy McVeigh, "How Egypt's radical rulers crush the lives and hopes of women", *The Guardian*, 30 March 2013, <https://www.theguardian.com/world/2013/mar/31/egypt-cairo-women-rights-revolution>

⁴¹ According to information obtained from an Egyptian advocate (April 2017), the legal age for marriage is often treated as the legal age of civil majority. Hence in legal practice, women 18 and above, even if younger than 21, cannot be forced into a marriage by their guardian

⁴² Pascale Fournier et al, "En-gender-ing Legal Reforms: Islamic Law in Africa and East Asia", (Amsterdam Law Forum, 3:2, 2011), p. 122,

⁴³ <http://amsterdamlawforum.org/article/viewFile/213/405>

Article 17 of Law No. 1/2000, <https://www.egypt.gov.eg/arabic/laws/download/اون%20قانون%20رقم%201%20لسنة%202000%20باصدار%20قانون%20تنظيم%20عض%20بعض%20اوضاع%20واجراءات%20.pdf>; Nathalie

	<p>Egyptian law does not prohibit unregistered or customary marriages (<i>urfi</i>) but grants them a status that is inferior to that of officially registered marriages.⁴⁴</p>		<p>dissolved by a court.⁴⁶</p>	<p>Registration of Muslim marriages must be undertaken with the civil registrar (<i>ma'dhun</i>).⁴⁹</p> <p>While <i>urfi</i> marriages are not prohibited, it is important to officially register marriages. Women in <i>urfi</i> marriages are deprived from claiming certain rights that would have been available to them had their marriages been officially registered such as their right to</p>	<p>labour; these arrangements are often facilitated by the victims' parents and marriage brokers, who profit from the transaction,⁵⁴</p> <ul style="list-style-type: none"> • According to media reports, every year, thousands of young Egyptian girls are sold into marriage against their will to wealthy men by their families. Poverty is the main reason for the practice and it
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Bernard-Maugiron and Baudouin Dupret, "From Jihan to Susanne: Twenty Years of Personal Status Law in Egypt", (*Recht van de Islam*, 19, 2002), p. 12, http://www.verenigingrimo.nl/wp/wp-content/uploads/recht19_dupret.pdf

⁴⁵ Egypt State party report, U.N. Doc. CEDAW/C/EGY/4-5 (2000), p. 86, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁴⁷ UNESCO, "Chapter 5: The Personal Status Laws", para. 1.3, http://www.unesco.org/webworld/peace_library/EGYPT/WOMEN/105.HTM

⁴⁸ Nathalie Bernard-Maugiron and Baudouin Dupret, "From Jihan to Susanne: Twenty Years of Personal Status Law in Egypt", (*Recht van de Islam*, 19, 2002), p. 15, http://www.verenigingrimo.nl/wp/wp-content/uploads/recht19_dupret.pdf; Pascale Fournier et al, "En-gender-ing Legal Reforms: Islamic Law in Africa and East Asia", (*Amsterdam Law Forum*, 3:2, 2011), p. 122, <http://amsterdamlawforum.org/article/viewFile/213/405>; Mauritz Berger and Nadia Sonneveld, "Sharia and National Law in Egypt", in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), pp. 74-75, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>

⁴⁴ Nathalie Bernard-Maugiron, "Personal Status Laws in Egypt: FAQ", (Promotion of Women's Rights GTZ, Egypt, 2010), p. 17, <http://www.gender-in-german-development.net/custom/images/contentBilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

⁴⁶ Egypt State party report, U.N. Doc. CEDAW/C/EGY/ (2008), p. 75, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁴⁹ Mauritz Berger and Nadia Sonneveld, "Sharia and National Law in Egypt", in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), p. 74, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>

				<p>financial maintenance from their husbands.⁵⁰ They also deprive children born in such marriages from accessing social services, such as healthcare and education, due to the lack of official documentation such as birth certificates.⁵¹ Some of the adverse impact of <i>urfi</i> marriages may be mitigated through the following procedural means:</p> <ul style="list-style-type: none"> • Article 17 of Law No. 1/2000 law allows an application for divorce in <i>urfi</i> marriage cases to be heard by the courts provided there is some form of written 	<p>is more common in rural areas.⁵⁵ According to academic research and media reports, <i>urfi</i> marriages in Egypt are very common. They are entered into for a variety of reasons including:⁵⁶</p> <ul style="list-style-type: none"> • Escaping poverty or the high cost of marriage; • Enabling minors to get married or a husband to keep his subsequent polygamous marriage a secret from his existing wife; • Enabling widows to remarry without forfeiting
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⁵⁴ US Department of State, "Trafficking in Persons Report", 2016, p. 160, <https://www.state.gov/documents/organization/258876.pdf>

⁵⁰ Nathalie Bernard-Maugiron, "Personal Status Laws in Egypt: FAQ", (Promotion of Women's Rights GTZ, Egypt, 2010), p. 17, <http://www.gender-in-german-development.net/custom/images/content/BilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

⁵¹ Omnia Talal, "Living without a name: Paternity disputes in Egypt ruin thousands of lives", *Aswat Masriya*, 1 December 2015, <http://en.aswatmasriya.com/news/details/260>; VOA, "High-Profile Paternity Case Highlights Risks of Common-Law 'Urfi' Marriage in Egypt" VOA, 31 October 2009, <http://www.voanews.com/a/a-13-2006-06-07-voa19/325284.html>

			<p>evidence of the marriage;⁵²</p> <ul style="list-style-type: none"> Article 15 of the Child Law grants a mother the right to register the birth of her child and apply for a birth certificate in which her name as the child's mother is recorded.⁵³ 	<p>their widowhood pensions or divorced women to remarry without losing custody of their children or child maintenance; and</p> <ul style="list-style-type: none"> Legitimising sexual relations without concluding a formal marriage. <p>According to a study commissioned by Plan International, it is difficult for Egyptian single mothers to register the birth of their children be-</p>
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⁵⁵ Hassan Abdel Zaher, "Egyptian girls victims of forced marriages, *The Arab Weekly*, 27 August 2015, <http://www.thearabweekly.com/?id=1763> ; Arwa Abu al-Yazid, "The Shame of Child Marriage in Egypt", 15 September 2014, <https://www.alaraby.co.uk/english/features/2014/10/9/the-shame-of-child-marriage-in-egypt>; Beca Coleman, "The Story Behind Child Brides in Egypt", *Egyptian Streets*, 23 July 2014, <https://egyptianstreets.com/2014/07/23/the-story-behind-child-brides-in-egypt/>

⁵⁶ Information provided by Egyptian advocate, February 2017; Silje Saliha Telum, "Why *Urfi*?": An Examining Study of *Urfi* Marriage in Egypt and Its Casualties", 2016, <https://www.duo.uio.no/bitstream/handle/10852/52255/Telum.pdf?sequence=1>; Nathalie Bernard-Maugiron and Baudouin Dupret, "From Jihan to Susanne: Twenty Years of Personal Status Law in Egypt", (*Recht van de Islam*, 19, 2002), pp. 12-13, http://www.verenigingrimo.nl/wp/wp-content/uploads/recht19_dupret.pdf; Omnia Talal, "Living without a name: Paternity disputes in Egypt ruin thousands of lives", *Aswat Masriya*, 1 December 2015, <http://en.aswatmasriya.com/news/details/260>; Imogen Lambert and Nada Ramadan, "Who's the daddy? Ezz, Zeina and Egypt's *Urfi* marriages", *The New Arab*, 2 July 2015, <https://www.alaraby.co.uk/english/blog/2015/7/2/whos-the-daddy-ezz-zeina-and-egypts-urfi-marriages>; Dena Rashed, "Legally Yours," *Al-Ahram Weekly*, 1-7 June 2006, <http://weekly.ahram.org.eg/Archive/2006/797/fe1.htm>

⁵² Article 17 of Law No. 1/2000, <https://www.egypt.gov.eg/arabic/laws/download/قانون%20رقم%201%20لسنة%202000%20باصدار%20قانون%20تنظيم%20عضب%20اوضاع%20واجراءات%20.pdf>; Nathalie Bernard-Maugiron and Baudouin Dupret, "From Jihan to Susanne: Twenty Years of Personal Status Law in Egypt", (*Recht van de Islam*, 19, 2002), pp. 12-13, http://www.verenigingrimo.nl/wp/wp-content/uploads/recht19_dupret.pdf

⁵³ Article 15 of the Child Law (1996), https://www.unodc.org/res/cld/document/egy/2002/egypt_child_act_english_html/Egypt_Child_Act_English.pdf

					<p>cause of:</p> <ul style="list-style-type: none"> • The lack of awareness of a mother's right to register their children even among officials; and • Shame and social stigma.⁵⁷ <p>According to civil society and media reports, a draft law that mandates DNA testing in paternity cases was drawn up in 2009.⁵⁸</p>
<p>Women's capacity to enter into marriage</p> <p><i>Is consent of a marital guardian (wali) required? If so, can a woman choose her own wali? Can a woman go before a court or other competent authority to seek permission to marry if her wali refus-</i></p>	<p>Egyptian codified law is silent on the requirement for a woman to have the consent of a marital guardian (<i>wali</i>) to enter into marriage. As such rules of Hanafi <i>fiqh</i> apply, whereby a prospective bride over 18 do not require the consent of a guardian but a prospective bride under 18</p>			<p>Both spouses may stipulate any condition in their marriage contract. About 1/3 of the Egyptian standard marriage contract is left empty for this purpose. The</p>	<p>While legally:</p> <ul style="list-style-type: none"> • A prospective bride over 18 can enter into marriage without the consent of a <i>wali</i>, in social practice, there is

⁵⁷ Plan International, "Mother to Child: How Discrimination Prevents Women Registering the Birth of Their Child", 2012, p. 10, http://www.ohchr.org/Documents/Issues/Children/BirthRegistration/PlanInternational2_birthRegistration.pdf

⁵⁸ Nathalie Bernard-Maugiron, "Personal Status Laws in Egypt: FAQ", (Promotion of Women's Rights GTZ, Egypt, 2010), p. 9, <http://www.gender-in-german-development.net/custom/images/content/BilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>; Ahmed Hosni, "New paternity law stipulating DNA testing proposed", 13 April 2006, *IRIN*, <http://www.irinnews.org/report/26290/egypt-new-paternity-law-stipulating-dna-testing-proposed>

<p><i>es to consent to her marriage? Can a woman negotiate her marital rights prior to marriage and can these rights be changed during marriage? If so, who can change these rights and under what circumstances e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(a), 16(1)(b) Paras. 15-16 GR21 Para. 34 GR29</p>	<p>requires the consent of her guardian to marry.⁵⁹</p> <p>If a guardian opposes the marriage, the prospective bride may seek the authorisation of a judge to get married. A guardian cannot object to a marriage based on the dowry amount or social equity.⁶⁰</p> <p>A law, popularly known as the “Seasonal Marriage” or “Tourist Marriage” law, obligates foreign men who wish to marry Egyptian females 25 years or more their junior to pay their prospective brides a stipulated sum of money before they are able to marry them. The Ministry of Justice Decree No. 9200/2015 requires foreign men to deposit 50,000 Egyptian pounds in investment certificates in the bank accounts of their prospective brides, with a 12.75% interest rate to be paid every six months for 10 years if they wish to marry Egyptian</p>			<p>stipulated conditions are registered by the civil registrar (<i>ma’dhun</i>) at the request of the spouses before the contract is signed. Conditions that may be stipulated in the contract include:⁶²</p> <ul style="list-style-type: none"> • The wife will be allowed to use her delegated right to unilateral divorce (<i>isma</i>) without restrictions; • The husband will not be allowed to conclude subsequent marriages without the written approval of his wife and if he does enter into a polygamous 	<p>strong expectation that she seeks the consent of a male <i>wali</i> (e.g. father, grandfather, brother, uncle, etc.) to enter into marriage;⁶³</p> <ul style="list-style-type: none"> • A woman can insert stipulations in her marriage contract, there is currently no clear mechanism for the enforcement of stipulations in marriage contracts and their consequences. The ability to obtain a clearer understanding on this issue is also impeded by the lack of sufficient
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⁵⁹ Information obtained from Egyptian advocate, April 2017; Dar al-Ifta al Misriyyah, “Can a woman get married without her (wali) guardian’s approval”, <http://www.dar-alifta.org/Foreign/ViewFatwa.aspx?ID=6018>; Women Living Under Muslim Laws, “Knowing Our Rights: Women, Family Laws and Customs in the Muslim World”, (Nottingham, UK: The Russell Press, Third Edition, 2006), p. 67, http://www.wluml.org/sites/wluml.org/files/import/english/pubs/pdf/knowning%20our%20rights/kor_2006_en.pdf

⁶⁰ Women Living Under Muslim Laws, “Knowing Our Rights: Women, Family Laws and Customs in the Muslim World”, (Nottingham, UK: The Russell Press, Third Edition, 2006), p. 73, http://www.wluml.org/sites/wluml.org/files/import/english/pubs/pdf/knowning%20our%20rights/kor_2006_en.pdf; Human Rights Watch, “Divorced from Justice: Women’s Unequal Access to Divorce in Egypt”, 2004, p. 17, <https://www.hrw.org/reports/2004/egypt1204/egypt1204.pdf>

	women 25 years or more their junior. ⁶¹			<p>marriage without her written approval, the wife will be allowed to dissolve her marriage;</p> <ul style="list-style-type: none"> • The wife will benefit of the marital home and/or assets in event of divorce or death; • The husband will allocate a lump or a regular amount of money to his wife if he divorces her against her will; 	<p>publicly available data on cases that have been adjudicated on the basis of breach of a condition in a marriage contract.⁶⁴</p> <p>According to media reports, the “Seasonal marriage” or “Tourist marriage” law, which dates back to 1976, originally prohibited marriages between foreign men and Egyptian females who are 25 years or more their junior</p>
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⁶² Nathalie Bernard-Maugiron, “Personal Status Laws in Egypt: FAQ”, (Promotion of Women’s Rights GTZ, Egypt, 2010), p. 16, <http://www.gender-in-german-development.net/custom/images/content/BilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

⁶³ Information obtained from Egyptian advocate, April 2017; Brenda Opperman, “The Impact of Legal Pluralism on Women’s Status: An Examination of Marriage Laws in Egypt, South Africa and the United States”, (Hastings Women’s Law Journal, 17:1, 2006), p. 70, <http://repository.uchastings.edu/cgi/viewcontent.cgi?article=1214&context=hwlj>; Women Living Under Muslim Laws, “Knowing Our Rights: Women, Family Laws and Customs in the Muslim World”, (Nottingham, UK: The Russell Press, Third Edition, 2006), p. 73, http://www.wluml.org/sites/wluml.org/files/import/english/pubs/pdf/knowning%20our%20rights/kor_2006_en.pdf; Human Rights Watch, “Divorced from Justice: Women’s Unequal Access to Divorce in Egypt”, 2004, p. 17, <https://www.hrw.org/reports/2004/egypt1204/egypt1204.pdf>

⁶¹ Leila Fadel, “Does Egypt’s Law Protect ‘Short-Term Brides’ or Formalize Trafficking?”, *NPR*, 1 February 2016, <http://www.npr.org/sections/parallels/2016/02/01/463708687/does-egypts-law-protect-short-term-brides-or-formalize-trafficking>; Sonia Farid, “Does Egypt’s new tourist marriage law really ‘protect’ women?”, *Al Arabiya English*, 18 January 2016, <https://english.alarabiya.net/en/perspective/analysis/2016/01/18/Does-Egypt-s-new-tourist-marriage-law-really-protect-women-.html>; Aswat Masriya, Egyptian women protest minister of justice’s decree on ‘summer marriages’ phenomenon, *Aswat Masriya*, 23 December 2015, <http://en.aswatmasriya.com/news/details/5634>; Nada Ramadan, “Putting a price tag on Egyptian women”, *The New Arab*, 9 December 2015, <https://www.alaraby.co.uk/english/Features/2015/12/9/Putting-a-price-tag-on-Egyptian-women>

⁶⁴ Information obtained from Egyptian advocate, April 2017

				<ul style="list-style-type: none"> • The wife will be allowed to work and/or to continue education; • The mother will have the right to choose the children's schools; and • The mother will be allowed to live with her children in the country of her choice in the event of divorce. 	<p>unless under exceptional circumstances. As a result of pressure from conservative Muslim groups, the law was amended in 1993 to allow for such marriages but foreign men had to pay for the right to marry much younger Egyptian females by depositing 25,000 Egyptian pounds in the name of their prospective wives. The amount was increased to 40,000 pounds in 2004 and 50,000 in 2015.⁶⁵</p> <p>When the 2000 standardised marriage contract was introduced, conservative Muslim groups opposed it on the basis: (i) in general, the inclusion of stipulations in</p>
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⁶⁵ Leila Fadel, "Does Egypt's Law Protect 'Short-Term Brides' or Formalize Trafficking?", *NPR*, 1 February 2016, <http://www.npr.org/sections/parallels/2016/02/01/463708687/does-egypts-law-protect-short-term-brides-or-formalize-trafficking>; Sonia Farid, "Does Egypt's new tourist marriage law really 'protect' women?", *Al Arabiya English*, 18 January 2016, <https://english.alarabiya.net/en/perspective/analysis/2016/01/18/Does-Egypt-s-new-tourist-marriage-law-really-protect-women-.html>

					<p>marriage contracts would cause harm because it would lead to mistrust between couples and discourage young women and men from getting married; (ii) specifically, the inclusion of stipulations in the contract that restricts a husband's right to enter into a polygamous marriage or allowing wives to travel without the permission of their husbands "forbade the permitted and permitted the forbidden".⁶⁶</p> <p>According to academic research, in practice, women in Egypt seem reluctant to exercise their right to insert stipulations in their marriage contracts</p>
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⁶⁶ Mulki Al-Sharmani, "Recent Reforms in Personal Status Laws and Women's Empowerment: Family Courts in Egypt", 2008, p. 9, <https://goo.gl/bp4MnO>

					because of social stigma. ⁶⁷
<p>Polygamous marriages</p> <p><i>Does the law prohibit polygamy or impose strict conditions on such practice? Is the permission of the court required for a polygamous marriage? Is the permission of an existing wife required for a polygamous marriage? Is it necessary to inform an existing wife of the polygamous marriage? Are temporary marriages such as traveler's marriages (misyar) recognised? Is it necessary to register a polygamous marriage? Can a woman stipulate in the marriage contract that her intended husband cannot enter into a polygamous marriage?</i></p> <p><u>Applicable CEDAW Provision</u> Para. 14 GR21 Para. 34 GR29</p>	<p>A Muslim man may marry up to four wives at one time. He is not required by law to seek the permission of the court or his existing wife or wives to enter into a polygamous marriage. His existing wife or wives are informed by the civil registrar (<i>ma'dhun</i>) of the new marriage after it has been contracted.⁶⁸</p> <p>Article 11Bis of Decree Law No. 29/1929 provides that a husband must declare his marital status in the marriage contract. If he is already married, he must list the names of any existing wife or wives and their respective addresses. The <i>ma'dhun</i> is tasked with the responsibility of notifying any existing wife or wives of the husband's new marriage by registered post, the receipt of which must be acknowledged.⁶⁹</p>			<p>A woman may stipulate in the marriage contract that her husband may not take another wife.⁷³ If the husband breaches this term of the marriage contract, the woman may seek judicial divorce.</p>	<p>According to Egypt's 2014 Demographic and Health Survey, 3% of marriages in Egypt are polygamous. The survey also found that:⁷⁴</p> <ul style="list-style-type: none"> • Older women were more likely than younger women to have co-wives. For instance, 4% of married women aged 45-49 reported having co-wives, as compared with 1% of women aged 20-24; • Rural women were slightly more

⁶⁷ Mauritz Berger and Nadia Sonneveld, "Sharia and National Law in Egypt", in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), p. 76, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>; Jasmine Moussa, "The Reform of Shari'a-derived Divorce Legislation in Egypt: International Standards and the Cultural Debate", p. 13, 2005, <https://www.nottingham.ac.uk/hrlc/documents/publications/hrlcommentary2005/divorcelegislationegypt.pdf>

⁶⁸ Nathalie Bernard-Maugiron, "Personal Status Laws in Egypt: FAQ", (Promotion of Women's Rights GTZ, Egypt, 2010), pp. 9, 19, <http://www.gender-in-german-development.net/custom/images/content/BilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

⁶⁹ Article 11Bis of Decree Law No. 25/1929, <http://www.mohamoon.com/montada/Default.aspx?action=ArabicLaw&ID=11>; Nathalie Bernard-Maugiron, "Personal Status Laws in Egypt: FAQ", (Promotion of Women's Rights GTZ, Egypt, 2010), p. 19, <http://www.gender-in-german->

	<p>Pursuant to Article 23Bis of Decree Law No. 29/1929, a husband may be fined and jailed if he provides the <i>ma'dhun</i> with incorrect information regarding his marital status or the addresses of any of his existing wives. Under the same article (Article 23Bis), the <i>ma'dhun</i> may also be fined, jailed and/or be suspended from work if he fails to inform the husband's existing wife or wives of the new marriage in accordance with the law.⁷⁰</p> <p>Article 11Bis of Decree Law No. 29/1929 also permits:⁷¹</p> <ul style="list-style-type: none"> An existing wife to seek divorce if her husband marries another woman on the basis that the new marriage causes her material or mental harm, thus making it impossible for to remain in the marriage. This 				<p>likely to report having co-wives than urban women (3% versus 2%);</p> <ul style="list-style-type: none"> Women living in poorer households were more likely than women living in richer households to have co-wives. For instance, 4% of women living in households in the lowest wealth quintile reported having co-wives, as compared with 2% of women living in households in the highest quintile; and
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⁷³ [development.net/custom/images/content/BilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf](http://www.gender-in-german-development.net/custom/images/content/BilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf)
Nathalie Bernard-Maugiron, "Personal Status Laws in Egypt: FAQ", (Promotion of Women's Rights GTZ, Egypt, 2010), p. 16, <http://www.gender-in-german-development.net/custom/images/content/BilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

⁷⁴ Egyptian Ministry of Health and Population, El-Zanaty and Associates and the DHS Program, "Egypt Demographic and Health Survey 2014", Table 7.2, p. 91, <https://dhsprogram.com/pubs/pdf/FR302/FR302.pdf>

⁷⁰ Article 23Bis of Decree Law No. 25/1929, <http://www.mohamoon.com/montada/Default.aspx?action=ArabicLaw&ID=11>; Nathalie Bernard-Maugiron, "Personal Status Laws in Egypt: FAQ", (Promotion of Women's Rights GTZ, Egypt, 2010), pp. 19-20, <http://www.gender-in-german-development.net/custom/images/content/BilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

⁷¹ Article 11Bis of Decree Law No. 25/1929, <http://www.mohamoon.com/montada/Default.aspx?action=ArabicLaw&ID=11>; Nathalie Bernard-Maugiron, "Personal Status Laws in Egypt: FAQ", (Promotion of Women's Rights GTZ, Egypt, 2010), p. 19, <http://www.gender-in-german-development.net/custom/images/content/BilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

	<p>right is available to the existing wife even if it is not stipulated in the marriage contract that her husband cannot marry another wife;</p> <ul style="list-style-type: none"> • A new wife to seek divorce if she only discovered that her husband was already married at the time their marriage was concluded after she had concluded her marriage with him. <p>Egyptian codified law is silent on the prohibition or otherwise of temporary marriages. However, the Egyptian <i>Dar al-Ifta'</i> has issued two rulings (<i>fatwā</i>) announcing that <i>misyar</i> marriage is a valid form of marriage provided it meets “the integrals and conditions of a marriage contract and so long as there is nothing to prevent the marriage.” In addition, any agreement by the women to waive her rights to staying overnight and/or expenses is “unbinding since the woman is entitled to ask for her rights to overnight stays and expenses whenever she wishes and the husband is to comply with her demands.”⁷²</p>				<ul style="list-style-type: none"> • Lower educated women were more likely to report having co-wives than higher educated women. For instance, 5% of married women with no education reported having co-wives, as compared with 2% of women who has attained secondary or higher education. <p>Through the introduction of the Law No. 44/1979, there was an attempt to provide a wife whose husband marry another wife without her prior consent with the right to be granted an automatic divorce by a judge provided she requested for the divorce within one year from the date she knew about her</p>
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⁷² Dar al-Ifta al Misriyyah, “Is the Misyar marriage legal?”, <http://www.dar-alifta.org/Foreign/ViewFatwa.aspx?ID=6619&text=misyar>; Dar al-Ifta al Misriyyah, “Is Misyar marriage allowed in Islam?”, <http://www.dar-alifta.org/Foreign/ViewFatwa.aspx?ID=6067&text=misyar>

					<p>husband's polygamous marriage. However, Law No. 44/1979 was challenged by several personal status judges who referred it to the Supreme Constitutional Court for a ruling on its constitutionality. The Supreme declared the law unconstitutional Law No. 44/1979 unconstitutional in 1985 and in the same year Law No. 100/1985 was passed in parliament stipulating that the wife's right to divorce her husband following his polygamous marriage was subject to the discretionary of a judge as opposed to it being an automatic one.⁷⁵</p>
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⁷⁵ Maha Muhammad Assad, *The Divinity of Personal Status Law in Egypt* (2016), p. 34, <http://dar.aucegypt.edu/bitstream/handle/10526/4795/The%20Divinity%20Of%20Personal%20Status%20Law%20In%20Egypt.pdf?sequence=3>; Nathalie Bernard-Maugiron and Baudouin Dupret, "From Jihan to Susanne: Twenty Years of Personal Status Law in Egypt", (*Recht van de Islam*, 19, 2002), pp. 4-5, 7-9,

<p>Divorce rights</p> <p><i>Is there equal right to divorce between women and men? Can the husband divorce without reason and without having to go to court? What are the main forms of divorce? Can all forms of divorce be sought only through the courts? Are the grounds for divorce the same for the husband and wife? Is unilateral divorce by repudiation (talāq) prohibited? If unilateral divorce is not prohibited, what is the procedure i.e. is the presence of the spouse to be divorced required, are witnesses required, does the spouse seeking divorce need to go to court, is the divorced spouse informed of the divorce? Is the unilateral right to divorce delegated to the wife? If so, is it by law or through the marriage contract? Is it mandatory to register a divorce?</i></p>	<p>Egyptian law provides for three different mechanisms for divorce: (i) unilateral repudiation by the husband (<i>talāq</i>); (ii) out-of-court negotiated divorce (<i>ibra'</i>); and (iii) judicial divorce. The marriage may also be annulled.⁷⁶</p> <p>A husband may unilaterally repudiate the marriage without much restrictions.⁷⁷ However, Article 5Bis of Decree Law No. 25/1929 provides that a husband must register his repudiation within 30 days of his declaration with the <i>ma'dhun</i>. If the wife is not present at the <i>ma'dhun</i>'s office together with the husband, the <i>ma'dhun</i> is tasked with the responsibility of notifying the wife of her divorce through a bailiff.⁷⁸</p> <p>Non-registration of the repudiation does not invalidate the divorce. However, pursuant to Article</p>	<p>Case 2040, Ayn Shams Family Court, 27 May 2012, exemplifies the typical formulation of <i>talāq</i> by Egyptian family court judges, which is as follows: "Repudiation (<i>talaq</i>) comes into effect as the husband articulates it. This is in accordance with all four schools of Islamic jurisprudence as well as the Prophet's companions. The registration of the repudiation and ways of notifying the wife of its occurrence have no bearing on the right</p>	<p>The Government of Egypt in its 2008 report to the CEDAW Committee confirmed that "a woman is entitled to seek divorce by unilateral termination of her marriage contract (<i>khul'</i>) without having to prove damage in exchange for her return of her dower or any real estate or property which the man gave her as his wife during the marriage. If she can prove damage before the judiciary, she is entitled to her full rights as provided under the</p>	<p>It is important to officially register a divorce. Pursuant to Article 21 of Law No. 1/2000, where one party denies that divorce has taken place, only a divorce that has been attested to and notarised will be recognised, thereby implicitly making it mandatory for all divorce to be officially registered.¹⁰⁰</p> <p>It is important to specify in the marriage contract that the wife will have the right to use <i>isma</i> "whenever she wants and as many</p>	<p>According to civil society and media reports as well as academic research:¹⁰³</p> <ul style="list-style-type: none"> • 2015 statistics released by Egypt's central statistics agency (CAPMAS) show that the total number of divorces in Egypt rose by 10.8% to reach 199,867 in 2015 from 180,244 in 2014; • The 2015 CAPMAS statistics also show that the majority of divorces granted
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http://www.verenigingrimo.nl/wp/wp-content/uploads/recht19_dupret.pdf

⁷⁶ Mauritz Berger and Nadia Sonneveld, "Sharia and National Law in Egypt", in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), p. 75, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>; Jasmine Moussa, "The Reform of Shari'a-derived Divorce Legislation in Egypt: International Standards and the Cultural Debate", pp. 11-18, 2005,

⁷⁷ <https://www.nottingham.ac.uk/hrlc/documents/publications/hrlcommentary2005/divorcelegislationegypt.pdf> Articles 1-4 of Decree Law No. 25/1929, <http://www.mohamoon.com/montada/Default.aspx?action=ArabicLaw&ID=11>; Monika Lindbekk, "Inscribing Islamic Shari'a in Egyptian Divorce Law", (Oslo Law Review, Issue 2, 2016), p. 119, <https://journals.uio.no/index.php/oslawreview/article/view/4081/3561>; Nathalie Bernard-Maugiron and Baudouin Dupret, "Breaking Up the Family: Divorce in Egyptian Law and Practice", (Hawwa, 6:1, 2008), pp. 6, 8, <https://halshs.archives-ouvertes.fr/halshs-00339503/document>

⁷⁸ Articles 5Bis of Decree Law No. 25/1929, <http://www.mohamoon.com/montada/Default.aspx?action=ArabicLaw&ID=11>; Nathalie Bernard-Maugiron and Baudouin Dupret, "Breaking Up the Family: Divorce in Egyptian Law and Practice", (Hawwa, 6:1, 2008), p. 7, <https://halshs.archives-ouvertes.fr/halshs-00339503/document>

	<p>A wife may negotiate with her husband an out-of-court divorce by relinquishing some or all of her financial rights (<i>ibra'</i>). However, if both parties are unable to reach a mutual agreement on an <i>ibra'</i> divorce, a wife may bring a court case to seek a <i>khul'</i> divorce, where she needs to: (i) declare in court that she detests life with her husband, the continuation of married life between them is impossible and she fears that she will transgress against the 'limits of God' due to this detestation; (iii) pledge to return her <i>mahr</i>, and (iv) renounce all her financial rights. In such a case, the court must order a reconciliation process, and if it fails it must then rule for divorce.⁸¹</p> <p>Article 20 of Law No. 1/2000 prohibits the waiver of a wife's right to custody over her children and the father's obligation to pay for their maintenance as part of the <i>khul</i> compensation.⁸²</p>	<p>On <i>urfi</i> marriages, women generally find it difficult proving the following in court:</p> <ul style="list-style-type: none"> The existence of <i>urfi</i> marriages due to: (i) the lack of documentary evidence, in which case the courts are prohibited even hear the case; and (ii) the need for <i>urfi</i> marriages to be concluded in the presence of two male witnesses (or one male and two females) and meet the general conditions for a marriage for such marriages to have legal effect;⁹⁴ and 		<p>sign a paper in the presence of two witnesses, acknowledging that he repudiated her. If the husband refuses to repudiate his wife and to destroy the originals of the contracts, the wife is still considered married and cannot remarry. In such an instance, her resource is to seek a divorce in court.¹⁰²</p>	<p>162,583, making a husband's unilateral repudiation of a marriage the most common form of divorce in Egypt.</p> <p>According to civil society and media reports, the following are some of the practical obstacles faced by women when seeking to exercise their divorce rights include:</p> <ul style="list-style-type: none"> On unilateral divorce:¹⁰⁴ (i) It is difficult to prove unilateral repudiation has taken place because the husband does not
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⁸¹ Information obtained from Egyptian advocate, April 2017; Articles 18, 20 of Law No. 1/2000, <https://www.egypt.gov.eg/arabic/laws/download/%20قانون%20رقم%201%20لسنة%202000%20باصدار%20قانون%20تنظيم%20عض%20اوضاع%20اوجراءات%20.pdf>; Nathalie Bernard-Maugiron and Baudouin Dupret, "Breaking Up the Family: Divorce in Egyptian Law and Practice", (Hawwa, 6:1, 2008), p. 5, <https://halshs.archives-ouvertes.fr/halshs-00339503/document>; N. Sonneveld, "Khul' Divorce in Egypt: public debates, judicial practices and everyday life", (University of Amsterdam, 2009), pp. 176-177, https://pure.uva.nl/ws/files/1310278/63357_13.pdf

⁸² Article 20 Law No. 1/2000, <https://www.egypt.gov.eg/arabic/laws/download/%20قانون%20رقم%201%20لسنة%202000%20باصدار%20قانون%20تنظيم%20عض%20اوضاع%20اوجراءات%20.pdf>; Nathalie Bernard-Maugiron, "Personal Status Laws in Egypt: FAQ", (Promotion of Women's Rights GTZ, Egypt, 2010), p. 21, <http://www.gender-in-german-development.net/custom/images/content/BilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

	<p>Valid grounds for seeking a judicial divorce by a wife include a husband's: (i) failure to provide maintenance; (ii) severe or incurable illness of which the wife was not aware at the time the marriage was concluded; (iii) absence of more than one year without reasonable excuse; or (iv) imprisonment of more than three years (wife may seek divorce after one year).⁸³ In addition, a wife may seek divorce on the basis of harm that makes it impossible to continue living together as spouses.⁸⁴</p> <p>In the case of a divorce petition</p>	<ul style="list-style-type: none"> The paternity of the father in cases where children are born from <i>urfi</i> marriages. Not only is DNA testing is not mandatory in paternity cases, in 2010, an Appellate Court rejected the DNA results of a father on the basis that DNA testing does not abide by <i>Shari'ah</i> principles. A 			<p>need to make the declaration in the presence of any witness; (ii) The legal requirement to register a unilateral divorce is ineffective because: (a) there is a general lack of awareness among Egyptians of the requirement; (b) the fact that non-compliance with the registration requirement does</p>
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⁹⁴ Article 17 of Law No. 1/2000, <https://www.egypt.gov.eg/arabic/laws/download/قانون%20رقم%201%20لسن%202000%20باصدار%20قانون%20تنظيم%20عض%20بعض%20اوضاع%20واجراءات%20.pdf>; Nathalie Bernard-Maugiron and Baudouin Dupret, "From Jihan to Susanne: Twenty Years of Personal Status Law in Egypt", (*Recht van de Islam*, 19, 2002), p. 12, http://www.verenigingrimo.nl/wp/wp-content/uploads/recht19_dupret.pdf; Nathalie Bernard-Maugiron, "Personal Status Laws in Egypt: FAQ", (Promotion of Women's Rights GTZ, Egypt, 2010), p. 17, <http://www.gender-in-german-development.net/custom/images/contentBildergalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

¹⁰² Nathalie Bernard-Maugiron, "Personal Status Laws in Egypt: FAQ", (Promotion of Women's Rights GTZ, Egypt, 2010), pp. 17-18, <http://www.gender-in-german-development.net/custom/images/contentBildergalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

¹⁰⁴ Monika Lindbekk, "Inscribing Islamic Shari'a in Egyptian Divorce Law", (Oslo Law Review, Issue 2, 2016), p. 120, <https://journals.uio.no/index.php/oslawreview/article/view/4081/3561>; Nathalie Bernard-Maugiron, "Personal Status Laws in Egypt: FAQ", (Promotion of Women's Rights GTZ, Egypt, 2010), p. 11, <http://www.gender-in-german-development.net/custom/images/contentBildergalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

⁸³ Articles 4-5 of Law No. 25/1920, Articles 12-14 of Decree Law No. 25/1929, <http://www.mohamoon.com/montada/Default.aspx?action=ArabicLaw&ID=11>; Mauritz Berger and Nadia Sonneveld, "Sharia and National Law in Egypt", in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), p. 75, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>; Nathalie Bernard-Maugiron and Baudouin Dupret, "Breaking Up the Family: Divorce in Egyptian Law and Practice", (Hawwa, 6:1, 2008), p. 2, <https://halshs.archives-ouvertes.fr/halshs-00339503/document>

⁸⁴ Article 6 of Decree Law No. 25/1929, <http://www.mohamoon.com/montada/Default.aspx?action=ArabicLaw&ID=11>; Nathalie Bernard-Maugiron, Breaking Up the Family: Divorce in Egyptian Law and Practice, p. 3, <https://halshs.archives-ouvertes.fr/halshs-00339503/document>

	<p>based on harm, if the claim of harm is proven and reconciliation between the spouses is impossible, the judge will grant a divorce and decide on the amount of compensation due to the wife. If the claim of harm is not proven and the wife insists on her claim, the judge must appoint two arbitrators (one from the husband's family and one from the wife's family) who will attempt to reconcile the couple. If reconciliation is impossible, the arbitrators will make the appropriate recommendation regarding the divorce and any compensation due, which the judge then reviews and make the appropriate ruling. Generally, if the source of the dispute is:⁸⁵</p> <ul style="list-style-type: none"> The husband, the arbitrators will recommend a divorce and the wife will fully be entitled to all her marital and divorce rights; 	<p>mother may prove paternity of her child by providing any form of evidence that she has had intimate relations with the alleged father. A customary marriage contract will be considered as such evidence but will most likely need to be substantiated by testimonies of others.⁹⁵</p> <p>The following are media reports of high profile court cases regarding the determination of paternity of children born in <i>urfi</i> marriages that have succeeded:⁹⁶</p>			<p>not render the repudiation invalid incentivises husbands to circumvent the requirement in order to avoid having to pay their wives financial compensation following the divorce; and (c) it is not the cultural norm to allow the state to interfere with family matters in Egypt.</p> <ul style="list-style-type: none"> On Isma:¹⁰⁵ According to a media report back in 2000, statistics released by CAPMAS at
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⁸⁵ Articles 6-11 of Decree Law No. 25/1929, <http://www.mohamoon.com/montada/Default.aspx?action=ArabicLaw&ID=11>; Article 19 of Law No. 1/2000, <https://www.egypt.gov.eg/arabic/laws/download/قانون%20رقم%201%20لسنة%202000%20باصدار%20قانون%20تنظيم%20عض%20اوضاع%20اوضاع%20اجراءات%20.pdf>

⁹⁵ Nathalie Bernard-Maugiron, "Personal Status Laws in Egypt: FAQ", (Promotion of Women's Rights GTZ, Egypt, 2010), pp. 9, 17, <http://www.gender-in-german-development.net/custom/images/contentBilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>; George Sadek, "Egypt: Appellate Court Rejects DNA Results That Contradict *Shari'a* Rules of Evidence", 2010, <https://loc.gov/law/foreign-news/article/egypt-appellate-court-rejects-dna-results-that-contradict-sharia-rules-of-evidence/>

⁹⁶ Omnia Talal, "Living without a name: Paternity disputes in Egypt ruin thousands of lives", *Aswat Masriya*, 1 December 2015, <http://en.aswatmasriya.com/news/details/260>; VOA, "High-Profile Paternity Case Highlights Risks of Common-Law 'Urfi' Marriage in Egypt" VOA, 31 October 2009, <http://www.voanews.com/a/a-13-2006-06-07-voa19/325284.html>

¹⁰⁵ Reem Leila, "Before you sign on the dotted line", *Al Ahram Weekly*, 22-29 June 2000, <http://weekly.ahram.org.eg/Archive/2000/487/li2.htm>; Mauritz Berger and Nadia

	<ul style="list-style-type: none"> • The wife, the arbitrators will recommend a divorce in exchange for compensation to be paid by the wife to the husband; • Shared between the husband and wife, the arbitrators will recommend a divorce and may recommend either no compensation to be paid by either party or in proportion to the wrongs of each side; • Cannot be determined, the arbitrators will recommend divorce with no compensation to be paid by either party. <p>Article 8 of Decree Law No. 25/1929 obligates the arbitrators to conclude the reconciliation process within six months of their appointment and if that is not possible, the judge has the power to grant an extension of time once subject to a maximum of three months. If the arbitrators are still unable to come to an agreement,</p>	<ul style="list-style-type: none"> • In the 2006 case of <i>Hind al-Hinnawī</i> and <i>Aḥmad al-Fishāwī</i>, after much debate, the court attributed the paternity of the child (daughter) in the marriage to the father who had denied contracting an <i>urfi</i> marriage and fathering the child. The father refused to submit to DNA testing;⁹⁷ • In the 2015 case of <i>Zeina</i> and <i>Ahmad Ezz</i>, the court ruled that the couple in the case concluded an <i>urfi</i> marriage and attributed the paternity of the twin children born in the marriage to 			<p>that time, indicated that about 50,000 women had marriage contracts containing provisions that provide them with the delegated right to divorce. The report suggested that:</p> <p>(i) the number of women expected to include the right to <i>isma</i> in their marriage contract is expected to increase due to current social and economic circumstances; (ii) the inclusion of the right to <i>isma</i> in marriage contracts were more common among “powerful, wealthy, educated women” who are based urban</p>
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Sonneveld, “Sharia and National Law in Egypt”, in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), p. 76,

<https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>

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Dena Rashed, “Legally Yours,” *Al-Ahram Weekly*, 1-7 June 2006, <http://weekly.ahram.org.eg/Archive/2006/797/fe1.htm>

	<p>Article 11 obligates the court to appoint a third arbitrator to assist with the reconciliation process. If the three arbitrators are still unable reach an agreement, the judge will order a divorce but the wife forfeits her financial rights either fully or partially and may also have to compensate her husband if the judge finds it appropriate for her to do so.⁸⁶</p> <p>In divorce cases based on harm, a wife's testimony is not sufficient to prove harm; she must also have two witnesses.⁸⁷</p> <p>Valid grounds for seeking an annulment including include conversion or apostasy of a spouse.⁸⁸</p> <p>Article 17 of Law No. 1/2000 generally prohibits the courts from hearing any disputes arising from unregistered or customary marriages (<i>urfi</i>).⁸⁹ However, the courts are allowed to rule on two aspects of such marriages: (i)</p>	<p>the husband of the marriage.⁹⁸</p>			<p>areas such as Cairo and Alexandria and who were more aware of their legal rights as compared to women in rural areas where small communities make it embarrassing for a woman to defy social taboos and insist upon her right to be granted a delegated right to divorce. More recent academic research indicate that despite their right to <i>isma</i> Egyptian women are reluctant to exercise it for fear or social stigma;</p> <ul style="list-style-type: none"> • On judicial
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⁸⁶ Articles 8, 11 of Decree Law No. 25/1929, <http://www.mohamoon.com/montada/Default.aspx?action=ArabicLaw&ID=11>

⁸⁷ Nathalie Bernard-Maugiron and Baudouin Dupret, "Breaking Up the Family: Divorce in Egyptian Law and Practice", (Hawwa, 6:1, 2008), p. 3, <https://halshs.archives-ouvertes.fr/halshs-00339503/document>

⁸⁸ Mauritz Berger and Nadia Sonneveld, "Sharia and National Law in Egypt", in *Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present*, ed. Jan Michiel Otto (Leiden, The Netherlands: Leiden University Press, 2010), p. 76, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21170/file221087.pdf?sequence=1>

⁸⁹ Article 17 of Law No. 1/2000, <https://www.egypt.gov.eg/arabic/laws/download/قانون%20رقم%201%20لسنة%202000%20باصدار%20قانون%20تنظيم%20عض%20اوضاع%20واجراءات%20.pdf>

	<p>Divorce applications where the existence of such a marriage is being denied by one of the parties provided there is documentary evidence of the marriage;⁹⁰ (ii) paternity disputes arising from such marriages where the paternity is being denied by one of the parties.⁹¹</p>				<p>divorce based on husband's imprisonment:¹⁰⁶ According to information on the ground, the cumbersome procedures in prison which makes it difficult to serve a divorce petition on husbands serving prison sentences is one of the reasons for the low number of divorces based on the imprisonment of husbands;</p> <ul style="list-style-type: none"> • On judicial divorce on harm: Evidence requirements for harm in divorce cases based on
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⁹⁸ Imogen Lambert and Nada Ramadan, "Who's the daddy? Ezz, Zeina and Egypt's *Urfi* marriages", *The New Arab*, 2 July 2015, <https://www.alaraby.co.uk/english/blog/2015/7/2/whos-the-daddy-ezz-zeina-and-egypts-urfi-marriages>

⁹⁰ Article 17 of Law No. 1/2000, <https://www.egypt.gov.eg/arabic/laws/download/انواع%20اوضاع%20بعض%20تنظيم%20قانون%20باصدار%202000%20لسنة%20رقم%20نقانون%20و.pdf>; Nathalie Bernard-Maugiron, "Personal Status Laws in Egypt: FAQ", (Promotion of Women's Rights GTZ, Egypt, 2010), p. 17, <http://www.gender-in-german-development.net/custom/images/contentBildergalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

⁹¹ Nathalie Bernard-Maugiron, "Personal Status Laws in Egypt: FAQ", (Promotion of Women's Rights GTZ, Egypt, 2010), p. 17, <http://www.gender-in-german-development.net/custom/images/contentBildergalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

¹⁰⁶ Information obtained from Egyptian advocate, February 2017

				<p>harm continue to be arbitrary and difficult to establish;¹⁰⁷</p> <ul style="list-style-type: none"> • Access to Justice: Access to justice is difficult for many poor women. The cost of hiring lawyers is excessive; the time spent in court to get a court ruling on personal status matters is lengthy.¹⁰⁸ <p>According to media reports, the Egyptian government had prepared a draft law that would have restricted the right of a husband to unilateral divorce. However, the draft law was rejected by the Council of</p>
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¹⁰⁷ Information obtained from Egyptian advocate, April 2017

¹⁰⁸ Alliance for Arab Women, "Shadow NGO Report on Egypt", *Submission to the CEDAW Committee for the 55th Session*, 2009, p. 17, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/EGY/INT_CEDAW_NGO_EGY_45_8670_E.pdf

					Senior Clerics in Al-Azhar. ¹⁰⁹
<p>Women's financial rights after divorce</p> <p><i>Is there a legal concept of matrimonial assets? Is there equal division of marital property upon dissolution of the marriage? Is the woman's role as wife and mother recognised as contribution to the acquisition of assets? What spousal maintenance are available to the wife after a divorce? Is she entitled to maintenance during the waiting period after the divorce (iddah)? Is she entitled to a consolatory gift or compensation upon divorce (mut'ah)? Who is responsible for the financial maintenance of children following a divorce? Can the couple agree to the division of assets acquired</i></p>	<p>Generally, upon divorce, a woman may be entitled to: (i) financial maintenance during the waiting period after the divorce (<i>iddah</i>); and (ii) a consolatory compensation (<i>mut'ah</i>). There is no legal concept of matrimonial assets. A woman's contribution as wife and mother is not recognised even after long married life and having taken care of the marital home and raised their children.¹¹⁰</p> <p>Under Egyptian law, a woman may be entitled to financial maintenance during the waiting period after the divorce (<i>iddah</i>). The maintenance amount is dependent on the husband's financial capacity. The <i>iddah</i> period may not exceed one year.¹¹¹</p>	<p>On 15 May 1993, the SCC ruled on the issue of <i>mut'ah</i> compensation. A woman required her former husband to pay compensation equivalent to 10 years of financial maintenance. The man refused, arguing that Article 18Bis of Decree Law No. 25/1929 ran contrary to Article 2 of the Constitution. In its ruling, the SCC drew a distinction between absolute rules of <i>Shari'ah</i> and</p>	<p>The Government of Egypt in its 2008 report to the CEDAW Committee reiterated that under Egyptian law:¹¹⁶</p> <ul style="list-style-type: none"> • The father is required to provide a suitable dwelling for his former wife and their children as long as she raises the children; • The father must fully pay the children's 	<p>The couple may agree on the division of assets acquired during the marriage in the marriage contract. For instance the couple may agree that:¹¹⁸</p> <ul style="list-style-type: none"> • The wife will benefit of the marital home and/or assets in event of divorce or death; and • The husband will allocate a lump or a regular amount 	<p>According to official and civil society reports as well as academic research:¹¹⁹</p> <ul style="list-style-type: none"> • Joint ownership of property between husbands and wives is very rare; • Feminist groups have advocate for the splitting of assets accumulated during the

¹⁰⁹ Bethan McKernan, "Egyptian religious council rejects reform to law allowing men to verbally divorce their wives", *The Independent*, 6 February 2017, <http://www.independent.co.uk/news/world/middle-east/egypt-religious-council-law-reform-verbal-divorce-men-wives-gender-equality-abdel-fattah-al-sisi-a7565306.html>; Egypt Independent, Verbal divorce bill to be ready in few days, in response to Sisi's call: MP, *Egypt Independent*, 26 January 2017, <http://www.egyptindependent.com/news/verbal-divorce-bill-be-ready-few-days-response-sisi-s-call-mp>

¹¹⁰ Nathalie Bernard-Maugiron, "Personal Status Laws in Egypt: FAQ", (Promotion of Women's Rights GTZ, Egypt, 2010), p. 10, <http://www.gender-in-german-development.net/custom/images/contentBilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

¹¹¹ Articles 16-18 of Decree Law No. 25/1929, <http://www.mohamoon.com/montada/Default.aspx?action=ArabicLaw&ID=11>; Nathalie Bernard-Maugiron, "Personal Status Laws in Egypt: FAQ", (Promotion of Women's Rights GTZ, Egypt, 2010), p. 10, <http://www.gender-in-german-development.net/custom/images/contentBilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

¹¹⁶ Egypt State party report, U.N. Doc. CEDAW/C/EGY/ (2008), p. 75, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹¹⁸ Nathalie Bernard-Maugiron, "Personal Status Laws in Egypt: FAQ", (Promotion of Women's Rights GTZ, Egypt, 2010), p. 16, <http://www.gender-in-german-development.net/custom/images/contentBilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

¹¹⁹ Nathalie Bernard-Maugiron, "Personal Status Laws in Egypt: FAQ", (Promotion of Women's Rights GTZ, Egypt, 2010), p. 10, <http://www.gender-in-german-development.net/custom/images/contentBilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

<p>during marriage in the marriage contract? Can this stipulation be amended? If so, by who and on what basis e.g. mutual consent?</p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(c), 16(1)(h) Paras. 30-33 GR21 Paras. 34-35, 43-48 GR29</p>	<p>Article 18Bis of Decree Law No. 25/1929 provides that a woman has a right to <i>mu'tah</i> compensation if: (i) the marriage has been consummated; (ii) she did not consent to the divorce; or (iii) the divorce was not due to any fault on her part. The amount of the compensation may not be less than two years of maintenance and is evaluated according to the husband's financial means, the circumstances of the divorce and the length of the marriage.¹¹²</p> <p>Following a divorce, the father is responsible for the financial maintenance of his children if the children do not have funds of their own. If the mother is the custodian, the father is obligated to house both the mother and his children either in the marital home or in a rented accommodation and pay the mother maintenance to cover the expenses of his children. A daughter is entitled to maintenance until she is married or is able to earn sufficient income for her expenses, and a son is</p>	<p>relative rules of <i>Sha'riah</i>. According to the SCC, while the meaning of the former does not change with time and space and they are not open to interpretation (<i>ijtihad</i>), the meaning of the latter may change with time or space and they are open to interpretation and thus to the legislature's intervention in the way which it deems suitable. The SCC declared that there is no absolute rule of <i>Shari'ah</i> that stipulates the amount of <i>muta'a</i> compensation. Instead, the related rule of <i>Shari'ah</i> is relative and the legislature is authorised to</p>	<p>expenses;</p> <ul style="list-style-type: none"> The father must pay the woman child-support in exchange for her rearing of the children. <p>The Egyptian government also emphasised that a woman does not have corresponding obligations with regard of these matters.¹¹⁷</p>	<p>of money to his wife if he divorces her against her will.</p>	<p>marriage by half between spouses upon divorce; and</p> <ul style="list-style-type: none"> No effective workable solution has been found yet to the problem of non-payment of maintenance and by husbands/fathers as a result of enforcement problems that the Fund faces.
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development.net/custom/images/contentBilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf; Mulki Al-Sharmani, "Egyptian Family Courts: A pathway of Women's Empowerment?", (Hawwa, 7:2, 2009), pp. 89-110; Ombudsman's Office (National Council for Women), "A Report on Women's Problems in Family Courts", (Cairo: Egypt: National Council for Women, Ombudsman's Office, 2007)

¹¹² Article 18Bis of Decree Law No. 25/1929, <http://www.mohamoon.com/montada/Default.aspx?action=ArabicLaw&ID=11>; Nathalie Bernard-Maugiron and Baudouin Dupret, "Breaking Up the Family: Divorce in Egyptian Law and Practice", (Hawwa, 6:1, 2008), p. 10, <https://halshs.archives-ouvertes.fr/halshs-00339503/document>

¹¹⁷ Egypt State party report, U.N. Doc. CEDAW/C/EGY/ (2008), p. 76, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

	<p>entitled to maintenance until he reaches the age of 15 or until he is able to earn a living of his own.¹¹³</p> <p>Article 71 of Law No. 1/2000 established a family insurance fund to be administered by the Nasser Social Bank (Fund). The Fund is tasked to pay the court-ordered maintenance due by husbands/fathers to their former wives/children and also to collect the maintenance payments from husbands/fathers. If the husband/father is a government employee or salaried worker in the private sector, up to a maximum of 50% of his salary will automatically be deducted for the payment of court-ordered maintenance and be disbursed by the Fund to the former wife/children. If the husband/father is not a salaried worker, the Fund will pay a certain amount of money to the former wife/children and the husband/father will be required to deposit the maintenance</p>	<p>interpret it. The law took into consideration the level of harm suffered by the woman, and this was in line with <i>Shari'ah</i> principles.¹¹⁵</p>			
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¹¹³ Article 18Bis-1, 18Bis-2 of Decree Law No. 25/1929, <http://www.mohamoon.com/montada/Default.aspx?action=ArabicLaw&ID=11>; Nathalie Bernard-Maugiron and Baudouin Dupret, "From Jihan to Susanne: Twenty Years of Personal Status Law in Egypt", (*Recht van de Islam*, 19, 2002), p. 10, http://www.verenigingrimo.nl/wp/wp-content/uploads/recht19_dupret.pdf

¹¹⁵ Articles 18, 20 of Law No. 1/2000, <https://www.egypt.gov.eg/arabic/laws/download/قانون%20رقم%201%20لسنة%202000%20باصدار%20قانون%20تنظيم%20عض%20اوضاع%20اوجراءات%20.pdf>; Nathalie Bernard-Maugiron and Baudouin Dupret, "From Jihan to Susanne: Twenty Years of Personal Status Law in Egypt", (*Recht van de Islam*, 19, 2002), pp. 9-10, http://www.verenigingrimo.nl/wp/wp-content/uploads/recht19_dupret.pdf

	<p>payments with Nasser Social Bank at the beginning of every month. The Fund will be financed by: (i) a contribution from the Financial Ministry; (ii) amounts recovered by delinquent husbands; (iii) administrative fees levied on the registration of marriages, divorces and births; and (iv) private donations. Article 79 provides that anyone who, through forged or bogus procedure or evidence, has received payments from the Fund will be criminally liable.¹¹⁴</p>				
<p>Custody of Children</p> <p><i>Do parents have equal rights over the custody of their children? If no, who has priority right over the custody of the child? Is custody decided based on the best interest of the child? Do mothers automatically lose custody upon re-marriage or if she is deemed disobedient or when the child reaches a designated age when custo-</i></p>	<p>A mother has priority right over the custody of her children until they reach 15. Thereafter, the daughter is given the option to remain with the mother until she marries and the son, until he reaches the age of civil majority (21).¹²⁰</p> <p>A mother risks losing custody of her children if she remarries.¹²¹</p>	<p>Generally, the courts take into account the best interest of the child when deciding who to award custody of the children. For instance in Case 211 of 2006, the mother sued the father, who had physical custody of</p>	<p>The Government of Egypt in its 2008 report to the CEDAW Committee reiterated that The mother is entitled to raise the children until they reach age 15. Thereafter, the concerned child may choose which parent to live with. In such</p>		<p>According to media reports, an attempt to reform the law regarding custody of children in 2016, came under severe criticism from feminist groups due to the apparent bias in the reform in favour of fathers. The proposed law</p>

¹¹⁴ Articles 71-79 of Law No. 1/2000, <https://www.egypt.gov.eg/arabic/laws/download/اقانون%20مرقم%201%20لسن%202000%20باصدار%20اقانون%20تنظي%20معض%20اوضاع%20اوجراءات%20.pdf>; Nathalie Bernard-Maugiron, “Personal Status Laws in Egypt: FAQ”, (Promotion of Women’s Rights GTZ, Egypt, 2010), pp. 6-7, <http://www.gender-in-german-development.net/custom/images/contentBilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>

¹²⁰ Article 20 of Decree Law No. 25/1929, <http://www.mohamoon.com/montada/Default.aspx?action=ArabicLaw&ID=11>
¹²¹ Article 20 of Decree Law No. 25/1929, <http://www.mohamoon.com/montada/Default.aspx?action=ArabicLaw&ID=11>; Nathalie Bernard-Maugiron, “Personal Status Laws in Egypt: FAQ”, (Promotion of Women’s Rights GTZ, Egypt, 2010), p. 10, <http://www.gender-in-german-development.net/custom/images/contentBilderGalerie/bilderGalerie1000507/GTZ-BMZ-NWRO-IRD-Personal-status-laws-in-egypt-2010-EN.pdf>; Mulki Al-Sharmani, “Recent Reforms in Personal Status Laws and Women’s Empowerment: Family Courts in Egypt”, 2008, p. 49, <https://goo.gl/bp4MnO>

<p><i>dy goes to father?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>		<p>the children, for custody of her children. The judge ruled that the children be given to the mother, and the father should pay for all administrative and lawyers' fees. The judge based his ruling on Article 20 of Decree Law No. 25/1929, which at that time had just been amended to stipulate that the mother's priority right to custody ends when both son and daughter reach the age of 15 and enabled a judge, after these ages, to allow a mother to continue to have custody of her son until he reaches the age of maturity, and the daughter, until she gets married without custody maintenance.¹²²</p>	<p>instances, the law is primarily concerned with the interest of the children.¹²³</p>	<p>sought to enhance the father's child custody rights, such as granting him immediate custody of his children upon the remarriage of their mother and longer visitation rights with his children. However, similar enhancement of a mother's child custody rights such as her ability to still have custody of her children despite her remarriage was not included in the proposed law.¹²⁴</p>
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¹²² Maha Muhammad Assad, "The Divinity of Personal Status Law in Egypt", 2016, pp 31-32, <http://dar.aucegypt.edu/bitstream/handle/10526/4795/The%20Divinity%20Of%20Personal%20Status%20Law%20In%20Egypt.pdf?sequence=3>

¹²³ Egypt State party report, U.N. Doc. CEDAW/C/EGY/ (2008), p. 76, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹²⁴ Mai Shams El-Din, "Egypt's child custody laws: How to reform?", *Mada*, 28 December 2016, <http://www.madamasr.com/en/2016/12/28/feature/society/egypts-child->

<p>Guardianship of Children</p> <p><i>Do parents have equal rights over the guardianship of their children? If no, who has priority right over the guardianship of the child? Is guardianship decided based on the best interest of the child?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>	<p>A father has priority right over the guardianship of his children during and after a divorce until the children reach the age of civil majority (21). However, the father may be deprived of guardianship if he commits a crime against the child or is negligent.¹²⁵</p>		<p>The Government of Egypt in its 2008 report to the CEDAW Committee reiterated that a man is required to:¹²⁶</p> <ul style="list-style-type: none"> • provide a suitable dwelling for his divorced ex-wife and their children as long as she raises the children; • fully pay the children's expenses; • pay the woman child-support in exchange for her rearing of the children. <p>A woman has no obligation in any of the aforesaid matters.</p>		
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¹²⁵ [custody-laws-how-to-reform/](http://english.ahram.org.eg/NewsContent/1/64/251494/Egypt/Politics-/Egypt-MPs-proposal-to-revoke-child-custody-for-mot.aspx); Salma Shukrallah, "Egypt MP's proposal to revoke child custody for mother who remarry triggers backlash", *Ahram Online*, 7 December 2016, <http://english.ahram.org.eg/NewsContent/1/64/251494/Egypt/Politics-/Egypt-MPs-proposal-to-revoke-child-custody-for-mot.aspx>

¹²⁶ Reunite, "Summary Text for Egypt", 2005, pp.3- 4, <http://www.reunite.org/edit/files/Islamic%20Resource/EGYPT%20text.pdf>

Egypt State party report, U.N. Doc. CEDAW/C/EGY/ (2008), p. 75, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<p>Family Planning</p> <p><i>Do women require the consent of the husband to practise family planning, including abortions and sterilisation in law or in practice?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(e), 12 Paras. 21-23 GR21</p>	<p>Abortion is strictly prohibited by law, except when it is necessary to save the pregnant woman's life. Thus:¹²⁷</p> <ul style="list-style-type: none"> Article 260 of the Penal Code provides that whoever who wilfully causes the abortion of a pregnant woman through assault or battery will be punished with temporary hard labour; Articles 261-262 subjects a pregnant woman who intentionally aborts her pregnancy as well as whoever who cause her to miscarry with or without her consent will be subject to detention; and Article 263 provides that physicians, pharmacists, surgeons and midwives who perform an abortion are subject to temporary hard labour. 		<p>The Government of Egypt in its 2000 report to the CEDAW Committee explained that, "Women and men share full responsibility for all matters arising from their marriage, including the maintenance and support of the family unit and decisions about the number and spacing of their children; the extent and impact of this shared responsibility differ according to the educational and cultural background of each partner."¹²⁸</p> <p>In its 2008 report to the CEDAW Committee, the Egyptian government again reiterated that generally spouses</p>	<p>According to World Bank data, the total fertility rate decreased from 6.6 children per woman in 1960 to 3.3 in 2015.¹³⁰</p> <p>According to Egypt's 2014 Demographic and Health Survey:¹³¹</p> <ul style="list-style-type: none"> The median birth interval in Egypt is 36.7 months, with 20% of children being born less than 24 months after their siblings; 13% of married women have an unmet need for family planning services, with 5% having an unmet need for spacing and 9% an unmet need for limiting of children;
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¹²⁷ Articles 260-263 Penal Code (1937), https://www.unodc.org/res/cld/document/criminal_code_of_egypt_english_html/Egypt_Criminal_Code_English.pdf

¹²⁸ Egypt State party report, U.N. Doc. CEDAW/C/EGY/4-5 (2000), p. 89, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹³⁰ World Bank, "Fertility rates, total (births per woman)", <http://data.worldbank.org/indicator/SP.DYN.TFRT.IN>

¹³¹ Egyptian Ministry of Health and Population, El-Zanaty and Associates and the DHS Program, "Egypt Demographic and Health Survey 2014", Tables 4.7, 6.1, 6.20, 15.10, pp. 47, 83, 82, 225, <https://dhsprogram.com/pubs/pdf/FR302/FR302.pdf>

			<p>“agree on the number of children they will raise based on what they believe best serves childrearing. Their considerations in this regard are particularly influenced by the rise in the level of education. However, some mothers and fathers persist in several undesirable practices in this regard, and it is difficult for the Government to intervene with measures or legislation to regulate this matter.”¹²⁹</p>		<ul style="list-style-type: none"> • 59% of married women are using a method of contraception, with 57% of women using a modern method; and • Knowledge of at least one method of family planning is universal among married women in Egypt.
<p>Personal rights of spouses</p> <p><i>Does a woman need the consent of her spouse or guardian to work, choose a profession, leave the house, travel, drive, receive various health services, study, etc. on</i></p>	<p>Article 54 of the Constitution provides that personal freedom is a natural right which is to be safeguarded and cannot be infringed upon except in flagrante delicto.¹³²</p>			<p>A wife may stipulate in the marriage contract that she has the right to work after marriage. If the marriage contract is explicit in this</p>	<p>According to Egypt’s 2014 Demographic and Health Survey:¹³⁸</p> <ul style="list-style-type: none"> • Only 16% of married Egyptian

¹²⁹ Egypt State party report, U.N. Doc. CEDAW/C/EGY/ (2008), p. 76, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹³² Article 54 of Egypt’s Constitution of 2014, https://www.constituteproject.org/constitution/Egypt_2014.pdf

<p><i>her behalf? Does a woman have the right to retain her birth name upon marriage or to choose her family name? Can a woman protect her personal rights through her marriage contract?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(g) Para. 24 GR21 Para. 34 GR29</p>	<p>Article 62 guarantees freedom of movement of all citizens.¹³³</p> <p>Article 12 grants all citizens the right to work.¹³⁴</p> <p>Despite the constitutional provisions stating otherwise, Egyptian personal status laws potentially restrict the personal rights of a Muslim wife as a result of the maintenance-for-obedience legal framework provided for by the law. A wife risks losing her financial maintenance if she:¹³⁵</p> <ul style="list-style-type: none"> • Refrains from giving herself to her husband voluntarily without rightful reason; • Leaves the marital home without her husband's permission; • Goes out to work without her husband's consent unless it is stipulated in the contract she has the right to work and it is decided by the court that her going to work is for legiti- 			<p>manner, her husband cannot legally stop her from working.¹³⁶</p> <p>Married women in Egypt may retain their maiden names.¹³⁷</p>	<p>women were employed at the time of the survey;</p> <ul style="list-style-type: none"> • 29% of married women earning cash made independent decisions on how to spend their earnings; • 95% of married women aged 15-49 do not own a house while 98% do not own land; among women who do own assets, 2% and 1% of women own a house and land by themselves, respectively; • 59% of married women participate either alone or jointly with their
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¹³⁸ Egyptian Ministry of Health and Population, El-Zanaty and Associates and the DHS Program, "Egypt Demographic and Health Survey 2014", Tables 4.7, 6.1, 6.20, 15.10, pp. 47, 83, 82, 225, <https://dhsprogram.com/pubs/pdf/FR302/FR302.pdf>

¹³³ Article 62 of Egypt's Constitution of 2014, https://www.constituteproject.org/constitution/Egypt_2014.pdf

¹³⁴ Article 12 of Egypt's Constitution of 2014, https://www.constituteproject.org/constitution/Egypt_2014.pdf

¹³⁵ Article 1 of Law No. 25/1920, Article 11Bis-2 of Decree Law No. 25/1929 <http://www.mohamoon.com/montada/Default.aspx?action=ArabicLaw&ID=11>

¹³⁶ Pascale Fournier et al, "En-gender-ing Legal Reforms: Islamic Law in Africa and East Asia", (Amsterdam Law Forum, 3:2, 2011), pp. 123-124, <http://amsterdamlawforum.org/article/viewFile/213/405>

¹³⁷ Monika El Shorbaji et. al, "Study on Gender and Socio-Cultural Diversity in Egypt", 2004, p. 12, http://open_jicareport.jica.go.jp/pdf/11785342.pdf

	<p>mate reasons and does not contravene the husband's rights and family welfare;</p> <ul style="list-style-type: none"> • Refrains from obeying her husband unjustifiably and without any right. 			<p>husband in making decisions pertaining to their own healthcare, major household purchases, and visits to their family or relatives; and</p> <ul style="list-style-type: none"> • 36% of married women accept at least one reason as a justification for wife beating. Women are most likely to agree that if a wife goes out without telling her husband, it justifies wife beating (26%). <p>According to World Bank data, female labour force participation decreased from 26% in 1990 to 23% in 2016.¹³⁹ During the same period, male labour force participation rate</p>
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¹³⁹ World Bank, "Labour force participation rate, female (% of female population ages 15+) (modelled ILO estimate)", <http://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS>

					<p>increased slightly from 75% to 76%.¹⁴⁰</p> <p>According to the 2016 UNDP Human Development Report:¹⁴¹</p> <ul style="list-style-type: none"> • 55% of women over 25 have at least some secondary education as compared to 68% of men of the same age group; • 92% of females aged 15-24 are able to read and write a short simple sentence as compared to 95% of males in the same age group; and • 65% of women and men are satisfied with their freedom of choice.
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¹⁴⁰ World Bank, “Labour force participation rate, male (% of male population ages 15+) (modelled ILO estimate)”, <http://data.worldbank.org/indicator/SL.TLF.CACT.MA.ZS>
¹⁴¹ UNDP, “Human Development Report 2016”, Tables 5, 9, 14, pp. 214-217, 230-233, 250-253, http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf

<p>Inheritance rights</p> <p><i>Are women and men in the same degree of relationship to a deceased entitled to equal shares in the estate and to equal rank in the order of succession? Are there procedures to address any inequalities in inheritance between women and men e.g. can a will be written, can beneficiaries agree to inherit equal shares of the estate or can the children agree to forgo their inheritance in favour of their mother upon the death of their father?</i></p> <p><u>Applicable CEDAW Provision</u> Paras. 34-35 GR21 Paras. 49-53 GR29</p>	<p>Generally, inheritance rights between women and men are unequal. Article 875 of the Civil Code provide for inheritance laws to be based on <i>Shari'ah</i>.¹⁴² Law No. 77/1943 details the inheritance shares. In many instances, for example in the cases involving widows and widowers as well as siblings, a woman is entitled to half the share of a man.¹⁴³</p> <p>The children of a parent who has predeceased their own parent (i.e. the children's grandparent) can inherit from their grandparent through an obligatory bequest.¹⁴⁴</p>				<p>According to media reports:¹⁴⁵</p> <ul style="list-style-type: none"> · Tradition and custom, especially in rural areas like Upper Egypt, deprive women from their right to own or manage any financial or land inheritance; · The Egyptian government is considering amending the inheritance law to punish anyone who deliberately denies inheritance to those entitled.
<p>Violence against women in the family</p> <p><i>Are there laws that define what</i></p>	<p>Article 11 of the Constitution commits the State to:¹⁴⁶</p> <ul style="list-style-type: none"> • Protect women against all 	<p>According to a media report, in January 2015, a doctor was convicted for</p>	<p>According to the Government of Egypt in its 2008 report to the</p>		<p>According to Egypt's 2014 Demographic and Health Survey.¹⁵⁵</p>

¹⁴² Article 875 of the Civil Code (1948), http://www.wipo.int/wipolex/en/text.jsp?file_id=205494

¹⁴³ Law No. 77/1943, <https://goo.gl/YRHSNh>; Riad & Riad Law Firm, "Women's Rights under Egyptian Law", 2016, p. 5, <http://www.riad-riad.com/storage/app/media/womens-rights-under-egyptian-law.pdf>

¹⁴⁴ Nadjma Yassari, "Intestate Succession in Islamic Countries", in *Comparative Succession Law: Vol. II: Intestate Succession*, eds. Kenneth Reid, Marius de Waal, Reinhard Zimmermann, (Oxford: Oxford University Press, 2015), pp. 436-437

¹⁴⁵ N.A. Hussein, "Egypt pushes inheritance protections for women", *Al-Monitor*, 3 March 2017, <http://www.al-monitor.com/pulse/originals/2017/02/egypt-women-rights-inheritance-law-society-culture-tradition.html>; Walaa Hussein, "Inheritance plan could be game-changer for Egypt women", *Al-Monitor*, 11 July 2016, <http://www.al-monitor.com/pulse/originals/2016/07/egypt-inheritance-rights-women-disputes-courts.html>

¹⁴⁶ Article 11 of Egypt's Constitution (2014), https://www.constituteproject.org/constitution/Egypt_2014.pdf

¹⁵⁵ Egyptian Ministry of Health and Population, El-Zanaty and Associates and the DHS Program, "Egypt Demographic and Health Survey 2014", Tables 16.3, 16.8, 16.12, pp. 233, 240, 244, <https://dhsprogram.com/pubs/pdf/FR302/FR302.pdf>

<p><i>constitute domestic violence such as battery, female circumcision, marital rape and other forms of sexual assault and violence that affect a woman's mental health which are perpetuated by traditional attitudes? Is there specific legislation that recognises domestic violence as a crime? Is the husband allowed to discipline his wife? Can a suspected perpetrator marry his alleged abused victim to avoid punishment? Are there support services for women who are the victims of aggression or abuses?</i></p> <p><u>Applicable CEDAW Provision</u> GRs 12 & 19 Para. 40 GR21</p>	<p>forms of violence;</p> <ul style="list-style-type: none"> Protect and care for motherhood, childhood and breadwinning, elderly women, and women most in need. <p>Egypt has not adopted specific legislation to criminalise acts of domestic violence.</p> <p>The Penal Code contains some general prohibitions that are applicable to domestic violence. For instance, the Penal Code:¹⁴⁷</p> <ul style="list-style-type: none"> Article 242B provides that anyone who causes injury through performing female genital mutilation will be jailed or fined;¹⁴⁸ Article 267 provides a penalty of permanent or temporary hard labour in rape case. A rapist who is related to the victim, her guardian, her employer or has any form of control over the victim will be punished with hard labour;¹⁴⁹ 	<p>involuntary manslaughter after he had performed female genital mutilation (FGM) on So-hair al-Batea, a 13-year-old girl, who died as a result. The doctor was the first doctor in Egypt to be convicted for a crime related to FGM. However, although he was sentenced to two years and three months imprisonment, he was released after only serving three months in jail.¹⁵²</p>	<p>CEDAW Committee, Egypt has adopted the definition of violence against women as contained in Article 1 the Declaration on the Elimination of Violence against Women, namely, "Violence against women means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life".¹⁵³</p> <p>The Egyptian government has</p>	<ul style="list-style-type: none"> Overall, 30% of married women aged 15-49 reported having experienced emotional, physical and/or sexual violence from their spouse at least once, and 19% reported having experienced one or more of these forms of violence in the past 12 months; 19% of married women aged 15-49 reported having experienced emotional violence from their spouse at least once, and 13% reported having experienced such
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¹⁴⁷ Penal Code (1937), https://www.unodc.org/res/cld/document/criminal_code_of_egypt_english_html/Egypt_Criminal_Code_English.pdf; Egypt: Domestic violence; whether there is state protection for the victims; existence of women's groups, shelters or hot-lines (2001), <http://www.refworld.org/docid/3df4be2d14.html>

¹⁴⁸ National Population Council, "The National FGM Abandonment Strategy (2016-2020)", p. 5, <http://www.npc.gov.eg/images/pdf/E%20Strategy%20final%20Light.pdf>

¹⁴⁹ Article 267 of the Penal Code (1937), https://www.unodc.org/res/cld/document/criminal_code_of_egypt_english_html/Egypt_Criminal_Code_English.pdf

¹⁵² Ruth Michaelson, "First Doctor Convicted of FGM Death in Egypt only Spent Three Months in Jail", *The Guardian*, 2 August 2016, <https://www.theguardian.com/world/2016/aug/02/egyptian-doctor-convicted-of-fgm-death-serves-three-months-in-jail>

	<ul style="list-style-type: none"> Article 268 provides for a penalty of three to seven years hard labour for a perpetrator who indecently assaults a victim by force or threat. Where the victim is under 16, or the perpetrator falls under the category listed in Article 267 (i.e. he is the victim's guardian, etc.), he will be punished with the maximum sentence of temporary hard labour;¹⁵⁰ Article 290 prescribes the death penalty for the kidnapping of a woman through deception or by force if the victim is raped.¹⁵¹ <p>The Criminal Code does not specifically criminalise marital rape. However, Article 267 may be applicable in such cases.</p>		<p>developed a national strategy to eliminate FGM by 2030.¹⁵⁴</p>		<p>violence within the 12 months prior to the survey;</p> <ul style="list-style-type: none"> 25% of married women aged 15-49 reported having experienced physical violence from their spouse at least once, and 14% reported having experienced such violence within the 12 months prior to the survey; 4% of married women aged 15-49 reported having experienced sexual violence from their spouse at least once, and 3% reported having
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¹⁵³ Egypt State Party Submission to CEDAW Committee (2008), p. 76, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>
¹⁵⁰ Article 268 of the Penal Code (1937), https://www.unodc.org/res/cld/document/criminal_code_of_egypt_english_html/Egypt_Criminal_Code_English.pdf
¹⁵¹ Article 290 of the Penal Code (1937), https://www.unodc.org/res/cld/document/criminal_code_of_egypt_english_html/Egypt_Criminal_Code_English.pdf
¹⁵⁴ National Population Council, "The National FGM Abandonment Strategy (2016-2020)", <http://www.npc.gov.eg/images/pdf/E%20Strategy%20final%20Light.pdf>; Ruth Michaelson, "First Doctor Convicted of FGM Death in Egypt only Spent Three Months in Jail", *The Guardian*, 2 August 2016, <https://www.theguardian.com/world/2016/aug/02/egyptian-doctor-convicted-of-fgm-death-serves-three-months-in-jail> Egyptian Streets, "Egypt will 'Eradicate Female Genital Mutilation by 2030: Health Minister", *Egypt Streets*, 6 February 2016, <https://egyptianstreets.com/2016/02/06/egypt-will-eradicate-female-genital-mutilation-by-2030-health-minister/>

					<p>experienced such violence within the 12 months prior to the survey;</p> <ul style="list-style-type: none"> • Among married women who had experienced spousal violence (physical or sexual) in the past 12 months, 44% reported experiencing physical injuries; and • It is fairly uncommon for women in Egypt to seek assistance from any source for violence they have experienced. 48% of women never sought help and never told anyone about the violence they have experienced. <p>An academic research found that mediation specialists, court experts, lawyers, and judges often</p>
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					defined spousal sexual abuse in narrow exclusive categories, namely: if husbands had anal sex with their wives or if they abstained from having sexual relations with them for a long period of time. Female disputants who were interviewed for this study, on the other hand, identified forced sexual intercourse and sexual relations that are accompanied by emotional maltreatment as a serious form of a spousal sexual abuse. ¹⁵⁶
<p>Nationality rights</p> <p><i>Does a wife have the right to confer her citizenship on foreign husbands and children? Can the nationality of an adult woman be arbitrarily removed because of marriage or dissolution of mar-</i></p>	<p>An Egyptian man may pass his nationality to his non-Egyptian wife, provided she meets various conditions.¹⁵⁷ The law does not specifically provide for an Egyptian wife to confer her nationality to her foreign husband. The foreign husband of an Egyptian</p>			<p>The Government of Egypt in its 2008 report to the CEDAW Committee explained that Egypt withdrew its reservation to Article 9 of CEDAW after</p>	

¹⁵⁶ Mulki Al-Sharmani, "Recent Reforms in Personal Status Laws and Women's Empowerment: Family Courts in Egypt", 2008, p. 50, <https://goo.gl/bp4MnO>

¹⁵⁷ Articles 6, 7 of the Egyptian Nationality Law (1975), <http://www.refworld.org/docid/3ae6b4e218.html>

<p><i>riage or because her husband or father changes his nationality?</i></p> <p><u>Applicable CEDAW Provision</u> Article 9 Para. 6 GR21</p>	<p>woman may acquire Egyptian nationality through naturalisation i.e. only by decree and only if he: (i) has lived in Egypt for at least 10 consecutive years; (ii) does not suffer from any physical or mental disabilities; (iii) is morally upright; (iv) has sufficient knowledge of the Arabic language; (iv) has legal means of earning a living.¹⁵⁸</p> <p>An Egyptian mother or father may pass their citizenship to their children regardless of whether they are born in Egypt or abroad.¹⁵⁹</p> <p>Where a child is born of an Egyptian mother and a non-Egyptian father, an application for Egyptian nationality may be made in accordance with the procedure laid out in the Minister of Interior Decree No. 12025/2004.¹⁶⁰</p>		<p>amending the promulgation of Law No. 54/2004 which allowed Egyptian women to transfer their citizenship to their children.¹⁶¹</p>		
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¹⁵⁸ Article 4(5) of the Egyptian Nationality Law (1975), <http://www.refworld.org/docid/3ae6b4e218.html>; Abdeen Kandiel, “Gender and Migration: The case of Egypt”, (Analytic and Synthetic Notes: Gender and Migration Series – Legal Module, CARIM-AS 2011/14, 2011), p. 6, http://cadmus.eui.eu/bitstream/handle/1814/15599/CARIM_ASN_2011_14.pdf

¹⁵⁹ Article 2 of the Egyptian Nationality Law (1975), <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=58bebc444>

¹⁶⁰ Minister of Interior Decree No. 12025/2004, <http://www.refworld.org/docid/432aaab74.html>; Abdeen Kandiel, “Gender and Migration: The case of Egypt”, (Analytic and Synthetic Notes: Gender and Migration Series – Legal Module, CARIM-AS 2011/14, 2011), pp. 5-6, http://cadmus.eui.eu/bitstream/handle/1814/15599/CARIM_ASN_2011_14.pdf#6a46.html

¹⁶¹ Egypt State party report, U.N. Doc. CEDAW/C/EGY/ (2008), p. 11, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>