

## **Divorced from Justice: Women's Unequal Access to Divorce in Egypt**

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## I. SUMMARY

*I told him “divorce me and leave, at least that way when I go to beg from people on the street, they’ll know I have no one.” He said “no, I’ll kill you. Leave the house if you want a divorce. Give up the house, the children, the furniture, and the clothing that you’re wearing... I will not give you anything... You will go to your family’s house and they’ll bring you back to lick my shoes.”*

—Amira Ahmad, Cairo, June 13, 2004

Egyptian women are at a distinct disadvantage in access to divorce for no reason other than that they are women. The threat leveled against Amira Ahmad by her husband is not an idle threat: it is backed by profoundly discriminatory laws and practices premised on women’s inferiority, particularly in matters related to the family.

The Egyptian government has created two widely disparate systems for divorce, one for men and one for women. Egyptian men have a unilateral and unconditional right to divorce. They never need to enter a courtroom to end their marriages. Egyptian women, on the other hand, must resort to Egypt’s notoriously backlogged and inefficient courts to divorce their spouses.

In the courts, women face procedural and evidentiary hurdles to divorce that are inherently discriminatory. Men, who can divorce their spouses at will with an oral renunciation later registered by a religious notary, can simply sidestep these procedures. Obtaining a divorce can also take years as men manipulate the many defenses and tactics Egyptian law reserves only for them. As a result, many Egyptian women, like Amira Ahmad, avoid the courts and are left with two equally distressing options: either remain in an unwanted marriage and possibly endure physical and psychological abuse, or beg their husbands to divorce them, giving up everything they own and cherish in return. The consequences of this two-tiered system are often financially and emotionally devastating for women. In some cases, they can be life-threatening.

Egypt’s discriminatory divorce system is among the starkest examples of Egypt’s oppressive personal status laws. These personal status laws—common in the region—govern marriage, divorce, custody, and inheritance and advance a model of the family based on the superiority of men to women. Laws and practices as applied violate the rights of Egyptian women to equality before the law, nondiscrimination, and equality in marriage and divorce, as enshrined in international human rights law.

Egypt's divorce laws discriminate against women in the procedures they impose and in their substantive provisions, reflecting a system of unequal access and treatment that obstructs many women from seeking divorce. The judicial process is fraught with difficulties, delays, high costs, and varying standards. In order to initiate a divorce providing full financial rights, an Egyptian woman must show evidence of harm inflicted by her spouse during the course of their marriage, often supported by eyewitness testimony. Alternatively, since 2000, Egyptian women can file for "no-fault" divorce (*khul'*) if they agree to forfeit their financial rights and repay the dowry given to them by their husbands upon marriage. *Khul'*, adopted as a way to afford women easier access to divorce, still requires women to petition the court to terminate their marriages. The option is most accessible to women with the financial means to renounce all financial claims, or those with limited means but who are desperate for a divorce.

The government requires all women seeking divorce, including victims of domestic violence, to submit to compulsory mediation. When men initiate divorce, the government does not require them to make an effort to reconcile. The fact that only women must submit to mediation in the name of family preservation implies that only divorces initiated by women destroy the family. Compulsory mediation for women, and only women, is also rooted in biased notions of a woman's inability to make rational decisions about important life choices without interference.

Many Egyptian women find themselves impoverished and facing homelessness while they navigate the judicial jungle of divorce in Egypt. Egyptian women who have separated from their husbands and have filed for divorce in Egypt's courts are deemed automatically ineligible for any form of government-sponsored financial assistance, since they are officially still married. Without a divorce certificate in hand, women are provided with no social assistance; they are deemed to be the financial responsibility of their husband and not the state.

The legal and bureaucratic nightmare of obtaining either a fault-based or no-fault divorce does not end once a divorce is finally granted. For many Egyptian women, a divorce is tantamount to destitution because of the government's failure to enforce court rulings for alimony and child support. The Egyptian government's attempt to remedy this problem through the establishment of a specialized alimony and child support fund is a step in the right direction. However, the fund should not be a substitute for more aggressive enforcement of court rulings.

Divorced women are also permanently at risk of becoming homeless because they have no stake in marital assets, and retain no ownership interest in the marital home or any

other property upon divorce. Egyptian law automatically transfers the legal and physical custody of adolescent children to the father, and ties a woman's right to live in the marital home to the period during which she has physical custody of the children. These inequalities deter many women from initiating divorce.

The issue of unequal access to divorce and the pervasive problem of domestic violence are inextricably linked. Violence against women in Egypt remains both culturally and legally permissible, and is typically accepted by the general public as a normal and legitimate form of "discipline." By obstructing a woman's right to divorce through discriminatory laws and procedures, the Egyptian government is essentially condemning many women to violent and potentially life-threatening marriages. This unjust divorce system deters many women, including those in abusive relationships, from ever attempting to seek a divorce and leaves others languishing in legal limbo for years. Ultimately, the Egyptian legal system's treatment of women perpetuates the powerlessness many Egyptian women face at home.

Government efforts to deal with women's unequal access to divorce have failed to address the fundamentally discriminatory aspects of the divorce system. In the end, the government has settled for half-hearted solutions that grant women rights far short of equality. The introduction of no-fault divorce in 2000, while sparing women the need to specify grounds for divorce, has not fundamentally altered the unequal divorce equation in Egypt. The fact that the Egyptian government has not reformed the fault-based divorce system means that the new law has simply created another avenue whereby women may choose to give up critically important rights in exchange for a divorce.

The establishment of specialized family courts to adjudicate all family disputes in October 2004 is intended to streamline the divorce process by consolidating all disputes into a single case heard by one court, potentially reducing delays. While a step forward in some respects, these new courts will implement the same discriminatory laws and practices as the previous system. These new courts will be a missed opportunity if they are not a starting point for further reforms to substantively amend the divorce system and grant women an equal right to divorce.

Egypt has ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the International Covenant on Civil and Political Rights (ICCPR). Both require that Egypt take appropriate measures to ensure equality for both men and women in marriage and divorce. In its reservations to these treaties, Egypt has specified adherence to Islamic law (*Shari'a*) to evade its obligation to protect women's rights, including a woman's right to equal access to divorce. Such reservations are

inconsistent with the object and purpose of the treaties, and, as such, with Egypt's international obligations to work to modify and eliminate religious and cultural norms that foster inequality. The Egyptian government continues to use these norms as a means to justify human rights violations against women.

The Egyptian government should take immediate steps to ensure equality in the substantive and procedural laws and policies governing divorce. It should repeal discriminatory provisions in its family and penal laws, particularly those that have helped create and perpetuate unequal and parallel systems of divorce for men and women. The United Nations and the Egyptian government, with donor support, should review and reform existing family laws to ensure that they are consistent with Egypt's obligations under CEDAW and other international human rights instruments; that they do not discriminate on the basis of sex or gender; and that they afford women equality of access to divorce.

Human Rights Watch does not advocate for or against Shari'a per se, or any other system of religious belief or ideology; nor do we seek to judge or interpret the principles of any religion or faith. We are simply concerned about human rights violations resulting from the implementation of any legal system, in any country.

This report is based on 112 interviews conducted in Egypt in June and July 2004 as well as prior and subsequent research. The interviews with divorcees and married women seeking divorce took place in the governorates of Cairo, Qalubiyah, Minya, and Sohag. These interviews included meetings with twenty-seven Egyptian government officials at the Ministry of Justice, the Ministry of Insurance and Social Affairs, the Ministry of Interior, the Ministry of Health, and the National Council for Women. Human Rights Watch also interviewed United Nations representatives, staff of nongovernmental organizations (NGOs), attorneys, judges, social workers, doctors, and donor government officials.

All of the names of women whose cases are discussed have been changed to protect their privacy, unless otherwise indicated. Other identifying information has been withheld in some cases for the same reason.

## II. BACKGROUND

The Egyptian government's obstruction of a woman's right to divorce exemplifies its unwillingness to grant women legal equality. Profoundly discriminatory family, penal, and civil laws reinforce the unequal status of women in the family and in Egyptian society. Laws condoning domestic violence and policies that exclude women from the judicial bench foster and perpetuate women's second-class status.

### ***Women's Status in Egypt***

*The State shall guarantee coordination between a woman's duties toward her family and her work in the society, considering her equal to man in the political, social, cultural and economic spheres without detriment to the rules of Islamic jurisprudence (Shari'a).*

—Article 11, Constitution of the Arab Republic of Egypt

Despite some improvements in their status over the past few decades, women remain worse off than men in Egypt by just about any measure. In 2000, the last year for which statistics are available, an estimated 56 percent of adult Egyptian women were illiterate as compared to 33 percent of adult men.<sup>1</sup> Women's health and lives continue to be jeopardized in Egypt by harmful customary practices such as female genital mutilation (FGM), which is practiced on an estimated 97 percent of ever-married women in Egypt.<sup>2</sup> Women constitute only 21 percent of the labor force.<sup>3</sup> On average, women are paid only 76 percent of men's wages in the private sector and 86 percent in the public sector.<sup>4</sup> An estimated 19 percent of women are unemployed compared to 5 percent of men.<sup>5</sup> The share of women members in the Egyptian parliament does not exceed 3 percent in the lower house and 6 percent in the upper house.<sup>6</sup> Rural women in Egypt are even worse off than their urban counterparts. In rural areas, although 20 percent of agricultural

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<sup>1</sup> World Bank, *Egypt: Summary Gender Profile* [online] <http://devdata.worldbank.org/genderstats/genderRpt.asp?rpt=profile&cty=EGY,Egypt,%20Arab%20Rep.&hm=home> (retrieved August 3, 2004).

<sup>2</sup> Egypt Demographic and Health Survey 2000 quoted in World Bank, *Gender Assessment: Arab Republic of Egypt*, 1998, p. 16.

<sup>3</sup> World Bank, *Gender Assessment: Arab Republic of Egypt*, 1998, p. 50.

<sup>4</sup> *Ibid.*, p. 59.

<sup>5</sup> *Ibid.*, p. 57.

<sup>6</sup> See UNIFEM, "New study on Egyptian Women," March 2004. Supported by CAPMAS (Egypt's National Department of Statistics).

workers are women, they own only 6 percent of the land. They are also often prevented from exerting meaningful control over the little land they own since they are routinely coerced into surrendering control of land to their husbands or male relatives.<sup>7</sup>

Women's second-class status translates into a lack of decision-making power in the family, even on the most intimate aspects of their lives. Many Egyptian women are forced into marriages by a male relative (usually their fathers), often before adulthood. As many as 20 percent of Egyptian women aged twenty to twenty-four were married by the age of eighteen.<sup>8</sup> Among adolescents, as many as 9 percent of those aged fifteen to nineteen and as many as 20 percent of those age nineteen had already given birth to at least one child.<sup>9</sup> Early marriage and childbearing does not only jeopardize a girl's education, but can also put her life at risk; early marriages increase the risk of maternal and infant mortality and make girls more vulnerable to sexually transmitted infections, including HIV/AIDS.<sup>10</sup> Forced marriage, a slavery-like practice,<sup>11</sup> violates a number of international human rights norms, including the right to freely enter into marriage, the right to personal liberty and security, and the right to bodily integrity. Forced and early marriages are particularly acute in rural areas.

A number of Egypt's laws and certain provisions in its constitution maintain and perpetuate women's unequal status. Article 40 of the constitution states: "all citizens are equal before the law. They have equal public rights and duties without discrimination due to sex, ethnic origin, language, religion or creed."<sup>12</sup> Yet, article 11 of the constitution places certain limitations on women's enjoyment of their rights. While article 11 explicitly refers to women's equality in the "political, social, cultural, and economic spheres," it leaves room for the denial of these rights if they are interpreted to be at odds with Islamic jurisprudence.<sup>13</sup>

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<sup>7</sup> World Bank, *Gender Assessment: Arab Republic of Egypt*, 1998, p. 56.

<sup>8</sup> World Bank, *Gender Assessment: Arab Republic of Egypt*, 2003, p. 18.

<sup>9</sup> *Ibid.*

<sup>10</sup> For a discussion of the human rights aspects of early marriage, see Early Marriage, Child Spouses, Innocenti Digest No. 7, March 2001, [online]

<http://www.unicef-icdc.org/publications/pdf/digest7e.pdf>. (Retrieved September 1, 2004). For a more extensive treatment of how human rights abuses against women and girls fuel the AIDS epidemic in Africa, see Human Rights Watch, *Policy Paralysis: A Call for Action on HIV/AIDS-Related Human Rights Abuses Against Women and Girls in Africa* (New York: Human Rights Watch, 2003).

<sup>11</sup> Article 1(a) of the Supplementary Slavery Convention prohibits "any institution or practice whereby ... a woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or kind." This provision reinforces the guarantee, under the International Covenant on Civil and Political Rights (ICCPR), of marriage only with "the free and full consent of the intending spouses." ICCPR, art. 23.

<sup>12</sup> Constitution of the Arab Republic of Egypt, article 40.

<sup>13</sup> Constitution of the Arab Republic of Egypt, article 11.



Although women have nominal equality under article 40 of Egypt's constitution, gender inequality persists in Egyptian society and numerous laws directly violate these constitutional guarantees. Under article 4 of ministerial decree<sup>14</sup> No. 864 (1974), an Egyptian woman may not be issued a passport without the prior written consent of her husband or his legal representative. The law also allows the husband to reverse this consent at any time.<sup>15</sup> Under this decree, a husband can prevent his wife from traveling, even if he had given his consent to her obtaining a passport or making previous trips. Although there was a proposal to change this law in 2000, the Egyptian government decided to drop this provision from the draft law just before passage, reportedly as a concession to religious conservatives, despite the fact that Muhammad Sayyid Tantawi, the Shaikh of al-Azhar University,<sup>16</sup> had supported the new law even with this provision. Despite a 2003 reform to the citizenship law, Egyptian women still have an unequal right to pass on their nationality to their children if they marry foreigners.<sup>17</sup>

Provisions of the penal code also discriminate against women. Egyptian law imposes harsher penalties for women committing adultery. A wife is penalized for two years,<sup>18</sup> whereas a husband is penalized for no more than six months.<sup>19</sup> For adultery, the evidentiary standards are different for women and men. While a wife is penalized for committing adultery anywhere, a husband must do so in the marital home in order for such an act to be considered adulterous.<sup>20</sup> The murder of a wife (but not a husband) in

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<sup>14</sup> Egyptian legislation is instituted according to the following hierarchy: the Constitution, parliamentary legislation, presidential decree, prime minister's decree, ministerial decision and acts of governors and heads of governmental bodies and public corporations. Laws, Presidential decrees, and Decrees of the Prime Minister are published in Egypt's Official Gazette, usually within two weeks of their issuance, and, unless they provide otherwise, they become effective one month from the date of publication.

<sup>15</sup> Marlyn Tadros, *Rightless Women, Heartless Men: Egyptian Women and Domestic Violence: A report on Domestic Violence in Manshiet Nasser, An informal Settlement in Cairo* (Cairo: Legal Research and Resource Center for Human Rights, 2001), p. 3.

<sup>16</sup> Al-Azhar University based in Cairo is considered by most Sunni Muslims to be the most prestigious school of Islamic law.

<sup>17</sup> See Citizenship Law No. 26 (1975). An amendment made by President Mubarak in May 2003 allows Egyptian women married to foreigner to pass their nationality to their children under certain limited conditions. However, the new law continues to prohibit these children from joining the military, the police and certain governmental posts. For more information see, Reem Leila, "Citizens at Last," *Al-Ahram Weekly*, October 8, 2004 [online] and Maria Golia, "Egypt's New Nationality Law doesn't Bar Discrimination," *The Daily Star*, May 19, 2004 [online] [http://www.dailystar.com.lb/article.asp?edition\\_id=10&categ\\_id=5&article\\_id=3931](http://www.dailystar.com.lb/article.asp?edition_id=10&categ_id=5&article_id=3931) (retrieved August 29, 2004).

<sup>18</sup> Law No. 58 (1937) Promulgating the Penal Code, article 274. As recently as October 2002, the Committee on Civil and Political Rights expressed concern about "the discriminatory nature of some provisions in the Penal Code, which do not treat men and women equally in matters of adultery (articles 3 and 26 of the Covenant)" and recommended that Egypt "review its discriminatory penal provisions in order to conform to articles 3 and 26 of the Covenant." See Concluding Observations, Committee on Civil and Political Rights, U.N. Doc CCPR A/58/40 (2003), para. 9.

<sup>19</sup> Law No. 58 (1937) Promulgating the Penal Code, article 277.

<sup>20</sup> *Ibid.*

the act of committing adultery is categorized as an extenuating circumstance, thereby commuting the crime of murder to the level of a misdemeanor.<sup>21</sup>

### ***The Egyptian Women's Rights Movement***

The Egyptian women's movement, considered by many to be the forerunner of the Arab women's rights movement,<sup>22</sup> has been actively working to repeal discriminatory laws and advance women's status in Egypt for decades. As early as 1951, Egyptian feminist Doria Shafiq and 1,500 other women stormed parliament demanding full political rights, a reform of the personal status laws, and equal pay for equal work.<sup>23</sup> Today, there are an estimated 16,000 NGOs working on various issues aimed at empowering Egyptian women.<sup>24</sup> However, the movement has suffered considerable setbacks over the past twenty years due to the rise of a general climate of religious conservatism adverse to women's rights, widening state restrictions on civil society, and the cooptation of the women's rights agenda by the government.

Women's rights are often the main battleground for the ongoing confrontation between successive Egyptian governments and those seeking to increase the Islamic character of the Egyptian state. This has led some observers to mark the 1980s and 1990s as the beginning of Egyptian women's "endangered rights."<sup>25</sup> Successive Egyptian governments have routinely compromised certain rights to appease religiously-conservative elements in Egyptian society. For example, the government of the late Anwar Sadat decided to amend the Egyptian constitution in 1980, in order to make Shari'a "the principle source of Egyptian legislation."<sup>26</sup> In this constrained environment, any departure from conservative interpretations of religious text by women's rights activists has resulted in a

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<sup>21</sup> Article 237 of the Egyptian Penal Code reads "Whoever surprises his wife in the act of adultery and kills her on the spot together with her adulterer-partner shall be punished with detention instead of the penalties prescribed in articles 234 [permanent or temporary hard labor] and 236 [hard labor or imprisonment for a period of three to seven years]." For more information on commuted sentences for "fit of fury" crimes and the misapplication of these laws in "honor" crimes cases, see Human Rights Watch, *Honoring the Killers: Justice Denied for "Honor" Crimes in Jordan* (New York: Human Rights Watch, 2004).

<sup>22</sup> Egyptian attorney and author Qasem Amin, for example, wrote "The Emancipation of Women" (*Tahrir al-Maraa*) in 1899 and Egyptian activist Hoda Shaarawi founded the Egyptian Feminist Union in 1923.

<sup>23</sup> Cynthia Nelson, *Doria Shafiq: Egyptian Feminist - A Woman Apart* (Cairo: American University in Cairo Press, 1996), pp. 168-177.

<sup>24</sup> See Mona Zulficar, *The Political Rights of Women in Egypt* (Cairo: Shalakany Law Office Publication, 2003), p. 6.

<sup>25</sup> Denis Sullivan and Sana Abed-Kotob, *Islam in Contemporary Egypt: Civil Society vs. the State*. London, 1999. pp. 97-100.

<sup>26</sup> Prior to this amendment, article 2 of the Egyptian constitution stated: "Islamic Shari'a is a principle source of Egyptian legislation [emphasis added]." See Clark Benner Lombardi, "Islamic Law as a Source of Constitutional Law in Egypt: The Constitutionalization of the Shari'a in a Modern Arab State," *Columbia Journal of Transnational Law*, vol.37, 1998, p. 81.

backlash. Egyptian women who have raised concern about women's status, particularly within the family under Egypt's Shari'a-based personal status laws, have been accused of being "pro-western (i.e. feminist, liberal, or secular), antagonistic to Islam, and influenced by leftist ideologies."<sup>27</sup>

The rise in religious conservatism is not the only reason for the setbacks of the past twenty years. The Egyptian women's movement is also affected by the state's severe restrictions on civil society. Law No. 84 of 2002 ("the NGO law"), which requires all groups to register with the Ministry of Insurance and Social Affairs, greatly restricts the space for nongovernmental activism.<sup>28</sup> Many Egyptian NGOs view this requirement to register as a curtailment of their expression and association rights as well as a transparent attempt by the government to approve some NGOs and deem others illegal. Although women's rights groups were not necessarily the intended targets of the NGO law, they have been adversely affected by its restrictions. For example, on June 8, 2003, the New Woman Research Center, founded in the early 1990s to raise public awareness of women's rights issues (including FGM and domestic violence), received a letter from the Ministry of Insurance and Social Affairs rejecting its application to register under the terms of a new law governing the activities of NGOs.<sup>29</sup> On June 15, 1991, the government closed the Arab Women's Solidarity Association (AWSA), headed by secular feminist and author Nawal al-Sa`dawi, and reassigned its license and assets to an Islamic women's organization.<sup>30</sup>

The space for independent women's rights activism has been further eroded by government efforts to monopolize the women's rights agenda through the National Council for Women. The National Council for Women (NCW) was established by

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<sup>27</sup> See Diane Singerman, "Rewriting Divorce in Egypt: Reclaiming Islam, Legal Activism, and Coalition Politics," p. 6. This article is forthcoming in *Civic Pluralist Islam: Prospects and Policies for a Changing Muslim World* (copy on file with Human Rights Watch). Singerman argues that given Egypt's current religious climate, the passage of the *khul'* law would not have been possible without referencing its Islamic roots.

<sup>28</sup> This law was passed by the People's Assembly on June 3, 2002 and provides criminal penalties for unauthorized NGO activities (article 76). Persons who form "clandestine organizations" can be punished with one year's imprisonment and a substantial fine—in effect criminalizing many forms of informal or grassroots organizing. A person who receives donations on behalf of an NGO without ministry approval can be sentenced to six months in prison. Persons carrying out the activities of an NGO prior to its formal registration are liable to a three-month prison term. Article 11 of the law bars groups that the state determines to be "threatening national unity [or] violating public order or morals." Articles 17 and 58 (executive statute) prohibit NGOs from receiving funds from abroad without ministry approval. Article 42 of the law allows the Ministry of Social Insurance and Affairs to dissolve an NGO at will, as well as freeze its assets and confiscate its property, without a judicial order.

<sup>29</sup> See Human Rights Watch press release, "Egypt's New Chill on Rights Groups: NGOs Banned, Activist Harassed," [online] <http://www.hrw.org/press/2003/06/egypt062103.htm> (retrieved August 25, 2004)

<sup>30</sup> Sherifa Zuhur, "The Mixed Impact of Feminist Struggles in Egypt during the 1990s," *Middle East Review of International Affairs Journal*, vol.5, no.1 (March 2001), p. 79.

presidential decree in 2000 as an “autonomous body responsible for the empowerment of the Egyptian woman.”<sup>31</sup> However, the autonomy of the NCW, which is presided over by First Lady Suzanne Mubarak, is questionable. In interviews with Human Rights Watch, several representatives of NGOs, who did not wish to be named, expressed concern that the channeling of considerable resources from international donors to the NCW ultimately furthers government control of the women’s rights agenda and weakens civil society.<sup>32</sup> The independence of the NCW and its willingness to publicly criticize laws or policies adverse to women’s rights is also undermined by the fact that it is housed in the ruling National Democratic Party headquarters in Cairo.

### ***Egypt’s Discriminatory Personal Status Laws***

Egypt’s personal status laws present a particularly egregious example of discrimination. The discriminatory personal status laws governing marriage, divorce, custody, and inheritance in Egypt deny women many of the rights protected under international human rights law. Throughout the Middle East and North Africa, these laws have institutionalized the inferior status of women in the family, undermining their legal standing in both the private and public realms. Personal status laws treat women essentially as legal minors under the eternal guardianship of male family members. These laws “deal with women as part of the regulation of the organization of the family, not as individuals with their own separate or equal rights.”<sup>33</sup>

Despite advances women have made in Egypt in other areas, such as education and access to the public space, family law remains relatively unchanged and continues to undermine women’s full personhood in society. Personal status laws have been the most resistant to change, because in Egypt, “women are perceived as the bearers and perpetuators of cultural values and social mores,” which “increases the resistance to any change in their status or the laws that govern their lives.”<sup>34</sup> Unlike the rest of the Egyptian legal system derived from French civil law,<sup>35</sup> personal status laws for Muslim Egyptians<sup>36</sup> rely predominantly on Islamic law (Shari’a).<sup>37</sup> These religious-based personal

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<sup>31</sup> See National Council for Women website [http://www.ncwegypt.com/new-ncw/english/pres\\_int.jsp](http://www.ncwegypt.com/new-ncw/english/pres_int.jsp) (retrieved September 24, 2004)

<sup>32</sup> Human Rights Watch interview with NGO staff members, February 13, 2004.

<sup>33</sup> Nemat Guenena and Nadia Wassef, *Unfulfilled Promises: Women’s Rights in Egypt* (Cairo: Population Council, 1999), p. 20.

<sup>34</sup> *Ibid.*, p. 69.

<sup>35</sup> Enid Hill, *Mahkama! Studies in the Egyptian Legal System* (London: Ithaca Press, 1979), p. 1.

<sup>36</sup> Non-Muslim Egyptians, such as Coptic Christians who make up roughly 10 percent of the population, have separate personal status laws governed by their own religious teachings. The focus of this report is on discriminatory access to divorce for Muslim Egyptian women since Egypt is a predominantly Muslim country. Moreover, in a preliminary review, Human Rights Watch did not find evidence of discrimination based on sex with regard to Coptic Christian divorce. Ultimately, it is extremely difficult for both Coptic Christian men and

status laws violate equality provisions in Egypt's constitution because, as one scholar has noted, "while the latter [the constitution] guarantees equal rights for all citizens, the former [personal status laws] extends privileges to men in the family (in the areas of marriage, divorce, inheritance, and child custody) which are denied to women."<sup>38</sup>

All three of Egypt's presidents since independence, Gamal Abdel Nasser, Anwar al-Sadat, and Hosni Mubarak, despite remarkably different political orientations, were, to different degrees, public proponents of women's rights. However, they all shied away from directly addressing the stark gender inequality codified in Egypt's personal status laws, which date back to the 1920s. Despite their varying efforts to advance Egyptian women's status in the public sphere, they left the personal status laws in the implicit hands of the religious establishment, which was willing to ensure the religious character of the state by preserving male dominance at home. These contradictory tendencies have resulted in "the very anomalous situation of [Egyptian] women, who, even though they have gained more public rights (to education, work, and political participation), still confront serious forms of gender inequality in the family."<sup>39</sup>

While President Nasser's 1962 National Charter, a "blueprint for socialist transformation in Egypt," endorsed equality for women in voting, education, and employment, the gender inequities institutionalized by the personal status laws remained entirely intact.<sup>40</sup> It was under the leadership of President Sadat that the discrimination codified in Egypt's personal status laws started to be addressed. In 1979, President Sadat introduced several reforms (known as Jihan's laws,<sup>41</sup> for First Lady Jihan Sadat) to the personal status law.

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women to end their marriages. However, it is important to note that the Church's restrictions provide no way out for many victims of domestic violence, the majority of whom are women.

<sup>37</sup> Shari'a is a system of Islamic law based on four main sources: the Quran (God's revelation to the Prophet Muhammad); the *Sunna*, or actions of the Prophet, described in the *Hadith*; the *Qiyas* or process of analogical reasoning based on understanding of the principles of the Quran or the Hadith; and the *Ijma*, or consensus of opinion among Islamic scholars. Egyptian personal status laws governing Muslim Egyptians rely on the four main schools of Islamic jurisprudence: Hanafi, Maliki, Hanbali, and Shafa'i. The Hanifi school is the principle source of divorce legislation. For a more detailed discussion of Islamic family law see: Abdullahi An-Na'im, *Islamic Family Law in a Changing World: A Global Resource Book* (New York: Zed Books, 2002); Dawoud S. El Alimi and Doreen Hinchcliffe, *Islamic Marriage and Divorce Laws of the Arab World* (London: Kluwer Law International, 1996); and Dawoud S. El Alimi, *The Marriage Contract in Islamic Law* (London: Graham and Trotman Ltd., 1992).

<sup>38</sup> Deniz Kandiyote, "Islam and Patriarchy: A Comparative Perspective," *Women in Middle Eastern History: Shifting Boundaries in Sex and Gender* (New Haven: Yale University Press, 1991), p. 5.

<sup>39</sup> Mirvat Hatem, "The Enduring Alliance of Nationalism and Patriarchy in Muslim Personal Status Laws: The Case of Egypt," *Feminist Issues*, vol.6 (1986), p. 39.

<sup>40</sup> Marcia C. Inhorn, *Infertility and Patriarchy: The Culture of Gender and Family Life in Egypt* (Philadelphia: University of Pennsylvania Press, 1996), p. 28.

<sup>41</sup> The popular reference to these laws as "Jihan's laws" indicated the influence the first lady was thought to have had in their passage as well as the authoritarian and personalized manner in which the laws were passed.

One of these reforms included Law 44, establishing polygyny as a ground for divorce in itself.<sup>42</sup> While polygyny has always been a grounds for divorce, women need to provide evidence of “material/physical or moral harm making it impossible for both of the spouses to associate any longer with each other” resulting from the second union.<sup>43</sup> Passed during a parliamentary recess and subsequently approved by the legislature, these reforms were later deemed unconstitutional by the High Constitutional Court under Mubarak’s government in 1985. A strong women’s lobby at the 1985 United Nations World Conference on Women in Nairobi pressured the government to reformulate the laws; two months after the decision by the High Constitutional Court, a new law was passed restoring some of the provisions of the 1979 law.<sup>44</sup> While certain procedural amendments to the personal status laws<sup>45</sup> have been made under President Mubarak, the government has demonstrated reluctance in tackling these laws head on.

### ***Domestic Violence in Egypt***

*A man has the right in Shari’a to discipline his wife. This is a fact. You cannot deprive him of it. But, this is a right in the Shari’a that is not enforced. God says that the best of you will never use this power.*

— Hossam Abu-Yusif, state council deputy, Cairo, June 25, 2004

Domestic violence is a widespread and commonly accepted phenomenon in Egypt. According to some observers, “violence against women [in Egypt] is often understood as merely a problem of well-intentioned discipline getting out of hand.”<sup>46</sup> The government fails to keep accurate and up-to-date statistics on the levels of violence against women, making it extremely difficult to assess the nature and degree of such violence, the rates of prosecution and conviction, or the nature of punishment meted out in such cases. In fact, the last national survey that included statistics on domestic

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<sup>42</sup>Amira Sonbol, *Women, the Family, and Divorce Laws in Islamic History* (New York: Syracuse University Press, 1996), p. 284. Polygyny is the form of polygamy in which a man has more than one wife. Its counterpart, polyandry (where women have more than one husband) is unknown in Egypt.

<sup>43</sup> Decree Law No. 25 (1929) as amended by Law No. 100 (1985), article 11.

<sup>44</sup> Nadjie Al-Ali, *Secularism, Gender and the State in the Middle East: The Egyptian Women’s Rights Movement* (Cambridge: Cambridge University Press, 2000), p. 75.

<sup>45</sup> See section on “The Limits of Khul” and “The Establishment of New Family Courts.”

<sup>46</sup> Nawal H. Ammar, “In the shadow of the Pyramids: Domestic Violence in Egypt” in *Domestic Violence: Global Responses* (Bicester: A. B. Academic Press, 2000), p. 34

violence – the Egypt Demographic and Health Survey administered by the National Population Center (“the 1995 Survey”) – was conducted almost a decade ago.<sup>47</sup>

The findings of the 1995 Survey were startling. The survey’s sample included 7,000 married women ranging from fifteen to forty-nine years of age. It found that one out of every three “ever-married Egyptian women have been beaten at least once since marriage.” Of those women, 45 percent were beaten at least once in the past year and 17 percent were beaten three or more times during the same period. Forty percent of women between the ages of fifteen to nineteen and 20 percent of women forty to forty-nine years old reported being beaten during pregnancy. Women with only a primary school education or no education were three or more times more likely to be abused as compared with women who had completed secondary or higher education.<sup>48</sup>

The 1995 Survey also assessed attitudes toward violence. It found that violence was so normalized in Egyptian society that nearly 86 percent of the women surveyed thought that husbands were justified in beating their wives under certain circumstances. On average, 70 percent of the women surveyed between the ages of fifteen to forty-nine felt that husbands were justified in beating wives who refused sex. An estimated 70 percent of women between the ages of twenty and twenty-nine surveyed by the National Population Center said that violence was justified if a woman “talked back” to their husbands; 65 percent said a beating was justified for talking to another man; 42 percent for spending too much money; 26 percent for burning dinner; and 50 percent for neglecting the children.<sup>49</sup> Perhaps reflecting the social acceptance of violence against women in Egyptian society, many of the women that Human Rights Watch interviewed also endorsed domestic violence as a legitimate form of punishment for disobedience.

While these figures are high, they are perhaps not surprising. Many Egyptian women are accustomed to tolerating violence because the “disciplining” of “disobedient” women is sanctioned under Egyptian law. Section 60 of the Criminal Code states that “the provisions of the penal code shall not apply to any deed committed in good faith, pursuant to a right determined by virtue of the Shari’a.”<sup>50</sup> This law, applying to any act of violence committed in “good faith,” has been used to justify domestic violence. Under the law, acts committed in “good faith” are described as circumstances in which:

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<sup>47</sup> See Fatma El-Zanaty, Enas M. Hussein, Gihan A. Shawky, Ann A. Way and Sunita Kishor, *Egypt Demographic and Health Survey 1995* (Calverton: National Population Council and Macro International Inc., 1996), pp. 206-211.

<sup>48</sup> *Ibid.*

<sup>49</sup> *Ibid.*

<sup>50</sup> Law No. 58 (1937) Promulgating the Penal Code.

1. the beating is not severe;
2. the beating is not directed at the face; and
3. the beating is not aimed at vulnerable “fatal blow areas.”<sup>51</sup>

### **Absence of Female Criminal Prosecutors and Judges**

*It is a fight between those who are convinced that women are not qualified to be judges – you’ll hear a hundred justifications [for this] – and the few that are enlightened, convinced that women can be judges. [But] they are powerless.*

— Hossam Abu-Yusif, state council deputy, Cairo, June 25, 2004

Current governmental practice denies Egyptian women the opportunity to become judges. Their exclusion from the bench is not codified in any law (religious or secular) or in the constitution, but is simply a matter of standard practice based on stereotypical and biased views about women. By excluding women from the bench, Egypt is not only violating internationally protected equality provisions, but it is also blatantly violating its obligation to “guarantee equality of opportunity to all Egyptians” under its own constitution.<sup>52</sup>

The Supreme Council of Judges continues to reject the applications of all women applying to join the criminal department of the public prosecutor’s office (*al niyaba al `amma*) from which junior judges are chosen. The rejection of these applications is sometimes made without comment, while on other occasions the applicant’s gender is explicitly noted as the reason for the rejection.<sup>53</sup> Occasionally, rejected female candidates file suits before Egypt’s administrative courts demanding to have their application reconsidered. However, the administrative courts, while often backing the candidate’s professional qualifications, have consistently upheld the right of the Supreme Council of Judges to make its own decisions.<sup>54</sup> This process was overridden only once with the appointment by presidential decree of attorney Tahany al-Gebali, in 2003, to the High

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<sup>51</sup> Nawal H. Ammar, “In the shadow of the Pyramids: Domestic Violence in Egypt” in *Domestic Violence: Global Responses* (Bicester: A. B. Academic Press, 2000), p. 35.

<sup>52</sup> Constitution of the Arab Republic of Egypt, article 8.

<sup>53</sup> Ashraf Khalil, “Egypt’s First Female Judge May Remain ‘The Only,’” *Women’s E-News*, September 23, 2003 [online] <http://www.womensenews.org/article.cfm/dyn/aid/1536/context/archive> (retrieved August 15, 2004).

<sup>54</sup> *Ibid.*



Constitutional Court. Both President Mubarak and First Lady Suzanne Mubarak supported the appointment, making it impossible for the Supreme Council of Judges to challenge the decision. A year later, Tahany al-Gebali remains the only female sitting judge in Egypt. Her appointment does not appear to have opened the door for the appointment of a future generation of female Egyptian judges.<sup>55</sup>

Judges and other representatives of the Ministry of Justice were outspoken in their opposition to the inclusion of women on the judicial bench. They gave deeply discriminatory reasons for why women should not be criminal prosecutors or judges. One judge who did not wish to be named told Human Rights Watch:

The nature of judicial work is very exhausting and requires that a judge not have his home in mind.... Judges are regularly transferred outside of Cairo... Will husbands allow their wives to live outside of the home? Will a family be able to bear it?<sup>56</sup>

It was also suggested that women easily succumb to emotions, preventing them from making competent decisions. When asked why he thought women should not be judges, another judge told Human Rights Watch, "if a judge is tired, anxious, angry, or not in the right psychological or biological state of mind, they should not hear cases."<sup>56</sup>

Aside from these discriminatory reasons, government officials frequently offered cultural sensitivities as the primary justification for the continued exclusion of women from the judiciary. The chief judicial inspector, Judge `Abd al-Rahman Muhammad, told Human Rights Watch:

The Egyptian law and the constitution do not differentiate between men and women. We have women heads of universities, ambassadors - there is no difference. But there are some jobs like the job of prosecutors and judges, which women have not entered yet because society cannot accept it. If they go into that profession, they will have to work on criminal cases. The nature [of the work] is not suitable for women because they have to investigate murder, arson, rape. We still cannot imagine that a girl can play that role. When the culture of the people

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<sup>55</sup> Ibid.

<sup>56</sup> Human Rights Watch interview with judge, Cairo, July 1, 2004.

changes maybe they'll accept it. With time, maybe the culture will change.<sup>57</sup>

The absence of women's voices in the judiciary renders the entire judicial process suspect. If members of certain religious, ethnic, or racial minorities, for example, were not allowed to become judges, members of that group could not help but feel alienated and disempowered in the courtroom. Nowhere is the absence of female judges more glaring than in matters relating to the family. Absent female voices and input informing the judiciary's attitudes and approaches to legal questions, particularly in matters relating to marriage and divorce, the judiciary as a whole cannot claim to have a balanced and neutral framework through which it adjudicates family disputes. The ability of male judges to sufficiently appreciate the concerns of women seeking divorce is rendered questionable by the lack of participation of women in the judiciary.

### III. OVERVIEW OF MARRIAGE AND DIVORCE LAWS IN EGYPT

Discrimination in Egypt's divorce system starts long before a woman files for divorce. In fact, it begins with marriage itself. Many women in Egypt are married without their consent, often before they become adults. While Egyptian marriage contracts may contain conditions providing for certain rights and a woman's equal access to divorce, many women are not informed of their right to negotiate such conditions, and, in fact, are often not even present during the negotiation process. Women's autonomy and choices continue to be restricted if they make the decision to terminate their marriages. While men seeking divorce never need to resort to the court, women need to navigate a complex, burdensome, time-consuming, and costly divorce system to end their marriages. Women ultimately must choose between a protracted fault-based divorce that allows them to retain their financial rights (when the authorities are able to enforce alimony and child-support payments) or a divorce predicated on the abandonment of their rights (khul').

#### ***Entering into Marriage***

*The Ma'zun didn't ask if I wanted to put conditions [in the marriage contract]. I wasn't sitting there. My father was.*

— Magda Ahmad,<sup>58</sup> thirty-five, Cairo, June 13, 2004

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<sup>57</sup> Human Rights Watch interview with Judge `Abd al-Rahman Muhammad, chief judicial inspector, Cairo, June 25, 2004.

By law, marriage in Egypt is considered a contract concluded by mutually consenting parties of marriageable age.<sup>59</sup> The minimum age of marriage is set at eighteen for males and sixteen for females.<sup>60</sup> Upon entering into marriage, a groom must pay the bride an advance portion of the dowry (*muqaddam*) before the consummation of the marriage. The remaining portion of the dowry (the deferred dowry or *mu'akbar*) is payable upon divorce or death.<sup>61</sup>

The civil code, however, limits a woman's ability to enter freely into marriage by requiring that she have the permission of a male guardian (*wali*).<sup>62</sup> Although the importance of this requirement has been limited by the fact that a wali cannot prevent a marriage from taking place because the groom is not of the right socio-economic status or did not pay a sufficient dowry, walis continue to exercise enormous influence in the marriage process. Human Rights Watch interviews revealed that women's subordinate status in the family results in the exclusion of many women from the negotiation of their marriage contracts. As a result, women rely on their walis to represent their interests. Demanding that they be present for these negotiations is not even contemplated by most women because of the social stigma and awkwardness that such a demand would generate. Iman Ahmad, twenty-seven, was married seven years ago, and recalls:

My father was my guardian. They [my father and husband to-be] agreed on everything. They called me from the other room to sign my name. I didn't read the contract. The Ma'zun [religious notary] just told me to sign here.<sup>63</sup>

The signing of a marriage contract (*katb al-kitab*) is a critical point in an Islamic marriage, representing the only juncture at which the parties can consensually define, enhance, or

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<sup>58</sup> The names of all women whose cases are discussed in this report have been changed to protect their privacy.

<sup>59</sup> CEDAW Committee Report, *Consideration of Reports of State Parties, Egypt*, U.N. Doc. CEDAW/c/Egy/4-5, p. 88.

<sup>60</sup> Law No. 56 (1923) cited in Abdullahi An-Na'im, *Islamic Family Law in a Changing World: A Global Resource Book* (New York: Zed Books, 2002), p. 169. As recently as 2003, then U.N. Special Rapporteur on Violence against Women, Radhika Coomaraswamy, noted that different minimum age requirements for men and women in Egypt "may encourage the completion and attainment of school degree for boys at the age of 18, whereas girls' education can be curtailed earlier, in fact implying that it is of secondary importance. See Report submitted by the Special Rapporteur on Violence against Women, its causes and consequences, U.N. Document E/CN.4/2003/75/Add.1, February 27, 2003, para. 728.

<sup>61</sup> Dawoud S. El Alimi, *The Marriage Contract in Islamic Law* (London: Graham and Trotman Ltd., 1992), p. 109-110.

<sup>62</sup> Although this report is limited to a discussion of unequal access to divorce, an equally pressing issue is that women cannot freely marry without the consent of a male guardian.

<sup>63</sup> Human Rights Watch interview with Iman Ahmad, Cairo, June 15, 2004.

limit their rights in marriage.<sup>64</sup> Accordingly, this moment offers an opportunity for Egyptian women to prevent subsequent abuses of their rights, including the opportunity to condition the marriage on the equal right to divorce.

During the stage in which the marriage contract is negotiated, women can insist that certain legal conditions be included in the contract, including a right to obtain a divorce if their future husbands were to prevent them from such endeavors as finishing their education or working. While women who have included such conditions in the marriage contract are still required to get a judicial divorce through Egypt's courts, they can do so on grounds that otherwise would not automatically be recognized by the courts as sufficient. Men can also insist upon the inclusion of certain conditions in the marriage contract, including conditions that deny a woman her right to education and employment, or even specify a particular timeframe for the birth of the couple's first child.

The signing of the marriage contract is also often the only point in a couple's marital life where they can contractually agree upon the woman's equal right to divorce without resort to the courts. Where women have the right to divorce (*isma*) under a marriage contract, they can divorce with the same ease as men, normally by going to a Ma'zun, who registers the divorce. In principle, all of the conditions and stipulations contained in the marriage contract should be the product of mutual agreement between the couple. In practice, the process is typically far less equal.

The theoretical ability to include such conditions in the marriage contract does not adequately ensure the protection of women's rights. It is extremely rare for Egyptian women to demand the right to divorce during the negotiation and signing of the marriage contract. Providing women with the same right to divorce as men is seen as unacceptable to most Egyptian families. In this context, Egyptian women who are about to be married are usually reluctant to demand such conditions in the contract out of fear that such an act may result in the man breaking off the engagement.

One expert on the interaction between Islamic marriages and women's rights notes, "[I]n Egyptian society, for a woman at the outset of her marriage to set conditions (some of which may entail divorce) is at best a bad omen, and at worst simply not done."<sup>65</sup>

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<sup>64</sup> For a detailed analysis of Islamic marriage including the prerequisites for marriage, the elements of the marriage contract, and the institution of marriage itself in Islam, see Dawoud S. El Alimi, *The Marriage Contract in Islamic Law* (London: Graham and Trotman Ltd., 1992).

<sup>65</sup> Azza M. Karam, *Women, Islamism, and the State: Contemporary Feminism in Egypt* (London: Macmillan Press Ltd., 1998), p. 146.

Generally, a woman's equal right to obtain a divorce is viewed as a condition that would be reserved for marriage contracts among Egypt's elite. Speaking of such elite women, one woman of more modest means told Human Rights Watch: "People not like us put the isma in their hands. They are the ones who are self-confident."<sup>66</sup>

Many Egyptian women are also simply not informed of the fact that they have the ability to insist that certain conditions be included in the marriage contract. Ma'zuns who fall under the authority of the Ministry of Justice are required by new by-laws to inform the marrying parties of their right to include conditions in the contract.<sup>67</sup> However, many Ma'zuns choose not to inform the couple of their legal rights. Dr. Mustafa `Adli al-Gindi, a Ma'zun in the governorate of Qalubiyya, told Human Rights Watch that he does not mention the issue of conditions when drafting a contract. He said:

Those that put conditions are very few. In 100 contracts, maybe only one [adds any conditions]. There is a fear of tension and ruining the marriage. If I tell them about the conditions, I'm opening up a door for tensions.<sup>68</sup>

### ***Divorce Initiated by Men***

*The question of settling divorce should be in the hands of the wiser party, and that is men. Men are wise, which is why they do not have to go to court. Islamic law would consider the wise wife an exception, and you cannot generalize an exception.*

— Ayman Amin Shash, chief judge, technical bureau of the National Center for Judicial Studies, Cairo, July 7, 2004

Muslim Egyptian men have a unilateral and unconditional right to divorce without resort to legal proceedings (*talaq*). They simply need to repudiate their wives, saying "you are divorced" three times, making the divorce irrevocable (*ba'in*), and register the divorce within 30 days with a religious notary to make it official.<sup>69</sup> A repudiated woman has to

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<sup>66</sup> Human Rights Watch interview with Nada Sha`ban, Cairo, June 14, 2004.

<sup>67</sup> Amina El-Bendary, "I Do, I Don't," *Al-Ahram Weekly* (August 24-30, 2000) [online] <http://weekly.ahram.org.eg/2000/496/fr3.htm> (retrieved October 6, 2004).

<sup>68</sup> Human Rights Watch interview with Dr. Mustafa `Adli al-Gindi, religious notary, Qalubiyya, June 16, 2004.

<sup>69</sup> The U.N. Human Rights Committee has spoken out against repudiation, because of the effect of this practice on an array of women's rights. Human Rights Committee, General Comment 28, Equality of rights between men and women (article 3), U.N. Doc. CCPR/C/21/Rev.1/Add.10 (2000), para. 26.

observe a waiting period (*`idda*) not exceeding one year,<sup>70</sup> during which she is not allowed to marry another man.<sup>71</sup> A divorce uttered less than three times is revocable (*raj`i*), meaning that the husband has the right to return the divorcee to his household during the waiting period against her will and without having to sign another marriage contract.

An Egyptian woman who is repudiated by her husband is entitled to the deferred dowry, “maintenance” (*nafaqa*) during the waiting period, and compensation (*mut`a*) of at least two years maintenance (with consideration for the husband’s means, the circumstances of the divorce, and the length of marriage).<sup>72</sup> However, many Egyptian women seeking divorce have been willing to forfeit these financial rights to avoid burdensome and uncertain court proceedings. These women ask their spouses to divorce them in return for forfeiting their rights.<sup>73</sup>

### ***Divorce Initiated by Women***

*We fear that women are rash, they might divorce too quickly.*

-Dr. Mustafa `Adli al-Gindi, religious notary, Qalubiyya, June 16, 2004

Women who seek divorce in Egypt have two options, fault-based or no-fault divorce (*khul`*). Unlike men, women can only divorce by court action (*taliq*). Regardless of which system they choose, a number of government officials are involved in the process, including judges, attorneys for both parties, and arbitrators involved in compulsory mediation between the couple. Public prosecutors are also often present in divorce cases, exercising considerable influence on these proceedings and the outcome of the case. For both types of divorce initiated by women (fault-based and no-fault) described below, public prosecutors provide the judge with an advisory opinion on whether the divorce should be granted. While these advisory opinions were requested by judges on a

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<sup>70</sup> Law No.25 (1929), article 18. The waiting period for a pregnant woman ends when she gives birth, while that of other women lasts three menstrual terms. Ron Shaham, *Family and the Courts in Modern Egypt: A Study Based on Decisions by the Shari`a Courts 1900-1955* (Leiden: Brill, 1997), pp. 144-152.

<sup>71</sup> Ron Shaham, *Family and the Courts in Modern Egypt: A Study Based on Decisions by the Shari`a Courts 1900-1955* (Leiden: Brill, 1997), p. 101. See also Abdullahi An-Na`im, *Islamic Family Law in a Changing World: A Global Resource Book* (New York: Zed Books, 2002), p. 172.

<sup>72</sup> Law No. 25 (1920) as amended by Law No.100 (1985), articles 16 and 18 bis. Dawoud S. El Alimi and Doreen Hinchcliffe, *Islamic Marriage and Divorce Laws of the Arab World* (London: Kluwer Law International, 1996), p. 59-60. See also Abdullahi An-Na`im, *Islamic Family Law in a Changing World: A Global Resource Book* (New York: Zed Books, 2002), p. 172.

<sup>73</sup> This type of divorce (*talaq al-ibra`*) will be discussed in detail in the following section: “Bargaining away Rights to Avoid the Fault-Based Divorce Process.”

case-by-case basis before the establishment of the new family court system in October 2004, they are now mandatory in all personal status cases heard by the new courts.<sup>74</sup>

### ***Fault-Based Divorce***

*I wanted a divorce but he refused. He left the house. He told me “You’re not getting a divorce. You’re staying just in case, like a spare tire.”*

— Hamida Tariq, Qalubiyya, June 16, 2004

In order to begin traditional fault-based divorce proceedings, women are required to obtain legal counsel, provide evidence of harm often through eyewitness testimony, and submit to compulsory mediation. A woman must prove to the court that it is impossible for her to continue living with her husband. The following four grounds for fault-based divorce are accepted by the court: (1) illness, including mental illness, venereal disease, and impotence; (2) non-provision of maintenance or financial support; (3) absence or imprisonment; and (4) “injury” (*darar*) which includes a variety of forms of physical and mental harm.<sup>75</sup>

The last form of judicial divorce on the grounds of injury is formulated in general terms and could include such reasons as: physical or verbal violence, attempts to take control of the wife’s private property, damage to the “honor” of a wife or her family, polygyny,<sup>76</sup> or deprivation of marital intercourse. By not explicitly stating the degree of harm sufficient for the granting of a fault-based divorce, the law has given judges considerable discretion and, reflecting prevailing prejudices, judges have applied their discretion to discriminate between women of different economic classes based on stereotypes of what women of different backgrounds can tolerate.<sup>77</sup>

According to the law, if a woman was aware of any of these grounds for divorce prior to marriage or tolerated it for several years during the course of the marriage, her divorce

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<sup>74</sup> Human Rights Watch interview with Hassan `Osman, public prosecutor of the district of Cairo, Cairo, July 7, 2004.

<sup>75</sup> Ron Shaham, *Family and the Courts in Modern Egypt: A Study Based on Decisions by the Shari’a Courts 1900-1955* (Leiden: Brill, 1997), pp. 119-124.

<sup>76</sup> Polygyny is not considered an injury in itself. A woman must provide evidence to the court that her husband taking another wife caused her physical, mental, or financial harm.

<sup>77</sup> See section on “Discriminating between Women: Judicial Discretion and Socio-Economic Status” for a detailed discussion.

request is inadmissible.<sup>78</sup> For example, a wife who has learned that her husband married a second wife has only one year to file for divorce on the grounds of polygyny.<sup>79</sup> Men are also given considerable leeway to rectify the harm. When women file divorce suits for impotence, for example, judges will often wait for one year before granting the divorce in order to see if the condition has improved.<sup>80</sup> If a man decides to spend some money on the household after a woman filed a suit for harm based on failures to financially support her, the case can be dismissed.<sup>81</sup>

The substantial burden of providing evidence of “injury” rests on a woman’s shoulders. In order to file for divorce on grounds of physical violence, woman will often need to provide the court with a medical certificate from a government hospital outlining her condition and two witnesses (preferably not related to her) who saw the abuse occur.<sup>82</sup> As in all other court cases in Egypt, a woman’s testimony is worth half that of a man.<sup>83</sup> Therefore a battered woman would need testimonies from either two men, four women, or one man and two women. The need for witnesses is a huge barrier to getting a divorce on the basis of physical abuse. An attorney for the Egyptian Organization for Women’s Rights told Human Rights Watch “most cases fail because of a lack of witnesses.”<sup>84</sup>

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<sup>78</sup> Article 9 of Law No. 25 (1920) states:

The wife shall be entitled to ask for separation between her and her husband if she shall have found or discovered in him a deeply-rooted defect, of which he could not be cured, or which could only be cured after a lengthy period of time...If she married him aware of the defect, or of the defect took place after the marriage contract and she accepted it overtly, or implicitly after her awareness thereof, the separation shall be impermissible.

<sup>79</sup> Law No. 25 (1925), article 111 (bis) 1.

<sup>80</sup> Human Rights Watch interview with Yasir `Abd al- Gawad, attorney, Arab Center for Law, Cairo, June 7, 2004.

<sup>81</sup> Human Rights Watch interview with Yasir `Abd al-Gawad, attorney, Arab Center for Law, Cairo, June 7, 2004.

<sup>82</sup> Human Rights Watch Interview with Amal `Abd al-Hamid, attorney, Nadim Center for the Rehabilitation of Victims of Violence, Cairo, June 19, 2004.

<sup>83</sup> Egyptian jurisprudence applies the witness testimony rules of the Hanafi school, which requires the testimony of two male witnesses or two females and one male witness. See Amina Chemais, “Obstacles to Divorce for Muslim Women in Egypt,” *Women Living Under Muslim Laws Special Dossier 1*, fall 1996, p. 3.

<sup>84</sup> Human Rights Watch interview with Ihab Nagy, attorney, Egyptian Organization for Women’s Rights, Cairo, June 8, 2004.



## No-Fault Divorce (*Khul'*)

*I do not want khul'. You lose so much in khul'... I have endured so much already.*

— Marwa Majid, Cairo, June 13, 2004

On January 29, 2000, President Mubarak signed a new law granting Egyptian women the right to file for a divorce on the basis of “incompatibility,” without providing evidence of harm.<sup>85</sup> In order to file for a “no-fault” divorce (*khul'*), a woman need not provide grounds for filing the divorce request, but must agree to forfeit her rights to alimony and her deferred dowry (*mu'akbar*) as well as repay her advanced dowry (*muqaddam*). For some women, *khul'* has proved to be faster than the fault-based divorce process, since they are not required to demonstrate evidence of harm or find witnesses, and men do not have the right to appeal the no-fault divorce to a higher court.

The passage of the law was largely the result of the tireless efforts over a fifteen-year period of an informal coalition of prominent Egyptian lawyers, NGO leaders, legislators, scholars, and government officials.<sup>86</sup> The success of this legislative initiative has also been attributed to the fact that the basis of the law is found in the Qur'an.<sup>87</sup> Given the constrained environment in which advocates for changing discriminatory elements of the personal status law (derived from interpretations of Shari'a deemed untouchable by

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<sup>85</sup> Law No. 1 (2000) on the Reorganization of Certain Terms and Procedures of Litigation in Personal Status Matter is known as the *khul'* law (*qanun el-khul'*), since this was seen as the most groundbreaking provision of the law. The law also establishes a fund to provide child support for impoverished families, authorizes the government to garnish the wages of fathers who renege on alimony and child support, and facilitates divorce and the resolution of paternity claims in increasingly popular *urfi* (unregistered) marriages. The new law also prohibits men from divorcing their wives without immediately informing them (*talaq ghiyabi*).

<sup>86</sup> Diane Singerman, “Rewriting Divorce in Egypt: Reclaiming Islam, Legal Activism, and Coalition Politics,” p. 3. This article is forthcoming in *Civic Pluralist Islam: Prospects and Policies for a Changing Muslim World* (copy on file with Human Rights Watch).

<sup>87</sup> The relevant Qur'anic verse (*Surah 2: 229*) states:

And it is not lawful for you, the husbands, to take back anything that you have given your wives unless both parties fear that they will not be able to keep within the limits as laid down by the law. Thus, should you fear that they both may not be able to keep within the limits as laid down by god, then there shall be no sin upon either of them *if the wife gives something up to her husband in exchange for her freedom*. And these are the limits of god... [emphasis added].

Cited in Diane Singerman, “Rewriting Divorce in Egypt: Reclaiming Islam, Legal Activism, and Coalition Politics,” p. 13. This article is forthcoming in *Civic Pluralist Islam: Prospects and Policies for a Changing Muslim World* (copy on file with Human Rights Watch).

some) operate, the coalition made the strategic decision to use religion as a basis for these reforms.

While khul' has clearly helped some women have easier access to divorce, it has not adequately remedied the fundamental inequality of the divorce process. Human Rights Watch interviews reveal that because of the need to forfeit both the right to any marital assets and the right to any future support, this option is limited to women with significant financial resources or those who are desperate for a divorce.<sup>88</sup>

#### **IV. THE PAINS AND PERILS OF AN UNEQUAL DIVORCE SYSTEM**

When women initiate divorce in Egypt, it can take several years in the country's backlogged, inefficient, and biased courts. While millions of Egyptians seek divorce every year, only a limited number of these cases are finalized. For example, only 62 out of the 5,252 divorce cases filed in a Cairo court in 2002 were resolved by January of the following year.<sup>89</sup> Egyptian women pay the heaviest price for these delays since only they need to resort to the courts for a divorce. While many government officials see these delays as a necessary by-product of a busy and overcrowded judicial system, the routine delays represent an endurance test for many women desperately seeking a way out of painful and potentially dangerous situations. The limbo that these women face, never knowing if a divorce will eventually be granted, also prevents them from moving on with their lives and charting a course for future safety and happiness.

The very nature of the antiquated and overburdened Egyptian court system fosters delay. Judges in Egypt, on average, hear sixty to seventy cases per day.<sup>90</sup> As a result, the postponement of court hearings and the slow progression of cases is the norm. For example, when Human Rights Watch visited the Zananiri Civil Court of Personal Status and Family Affairs in Shobra on June 17, 2004, there were over one hundred cases scheduled to be heard by a single judge that day. Attorneys specializing in personal status matters told Human Rights Watch that the delays are compounded by the fact that judges rarely maintain regular business hours.<sup>91</sup> Both women seeking divorce and their attorneys often spend days waiting in courtrooms for appearances, each time

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<sup>88</sup> See section on "The Limits of Khul'" for more information.

<sup>89</sup> Reem Leila, "A Family Affair," *Al-Ahram Weekly*, January 16-22, 2003 [online] <http://weekly.ahram.org.eg/2003/621/fe1.htm> (retrieved May 21, 2004).

<sup>90</sup> Human Rights Watch interview with judge, Cairo, July 1, 2004.

<sup>91</sup> Human Rights Watch interview with lawyer, Cairo, June 17, 2004. Judges in Egypt work from 8.30 a.m. until the completion of the day's sessions, generally at around 5 p.m., Saturday to Thursday. Human Rights Watch telephone interview with Mirvat Ahmad Abu Tig, attorney, October 19, 2004.

discovering that their case has once again been postponed due to a judge's unavailability. The multiple responsibilities of judges hearing divorce cases exacerbates the problem. For example, judges play a significant role in monitoring elections to both the government-appointed consultative council (*majlis al-shura*) and parliament (*majlis al-sha`b*), tasks that have been known to result in further delays.

Delays are also caused by a variety of laws and procedures injected into the divorce process, which are rooted in sexist and misogynist notions about women. Compulsory reconciliation efforts employed only when women seek to end their marriages not only infantilizes women but also mandates delays. A number of laws, such as the one conditioning a woman's alimony on her obedience to her husband, are also readily available to men facilitating the further delay of divorce proceedings. Husbands regularly file appeals contesting the grounds for divorce outlined by their wives. Prior to the passage of the 2004 law establishing a family court system,<sup>92</sup> husbands could appeal the divorce up to the Court of Cassation. Judges admitted that the system has been prone to abuse by ill-intentioned husbands. For example, one judge who asked to remain anonymous laid out a typical timetable in this fashion:

Normal [fault-based divorce] cases take four to five months. But, if the husband is out of the country it takes longer. We give him three months [to respond to the notice]. If the husband wants to keep her [the wife] in limbo then he can go to the Court of Cassation [to appeal], which can take several years.<sup>93</sup>

The fact that women seeking divorce confront such a biased legal system is particularly unfortunate given the fact that all the women Human Rights Watch interviewed had resorted to the courts only after they had exhausted all other options. According to one attorney, "The courts are used as a last resort. Women endure everything for years before they go to the courts."<sup>94</sup>

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<sup>92</sup> Law No. 10 (2004) Promulgating the Law on the Establishment of the Family Courts. See section on "The Establishment of New Family Courts."

<sup>93</sup> Human Rights Watch interview with judge, Cairo, July 1, 2004.

<sup>94</sup> Human Rights Watch interview with Muhammad Zidan, attorney, Sohag, June 24, 2004.

## **Compulsory Mediation**

*I reached a point where I couldn't endure it anymore even if the world tried to reconcile us.*

— Hoda Halim, thirty-seven, Cairo, June 27, 2004

Women who seek either fault-based divorce or *khul'* are required to submit to burdensome and time-consuming court-ordered mediation in the name of family preservation.<sup>95</sup> Men seeking divorce, on the other hand, are never required to make any efforts at reconciliation. Taken to its logical conclusion, the troubling implication of the court requirement that women, and only women, attempt to reconcile with their spouses is that only women are capable of destroying the family. A husband's independent and unchallengeable decision to divorce his wife is never limited by the notion of family preservation.

For fault-based divorce, in the event that a request for divorce is rejected by the court and a woman re-enters a complaint and similarly fails to provide sufficient evidence of harm, a judge is required to send two arbitrators to try to reconcile the couple. If they fail to reconcile the couple, they must present a report to the court, outlining who they think is at fault in the relationship. Based on this report, the court grants a divorce and determines the amount of compensation to be given by the party deemed at fault to his or her spouse.<sup>96</sup> In this capacity, arbitrators wield an enormous amount of influence on the outcome of the case.

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<sup>95</sup> Articles 7-11 of Law No. 25 (1929) defines the role, responsibility, and mission of arbitrators in fault-based divorce proceedings. Articles 18-20 of Law No. 1 (2000) on the Reorganization of Certain Terms and Procedures of Litigation in Personal Status Matters defines the role, responsibility, and mission of arbitrators in *khul'* or no-fault divorce proceedings. Article 20 states "The court shall not rule for divorce through *khul'* except after trying to reach reconciliation between two spouses, and after delegating two arbitrators to continue reconciliation endeavors between them, within a period not exceeding three months..."

<sup>96</sup> If the arbitrators find that all the harm is caused by the husband, then they would recommend an irrevocable divorce with the wife maintaining all her legal rights. On the other hand, if the blame is solely attributed to the wife, the arbitrators will recommend an amount of compensation to be paid by the wife to the husband. If the blame is deemed mutual, the arbitrators would suggest a divorce without compensation or with compensation in proportion with the blame of each party. If blame cannot be determined, arbitrators would suggest a divorce without compensation. If the arbitrators differ in opinion, a third arbitrator is appointed by the court. Law No. 25 (1929), article 10 (2). See also Amina Chemais, "Obstacles to Divorce for Muslim Women in Egypt," *Women Living Under Muslim Laws Special Dossier 1*, Fall 1996, p. 61.

A separate mediation process exists for no-fault or *khul`* divorces.<sup>97</sup> According to an official at the public prosecutors office, the process normally begins with a woman going to the court to ask for a no-fault divorce and offering to return her dowry and renounce all other financial claim. The court tries to reconcile the couple for a maximum period of three months. If such efforts fail, the court appoints an arbiter from each side of the family. If there are children, the court makes two attempts to reconcile the couple with a 30 day waiting period between attempts.<sup>98</sup>

The arbitrators appointed by the court in mediation sessions are often viewed as biased against women. According to Azza Soliman, the director of the Center for Egyptian Women's Legal Assistance, an NGO that provides free legal aid to women, "rather than trying to resolve issues between the couple, they try to put pressure on the woman to drop the case."<sup>99</sup> Mona Zulficar, a member of the National Council for Women and an attorney who helped formulate the 2000 reforms to the personal status laws establishing the no-fault divorce system, admitted that there were problems in the implementation of the new procedures. "They [judges] confuse the difference between having arbitrators in cases of women who are applying for a regular divorce and the cases of those applying for *khul`*," she explained. "In the former, the arbitrators have to check that a woman deserves a divorce. In the latter, if the woman objects to going back, the case should not be postponed. The arbitration sessions should not take more than two months."<sup>100</sup>

The requirement that divorces initiated by women are automatically subject to reconciliation efforts is rooted in the biased notion that women are not capable of making rational decisions about important life choices. For the many social and legal reasons discussed in this report, women in Egypt generally resort to divorce as a last resort, when there is negligible hope of salvaging the marriage. As already noted above, compulsory mediation infantilizes women and takes adult decision making out of their hands.

Human Rights Watch interviews revealed that many judges, government officials, and others in the legal system share the prevailing societal view of women as inherently

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<sup>97</sup> Article 20 of the Procedural Personal Status Law (Law No.1 of 2000) states "The court shall not rule for divorce through *al-Khola* except after trying to reach reconciliation between the two spouses, and after delegating two arbiters to continue reconciliation endeavors between them, within a period not exceeding three months..."

<sup>98</sup> Human Rights Watch interview with Hassan Osman, public prosecutor of the district of Cairo, Cairo, July 7, 2004.

<sup>99</sup> Mariz Tadros, "What Price Freedom?" *Al-Ahram Weekly*, March 7-13, 2002 [online] <http://weekly.ahram.org.eg/2002/576/fe1.htm> (retrieved August 15, 2004).

<sup>100</sup> *Ibid.*

irrational and child-like. The perception that women are prone to impulsive behavior and the traditional characterization of women as naturally indecisive, fanciful, and in need of guidance and protection fuels this one-sided mandatory mediation program. According to one public prosecutor in Cairo, mediation was necessary because:

A woman may be hasty in filing for a divorce and may not have a strong keenness in keeping the family together. The court has to play this role and intervene. Men are more wise and rationale than women. A woman's emotions can overcome her rationality.<sup>101</sup>

Reflecting on the delay caused by compulsory mediation, one woman told Human Rights Watch:

There should be legal changes. Cases should not take four or five or six years. It should happen straight away. Why do they have to insist on reconciliation? It has to be easier for women. There is a very long period until there is a judgment.<sup>102</sup>

Compulsory mediation also raises important issues for domestic violence victims attempting to end their marriages. Women in abusive relationships who seek divorce are not exempt from mediation. However, a number of experts agree that mediation is “[a] process that requires a balance of power between participants” and is thereby “[n]ot an appropriate method to resolve domestic violence disputes, a phenomenon that reflects profound disparities in power between the perpetrator and the victim.”<sup>103</sup> Under these circumstances, mediation may in fact reinforce the inequality and disempowerment of victims of domestic violence.

### ***Discriminating between Women: Judicial Discretion and Socio-Economic Status***

*What is harm for some women isn't harm for another. Some women accept beatings and insults as a joke, while others do not.*

— Judge `Abd al-Rahman Muhammad, chief judicial inspector, Cairo, June 25, 2004

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<sup>101</sup> *Ibid.*

<sup>102</sup> Human Rights Watch interview with Marwa Majid, Cairo, June 13, 2004.

<sup>103</sup> Jennifer P. Maxwell, “Mandatory Mediation of Custody in the Face of Domestic Violence: Suggestions for Courts and Mediators,” *Family and Conciliation Courts*, vol. 37, July 1999, p. 335.

Despite women's legal entitlement to divorce, judges still maintain a great deal of discretion in granting a fault-based divorce and often require substantial evidence of harm. Simply filing for divorce does not mean getting a divorce. In fault-based divorce cases, the burden of proving harm is on the wife. Since the law does not specifically define what constitutes a sufficient degree of harm required to mandate divorce, judges often grant divorces in a discriminatory fashion based on various subjective interpretations of harm, including linking a woman's socio-economic background with her ability to tolerate and endure violence.

Several Egyptian attorneys told Human Rights Watch that judges tend to require a higher threshold of harm for poor or illiterate rural women, on the assumption that physical abuse or polygyny, for example, is a natural part of their existence and does not necessarily warrant a divorce. While lesser forms of physical abuse may not be sufficient to prove harm for poor women, a wealthier woman is often seen as more easily harmed because she is accustomed to better treatment. Implied in this subjective analysis of harm is that some forms of violence against women or other degrading practices are legally tolerable under certain circumstances. Egypt's chief judicial inspector admitted:

The judge needs to decide if it is [legally cognizable] harm depending on [a woman's] socialization, education, and economic status. In [the judge's] ruling, he needs to specify the reasons that caused him to come to this judgment. The judge needs to know his community.<sup>104</sup>

This exercise of judicial discretion is not without legal support. The law governing fault-based divorce explicitly notes "[h]arm is a situation which is impossible 'for the likes of them' (*bain amthalihima*)."<sup>105</sup> This gender-neutral law directly affects women seeking divorce since only they need to provide evidence of harm in order to terminate their marriages. Ultimately, the law allows judges to discriminate between women belonging to different socio-economic classes, and is a clear violation of the internationally protected right to equality before the law.

In an insightful article detailing the legal obstacles to divorce faced by Muslim Egyptian women, Amina Chemais explains how differing judicial attitudes regarding what constitutes harm, and the variables that a judge may look to in assessing harm done to women of different classes not only undermine any notion of judicial fairness, but may

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<sup>104</sup> Human Rights Watch interview with Judge `Abd al-Rahman Muhammad, chief judicial inspector, Cairo, June 25, 2004.

<sup>105</sup> Article 6, Law No. 25 (1929). See also Enid Hill, *Mahkama! Studies in the Egyptian Legal System* (London: Ithaca Press, 1979), p. 81.

also lead to contradictory legal rulings that undermine any sense of legal predictability.<sup>106</sup> The absence of legal predictability in proving harm serves as yet another deterrent for women seeking fault-based divorces. Reflecting on the inherently discriminatory and troubling nature of this law, Chemais comments:

This law, which has the result that low-status women may have to put up with more abuse than high-status women, is based on the logic that since violence is common, it must be just. For instance, a judge can rule that moderate physical violence toward the wife may not be considered harm among the more traditional rural groups where the norm and ideology gives such a right to the husband. However, the same amount of violence in a middle class home may be considered excessive. The determination of the level of harm “normally” endured by individuals of a particular social group is particularly problematic in a socially mobile society, as Egypt is, where one’s current situation and one’s aspirations are not necessarily the same.<sup>107</sup>

### **Obedience Laws**

The existence of “obedience” laws in Egypt presents another impediment to the ability of women to access divorce equally. In Egypt, as in much of the Middle East and North Africa, a husband may file an obedience (*ta`a*) complaint against his wife if she leaves the marital home without his permission.<sup>108</sup> If a woman refuses to go back to the “house of obedience” (*bayt al-ta`a*) and does not file an objection specifying the legal grounds for her failure to obey her husband within thirty days of receiving the notice, she is considered deviant (*nashiz*) and is denied alimony upon divorce.<sup>109</sup> Accordingly, women contemplating filing for divorce have limited opportunity to leave the home if they want to maintain their financial rights. Until 1967, police officers were allowed to use physical force to return women to the marital home into the custody of their husbands. While

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<sup>106</sup> Amina Chemais, “Obstacles to Divorce for Muslim Women in Egypt,” *Women Living Under Muslim Laws Special Dossier 1*, fall 1996, p. 63. Chemais provides several examples of contradictory principles regarding what is considered “harm,” and examines various court orders that attempt to distill (albeit inconsistently and problematically) the types of harm that would make life impossible for various broad categories of women.

<sup>107</sup> *Ibid.*, p. 63

<sup>108</sup> See Law No. 25 (1929), article 11 bis 2. Obedience laws are rooted in the idea that in a Muslim marriage a husband has the obligation to provide his wife with the necessities of food, clothing, and shelter in return for her obedience. For more information on obedience requirements in Islamic law, see Amira Sonbol, *Women, the Family, and Divorce Laws in Islamic History* (New York: Syracuse University Press, 1996), pp. 280-285.

<sup>109</sup> See Amina Chemais, “Obstacles to Divorce for Muslim Women in Egypt,” *Women Living Under Muslim Laws Special Dossier 1*, fall 1996, p. 57-58.



police can no longer use such force, husbands routinely use obedience laws as a means to deter women from seeking divorce.

Obedience is construed as the quid pro quo for the husband's provision of basic necessities, such as food and shelter. Obedience in return for maintenance finds its source in Islamic marriage contracts although this "exchange" is not explicitly stated in marriage contracts used in Egypt today. According to this "exchange," husbands are entitled to obedience and complete decision-making power at home in return for financially supporting the household.<sup>110</sup> Obedience in exchange for financial support allows women to be treated as commodities with little more autonomy than children. As one academic noted:

Ta`a [obedience] is dangerous because it gives husbands nearly total control over their wives. Ta`a can mean not only that the wife must strictly obey all that her husband commands, it can also mean that the wife might need to guess what her husband wants, fulfilling his every whim, in order to avoid his legal, physical reprimand.<sup>111</sup>

Obedience notices cannot in themselves prevent a woman from obtaining a divorce. However, they are often used by men as a means to humiliate their spouses, to further delay divorce proceedings, and to avoid paying any alimony.<sup>112</sup> Obedience laws serve to deter women from seeking divorce and exemplify the overarching authority that men exert over women in family matters. An attorney, who did not wish to be named, told

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<sup>110</sup> Nathalie Bernard-Maugiron and Baudouin Dupret, eds., *Egypt and Its Laws* (New York: Kluwer Law International, 2002), pp. 22-23.

<sup>111</sup> Rana Lehr-Lehnardt, "Treat Your Women Well: Comparisons and Lessons from an Imperfect Example Across the Waters," *Southern Illinois University Law Journal*, vol. 26, Spring 2002, p. 405.

<sup>112</sup> Law No. 25 (1920), article 1, part 1 (On Maintenance and the Waiting Period) states:

Maintenance shall not be due to the wife if she apostatizes or if she refrains by choice from submitting herself without justification or is forced to refrain by circumstances which are not the fault of her husband, or if she leaves the matrimonial home without the permission of her husband.

If she leaves the matrimonial house without her husband's permission in those circumstances in which that is authorized by provision of religious legislation as stipulated upon or in practice or if dictated by necessity, that shall not be a reason for the lapse of the wife's alimony. That will also apply to her going out for legitimate work, unless it would be evidenced or revealed that her availment of this conditional right is blemished by misusing the right, or is against the interest of the family, and the husband had requested her to refrain from it.

Human Rights Watch that he uses obedience notices as a harassment tactic when he defends men in divorce suits filed by their spouses. “I do it [file an obedience complaint] to disgust her and wear her down.”<sup>113</sup>

Human Rights Watch interviewed several women who had received obedience notices from their spouses, further delaying the divorce process. In such circumstances, women are required to provide information about why they left the marital home without their husbands’ permission. Nada Sha`ban, twenty-four, moved back into her family’s home after her husband brought his second wife to live with them. Her husband then filed an obedience notice against her. She explained:

He started a ta`a suit on June 13 [2004]. This is the fourth time my [divorce] case has been postponed. Now, I also need to bring witnesses to prove that he brought another woman into the house to reject the ta`a case.<sup>114</sup>

Mona Hanan, thirty-one, was served with an obedience notice after she left her house without her husband’s permission. She went to her father’s home with her eight-year-old-son because her husband (who had married a second wife) did not financially support them. “He gave us 1 pound [US\$0.16] a day for household expenses,” she said. Despite the lack of financial support (the supposed quid pro quo for a woman’s obedience), Mona Hanan’s objection to the obedience notice was rejected by the court, making her ineligible for alimony.<sup>115</sup>

### **Unenforceable Court Rulings**

*If they [court rulings] are not enforced, the whole judicial process is “gone with the wind” [in English], including the efforts of the judges and the parties that have been struggling for years for this decision.*

— Hossam Abu-Yusif, state council deputy, Cairo, June 25, 2004

Divorced women in Egypt know that obtaining a divorce is only half the ordeal. The legal and bureaucratic nightmare of obtaining a divorce is often followed by the

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<sup>113</sup> Human Rights Watch interview with attorney, Cairo, June 17, 2004.

<sup>114</sup> Human Rights Watch interview with Nada Sha`ban, Cairo, June 14, 2004.

<sup>115</sup> Human Rights Watch interview with Mona Hanan, Cairo, June 13, 2004.

frustrating process of enforcing court rulings for alimony and child support. Many divorced women find themselves destitute because of the government's failure to enforce these rulings. Fayza Kamal, fifty-nine, a victim of such poor enforcement standards, explained her situation to Human Rights Watch:

I can't work. I have rheumatism. My daughter was three when we first went to the court to ask for maintenance. She's seven now. The final [accumulated] maintenance totaled 4800 Egyptian pounds [US\$780], but he won't pay it. He's supposed to go to jail, but he hasn't. I had to withdraw the youngest girl from school because I can't pay the fees.... It's been a month since I've been able to buy my medicine. I can either buy medicine or spend money on my daughter. So I spend on her.<sup>116</sup>

Women can spend several years trying to track down their ex-husbands in order to enforce court rulings. Once an ex-husband is deemed missing, they are provided with little assistance from the police or any other government authority. If a woman does not know her husband's exact address to forward to the bailiff (the court official responsible for announcing and implementing court orders relating to a case), she is simply denied the money she was awarded in the court ruling.

Attorneys repeatedly told Human Rights Watch that bailiffs assigned to notify a husband of a court session or an alimony ruling often take bribes in return for neglecting these duties. In return for a bribe, a bailiff will inform the court that he could not locate the person. "It is easy for a husband to run away and it is easy for a husband to pay bribes. The government does not prioritize the implementation of court rulings. It prioritizes national security and not civil security," said attorney Yasir `Abd al-Gawad.<sup>117</sup> One judge Human Rights Watch interviewed, who requested that he not be named, told us that bailiffs were a "cancer" that undermined the whole judicial process.<sup>118</sup> The problem is so acute that another attorney told Human Rights Watch:

Some people are told "make sure you go to an enforcement attorney." They ask "who's that?" They're told "that's the type of attorney who is able to enforce [court] rulings."<sup>119</sup>

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<sup>116</sup> Human Rights Watch interview with Fayza Kamal, Cairo, June 21, 2004.

<sup>117</sup> Human Rights Watch interview with Yasir `Abd al-Gawad, attorney, Arab Office for Law, Cairo, June 7, 2004.

<sup>118</sup> Human Rights Watch interview with judge, Cairo, July 1, 2004.

<sup>119</sup> Human Rights Watch interview with Amal `Abd al-Hamid, attorney, Nadim Center for the Rehabilitation of Victims of Violence, Cairo, June 19, 2004.

The Egyptian government has made little effort to ensure that bailiffs are not susceptible to corruption. The head of judicial supervision, who also oversees the bailiff's office, refused to provide any information about the measures his office has taken to monitor the work of bailiffs and to penalize those who are found to be corrupt. Despite being challenged with the many accounts Human Rights Watch had received, he insisted to Human Rights Watch:

We pick the right people [bailiffs] from good backgrounds. They are educated. There is a serious appointment of people. There is no answer except to get good people and give them good salaries.<sup>120</sup>

## **V. DISCRIMINATORY CONSEQUENCES OF UNEQUAL DIVORCE**

Egypt's profoundly discriminatory divorce system harms women at every stage of the divorce process. The pains and perils involved in initiating divorce in Egypt's backlogged and inefficient courts compel many Egyptian women to push their husbands, for whom divorce is effortless, to divorce them. In return, women usually agree to sacrifice their financial rights. Additionally, discriminatory laws that condition a woman's right to housing on her having physical custody of children serves to deter women from seeking divorce by instilling fear in them that they will be rendered homeless. The loss of physical custody of children, which is transferred to fathers when children reach a certain age or automatically if women choose to re-marry, is another discriminatory consequence of Egypt's divorce system.

Women courageous enough to attempt to terminate their marriages in Egypt's courts, a process that can take several years, are likely to find themselves destitute during the process because they are ineligible for any social assistance from the state while they are legally still married. These unfortunate consequences of divorce in Egypt serve to both deter woman from ever seeking to divorce their husbands or make their lives miserable post-divorce.

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<sup>120</sup> Human Rights Watch interview with Intissar Nasim, director, Office of Judicial Supervision, Cairo, June 25, 2004.

## ***The Hidden Consequence: Bargaining away Rights to Avoid the Fault-Based Divorce Process***

*We didn't talk about the marital home. I have [young] children. I have a right to it. But we didn't talk about it. I wanted to get it all over with and that's all.*

— Hania Karim, thirty-three, Cairo, June 21, 2004

One of the often hidden consequences of Egypt's unequal divorce system, which positions men at a considerable advantage, is that many Egyptian women choose to bargain away their rights to avoid initiating divorce altogether. This type of bargaining typically involves a woman agreeing to give up all of her alimony rights, the marital home, custody, and often even paying the Ma'zun's divorce fees<sup>121</sup> in order for her husband to divorce her. This type of divorce (*taliq `ala ibra*), initiated by a man whose spouse agrees to give up everything in order to terminate a marriage, is one of the quickest (but most costly) means for women to terminate their marriages. It is a by-product of Egypt's highly discriminatory divorce system; a system that forces women to make seemingly impossible choices. Many Egyptian men, acutely aware of the difficulties women face in the courts, decide to take advantage of the situation.

In one such case, Marwa Isma`il, a twenty-four-year-old from Cairo, agreed to forfeit all of her financial rights for a divorce. Her husband took her to a Ma'zun three years ago and told her to sign a document giving up her rights. "I didn't take anything but my clothing when I left the house, he took everything," she said. In the presence of the Ma'zun, he agreed to give her 100 Egyptian pounds (US\$16) a month to support their three children. Despite this pledge, he has never paid this money and she has not seen him since. Her attorney filed a lawsuit seeking child support and housing over a year and a half ago. As a result of the lawsuit, the court awarded her 350 pounds (US\$57) per month for child support and 180 pounds (US\$29) for the rent of an apartment. To date, they have not been able to enforce the ruling.<sup>122</sup>

Another woman Human Rights Watch interviewed, Jihan Khulud, twenty-four, felt that she had to choose between living in a polygynous union or seeking a quick divorce from her husband by agreeing to forfeit all of her financial rights. She explained:

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<sup>121</sup> Ma'zouns require fees to register marriages and divorces determined by the financial means of the parties. Human Rights Watch interview with Dr. Mustafa `Adli al-Gindi, religious notary, Qalubiyya, June 16, 2004.

<sup>122</sup> Human Rights Watch interview with Marwa Isma`il, Cairo, June 8, 2004. See section on "Unenforceable Court Rulings" for more detailed information.

He married another woman who was already married. He said “you can come back but she’s staying.” I refused. [Then] he told me “you can either come back or I’ll divorce you if you agree to give up everything.”<sup>123</sup>

Illiterate women are particularly susceptible to being taken advantage of in this manner. One such woman told Human Rights Watch:

Before he came to divorce me – because I wanted to work – he came to me with a big piece of paper, with lots of words on it and said, “sign here.” So I did and I gave it all up. Afterward he gave me only 50 pounds [US\$8]. He said he would pay 50 pounds each month for the children. Sometimes he sends it, sometimes he doesn’t, and when I go to see him he shuts the door. He is also a bad man, and if I go [to his home] he would probably try to do some bad things [to me] that are forbidden because I am divorced. To touch me. So I cannot go.<sup>124</sup>

### ***Precarious Housing and Custody Rights***

Even when women succeed in overcoming the daunting legal and bureaucratic hurdles and manage to obtain a divorce, their situation remains precarious. Egyptian law limits a woman’s right to adequate housing post-divorce to the period during which she has physical custody of the children, rendering both childless women and those who no longer retain custody of their children perpetually at risk of homelessness. Under Egyptian law, women do not obtain a share of, or legal title to, the marital home. Instead, the marital home is viewed as the exclusive property of the husband both in marriage and divorce. Absent having custody of children, and thereby needing a home in which to raise the “husband’s children,” women have no entitlement to the marital home upon divorce. Egyptian law provides that a divorced husband is only required to provide “adequate independent accommodation for his young children by his divorced wife and for the wife who has custody of the children.”<sup>125</sup> Thus, divorced women who may have spent years or decades maintaining and contributing to the marital home are left with no ownership interest.

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<sup>123</sup> Human Rights Watch interview with Jihan Khulud, Cairo, June 13, 2004.

<sup>124</sup> Human Rights Watch interview with Buthaina Sha`ban, Qalubiyya, June 21, 2004.

<sup>125</sup> Law No. 25 (1929), article 18 bis 3.

Egypt's custody laws do not reflect internationally acceptable standards nor do they take the best interests of the child into account.<sup>126</sup> By law, physical custody of any children born of the marriage is automatically transferred to the father at the age of ten for boys and twelve for girls, unless the parents reach an alternative extra-judicial agreement or a judge orders an extension of the mother's custody.<sup>127</sup> The threat of losing custody of children leaves divorced women with the permanent risk of becoming homeless once children reach the age where custody may be transferred to an ex-husband. A divorced woman's entitlement to either reside in the matrimonial home or to receive support for living elsewhere is entirely contingent upon her having custody of the children. Should her custody be terminated at any point, her right to support for shelter would disappear.<sup>128</sup>

According to Egyptian law, a judge must offer divorced women with physical custody of children the choice of either living in the marital home or having alternative accommodations rented for them (until the end of the custody period, at which time the divorced husband is entitled to return to the marital home with the children).<sup>129</sup> While most women desire to remain in the marital home, only one of the approximately fifty divorced women that Human Rights Watch interviewed was doing so. The vast majority, whose custody of small children entitled them to live in the marital home, were denied this right. Most of these women now live with their parents after being evicted from their homes by their ex-husbands. Many women reported that they were not aware that they had legal rights to the marital home or alternative housing. Others said that they simply could not bear the daunting burden of a continued legal battle.

Nada Sha`bayya, twenty-four, moved back to her father's home with her two infant children after her husband took on a second wife. Her husband, a taxi driver, was physically and psychologically abusive. "I left the house immediately and went home... I lost all my belongings," she said.<sup>130</sup> Paradoxically, the one woman we interviewed who

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<sup>126</sup> Article 3 of the Convention on the Rights of the Child states: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration." In Egypt, although a judge can extend custody if deemed necessary, the law transfers custody at certain ages for boys and girls not necessarily determined by the best interest of the child. In that sense, it violates article 3 which demands that the best interests of the child be a primary consideration in determining custody issues.

<sup>127</sup> The law allows judges to extend custody of boys until the age of 15 and until marriage for girls if the judge deems such an extension to be in the best interest of the family. Abdullahi An-Na'im, *Islamic Family Law in a Changing World: A Global Resource Book* (New York: Zed Books, 2002), chapter on Egypt, p. 172.

<sup>128</sup> Egyptian women are also denied physical custody rights if they re-marry or leave the country, while men are never denied custody under such circumstances. Ron Shaham, *Family and the Courts in Modern Egypt: A Study Based on Decisions by the Shari'a Courts 1900-1955* (Leiden: Brill, 1997), p. 187.

<sup>129</sup> Law No. 25 (1929), article 18 bis 3.

<sup>130</sup> Human Rights Watch interview with Nada Sha`bayya, Cairo, June 14, 2004.

continued to live in the marital home, Heba `Osman, thirty-six, wishes she could live somewhere else. She lives with her three children in the marital home — a one room apartment with a shared bathroom and no kitchen in the governorate of Qalubiyya. Her ex-husband has stopped paying rent for the property and left the home in a state of filth and disrepair. While her husband did not evict her from the marital home, he refuses to pay the rent leaving her and her children at risk of homelessness.<sup>131</sup>

Egypt's poor and resource-starved public housing system provides little or no support for these women. Fayza Kamel, fifty-nine, was forcibly evicted from the marital home with her five children. She has been staying at her mother's house since the eviction, but will likely be asked to leave by her brother when he returns from work overseas. She has applied for public housing, but told Human Rights Watch:

Six years ago, I filed an application for housing in `Abdin [a neighborhood in Cairo]. They told me that I needed to pay 1008 Egyptian pounds [US\$296 at the time] to them. Of course, I don't have this. Where will I go with my children? Will my daughter sleep on the street?<sup>132</sup>

Some husbands simply deny custody rights to their wives without legal proceedings. Many women do not have confidence that the police will be willing or able to protect their rights, and thus do not report these situations. Lina Munir, thirty-five, was married to a fruit vendor. Her husband refused to let her leave the house at any time, and severely beat both her and their children on a regular basis. Lina Munir told Human Rights Watch that she endured the physical abuse and torment for seventeen years because she did not want to leave her children unprotected. Recalling her breaking point, she recounted:

He was hitting me hard and I couldn't take it anymore. I took the nursing girl [my daughter] and I went to my brother's house. He ran after me and took her. He said, "My daughter won't live with strangers."

I didn't tell the police. I know that they won't do anything. They write down the information and leave. It's not as if I can go file charges and they'll bring them [the children] back to me. It's not that easy.<sup>133</sup>

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<sup>131</sup> Human Rights Watch interview with Heba `Osman, Qalubiyya, June 21, 2004.

<sup>132</sup> Human Rights Watch interview with Fayza Kamal, Cairo, June 21, 2004.

<sup>133</sup> Human Rights Watch interview with Lina Munir, Sohag, June 24, 2004.



Even when women have been awarded custody, some are unable to adequately care for children unless they are simultaneously awarded appropriate alimony and child support payments. In many cases, the knowledge (or threat) that a husband will not make child support payments after a divorce forces some women to give up custody rights voluntarily. One woman explained:

I want him [husband] to support them [the children]. If I asked for custody, how would I raise them? I don't work... Even if I lived with them, I wouldn't be able to give them anything.<sup>134</sup>

### ***Inaccessible Social Assistance***

*The law of social insurance is based on the belief and assumption that the man is the head of the household and [financially] maintains the family... Life has changed; men and women now share in the household expenses and in [financially] maintaining the families, yet the law has not yet internalized that.*

— Dr. `Aisha Ratib, former minister of social affairs<sup>135</sup>

The public welfare programs of the Ministry of Insurance and Social Affairs, administered pursuant to the Social Insurance Law, are governed by restrictive and judgment-laden distribution rules that discriminate against divorced women and women with pending divorce cases.<sup>136</sup> The Egyptian pension system is founded on the assumption that all families are financially supported by men. This assumption has

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<sup>134</sup> Human Rights Watch interview with Hoda Halim, Cairo, June 27, 2004.

<sup>135</sup> Iman Bibars, *Victims and Heroines: Women, Welfare and the Egyptian State* (New York: Zed Books, 2001), p. 92.

<sup>136</sup> The Ministry of Insurance and Social Affairs plays a leading role in running Egypt's social aid programs. The ministry provides social aid and cash transfers directly through its social unit offices throughout the country. Social assistance administered by the ministry can be divided into two key programs: the social insurance contributory system, which targets the individual and is tied to active participation in the workforce (either public or private); and the social aid and assistance non-contributory system (*al daman al ijtimai'*), which targets the household or family and is tied to the lack of an adequate household income and to the absence or disability of a male breadwinner. In Egypt, the majority of the beneficiaries of the contributory system are men who are considered rights-bearers and customers who have paid for their services. The heirs of these recipients are also entitled to a portion of this pension in case of death. Pensions for the unemployed, the disabled, widows, divorcees, and abandoned women fall under the non-contributory system. According to one expert, "the beneficiaries of these non-contributory programmes are described by officials as beneficiaries of the state's largess. They are not considered rights-bearers but are viewed as charity-receivers." Iman Bibars, *Victims and Heroines: Women, Welfare and the Egyptian State* (New York: Zed Books, 2001), p. 84.

resulted in a series of problematic practices that impoverishes many Egyptian women and their children.

Married women, even those with pending divorce suits or whose husbands do not financially support them, are deemed automatically ineligible for all forms of government-sponsored financial assistance. Married women are even prohibited from accessing employment pensions of deceased parents.<sup>137</sup> The assumption behind these provisions is that as long as a woman is married, she must be supported by her husband, and is thus not the responsibility of the state. Fayza Kamal, fifty-nine, told Human Rights Watch:

[My husband] never sends money. I don't know what to tell you. What do I have left to ask for? I'm trying to get 50 Egyptian pounds [US\$8] to spend on myself. . . . I went to ask for a pension, but they said "since you have a man [a husband], you can't get a pension, get a divorce and we'll give you the pension." Since he hasn't divorced me, I can't even get my mother's pension. She used to give me some of it, but now that she's dead and I'm still married. I don't get anything.<sup>138</sup>

Amal Khalil, thirty-eight, mother of seven, was abandoned by her husband six years ago. She has never received any financial support from her former husband. She filed for a fault-based divorce two years ago in order to get a divorcee pension, but the sessions have been constantly delayed, leaving her with no source of income. She had to withdraw her three adolescent daughters from school so that they could financially support the family. She told Human Rights Watch:

I'm not asking for anything except a divorce so that I can get a pension, 70 pounds per month [US\$11], to feed my children. I don't get anything now because I don't have divorce papers or a death certificate.<sup>139</sup>

The Ministry of Insurance and Social Affairs administers a pension for divorced indigent women. To be considered eligible for assistance, the divorcee must have no other source

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<sup>137</sup> Iman Bibars, *Victims and Heroines: Women, Welfare and the Egyptian State* (New York: Zed Books, 2001), p. 61.

<sup>138</sup> Human Rights Watch interview with Fayza Kamal, Cairo, June 21, 2004.

<sup>139</sup> Human Rights Watch interview with Amal Khalil, Cairo, June 21, 2004.

of income, own no property, and not receive any other form of welfare.<sup>140</sup> Divorced women with children receive monthly payments of 70 Egyptian pounds (US\$11), while women without children receive 50 Egyptian pounds (US\$8) per month. If a divorced woman re-marries, social assistance is withdrawn since she is considered “the ‘responsibility’ of the new husband and not the state.”<sup>141</sup>

A representative of the Ministry of Insurance and Social Affairs told Human Rights Watch that divorced women were required to bring only the following documents to apply for social assistance: official marriage documents, a divorce contract, a state-issued identification card,<sup>142</sup> and a mailing address.<sup>143</sup> However, Human Rights Watch interviewed women who reported that they were denied social assistance because they did not have additional forms of documentation. Hamida Tariq, thirty-five, has five children to support and no income. She described her attempt to get social assistance:

I can't find anyone to give me [President] Mubarak's pension.<sup>144</sup> They don't agree [to give it to me]. Everyone says get a copy of his [my husband's] birth certificate. Where will I get it? I run around all day just to get 5 pounds [US\$0.81] to feed my children....I just got the divorce certificate. But when I went to [social] affairs, they said they want his [my husband's] birth certificate too.<sup>145</sup>

Some women are denied social assistance based on arbitrary criteria such as not looking needy enough. Jihan Khulud, twenty-four, told Human Rights Watch:

My sister lives in Canada and sent me a leather jacket. I went to social affairs. She [an employee of the Ministry] said “you don't look like you

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<sup>140</sup> Iman Bibars, *Victims and Heroines: Women, Welfare and the Egyptian State* (New York: Zed Books, 2001), p. 95.

<sup>141</sup> *Ibid.*, p. 96.

<sup>142</sup> The lack of a state-issued identification card (ID cards) denies many Egyptian women the right to a host of social services every year. Egypt, like many countries in the region, does not encourage women to acquire this documentation in the same way as they do men. Men are required to obtain an ID card by the age of 16 while women are never required to since they are often included on their husband's and father's ID cards. The bureaucratic procedures for obtaining these cards later in life are extremely burdensome and intimidating for many women.

<sup>143</sup> Human Rights Watch interview with Layla `Abd al-Raziq Farag, under secretary to the Minister of Social Insurance and Social Affairs, Cairo, June 28, 2004.

<sup>144</sup> Social assistance plans are popularly known by the name of the president who initiated them.

<sup>145</sup> Human Rights Watch interview with Hamida Tariq, Qalubiyya, June 16, 2004.

need it [divorcee pension]. Your jacket costs 500 pounds [US\$81].” I got embarrassed and decided not to go back.<sup>146</sup>

Women married to public servants usually have access to their husbands’ employment pensions upon death. While divorced women are also eligible for this form of assistance, those who initiate divorce forfeit their right to these pensions. Under the Social Insurance Policy of Law 79 (1975), the following conditions apply to divorced women seeking to access government pensions of deceased ex-husbands:

1. That she was *not the initiator* of the divorce and that the divorce was *against her will*;
2. That she was married to the participant for at least 20 years;
3. That she has not remarried since the divorce; and
4. That she has no other source of income.<sup>147</sup>

Because women who are divorced by their husbands remain entitled to collect their ex-husbands’ pensions, this represents yet another reason many women are forced to plead with the husbands to divorce them or are resigned to remain in violent marriages. Ultimately, this law serves to penalize women who initiate divorce. Dr. Iman Bibars, director of the Association for the Development and Enhancement of Women, surveyed Egypt’s social insurance laws in a 2001 study of Egyptian women and welfare.<sup>148</sup> She found that social welfare programs in Egypt “virtually dictate a particular family form and a particular form of acceptable family behavior by virtue of their conditions for access, as they exclude all those who do not conform to the socially constructed role of the ‘enduring housewife.’”<sup>149</sup>

## VI. CONDEMNING WOMEN TO A LIFE OF VIOLENCE

Women’s lack of equal access to divorce has acute consequences for victims of domestic violence. Unequal access to divorce prevents women from extricating themselves from violent relationships and may make them more vulnerable to abuse in the first place. The fact that women have no easy way of ending their marriages empowers some men to abuse women with almost no chance that they would ever be prosecuted for a crime or

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<sup>146</sup> Human Rights Watch interview with Jihan Khulud, Cairo, June 13, 2004.

<sup>147</sup> Iman Bibars, *Victims and Heroines: Women, Welfare and the Egyptian State* (New York: Zed Books, 2001), p. 90.

<sup>148</sup> *Ibid.*

<sup>149</sup> *Ibid.* p. 89.

suffer any adverse consequences whatsoever. By fostering a system of unequal divorce, Egypt's divorce laws ultimately facilitate violence against women.

Egyptian women are afforded little escape from their abusive spouses. In fact, Egypt's Criminal Code condones acts of violence committed in "good faith,"<sup>150</sup> which is often used to justify domestic violence for "disciplinary reasons." The few shelters the Egyptian government operates for victims of domestic violence and those seeking to escape troubled marriages raise serious concerns about their true protective mandate. Shelter staff sometimes refuse to admit women brought in by the police, and see their mandate as one of reconciliation rather than the provision of refuge. Moreover, the overwhelming majority of women Human Rights Watch interviewed did not know that these shelters existed. The combined effects of unequal access to divorce, laws permitting spousal abuse, the lack of any mechanism to protect women from further violence, and the inadequate and often unknown nature of shelters ultimately condemns many Egyptian women to violent marriages.

### ***Discriminatory Divorce Laws and Violence against Women***

*Women need to be treated with respect. Men don't have a right to beat them. Marriage is supposed to be merciful. A woman doesn't get married to be thrown around.*

— Manal Hassan, Sohag, June 24, 2004

Egyptian women's unequal access to divorce has essentially condemned many women to violent and potentially life-threatening marriages. The actual and perceived difficulties of initiating divorce prevent many Egyptian women from leaving abusive spouses. Many women Human Rights Watch interviewed suffered through lengthy periods of domestic violence because divorce seemed to be an untenable option. Societal and cultural restraints, a lack of information, and the fear of being impoverished with no support systems also made enduring abuse the more practical choice.

Layla Ibrahim, thirty-one, decided to go directly to the court to try to get a divorce from her abusive husband. She has never been to school. She endured physical and verbal abuse for eleven years because she did not know how to navigate the complex maze of

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<sup>150</sup> Section 60 of Law No. 58 (1937) Promulgating the Penal Code. This law applies to any act of violence committed in "good faith."

divorce in Egypt or where to seek protection from abuse. She told Human Rights Watch:

He beat me if something was not right in the house. That's just what it's like...He hit me around the face, here on the lip, he cracked this tooth [shows right upper canine]. He hit me on my cheeks and around my eyes. And of course if I wanted to ask for help everyone would say "No, it is between you and your husband." I would not even be able to go to a place for help without my husband with me, they would not accept me. I even went to a court to try and find out about how to divorce, but they threw me out of there.<sup>151</sup>

Judges sometimes reject divorce requests, even those filed by victims of violence, due to a lack of documentation such as a marriage contract. Women who do not have certain documents on file have little hope of terminating their marriages. Human Rights Watch acquired a copy of a 2004 divorce judgment rejecting a petition for divorce filed by a woman on the grounds of physical abuse because she could not obtain a copy of her marriage contract. The judgment stated:

Whereas all the facts for the case were established by the petitioner demanding that the court grant her a divorce from the respondent based on physical abuse (considering that the petitioner has been the respondent's wife by legal contract issued on 07/23/1999 while the respondent continued to abuse his wife with insults and physical harm to the point where the petitioner sees it impossible to continue living with him), the documents used by the petitioner to prove her case were still lacking some supportive papers such as the original copy of the marriage contract.

Due to the lack of proof and supporting evidence needed to complete the file the court decides to reject the case as is. As for the necessary fees and expenses, the court charges the petitioner to pay the totality of the fees as cited in the article 1/184 of the code of civil procedure.<sup>152</sup>

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<sup>151</sup> Human Rights Watch interview with Layla Ibrahim, Cairo, June 13, 2003.

<sup>152</sup> On file with Human Rights Watch.

The failure of the Egyptian government to ensure equal property rights upon divorce discourages many women from leaving violent marriages. Some, like Rania Omar, forty-seven, could not imagine where they would live in the event of divorce. She explained:

Sometimes he was good to me. But when there was no work, he was disgusted at life. He would take it out on me. I endured it. Where could I go? I have five children.<sup>153</sup>

Iman Ahmad, twenty-seven, was repeatedly beaten by her husband and in-laws. She is still married because she has nowhere to go upon divorce and no means to support herself. She was hospitalized following one of the more severe beatings that took place when she was six-months pregnant. She has also been repeatedly raped by her husband. She told Human Rights Watch:

I felt trapped. He wouldn't let me go outside. I felt depressed. He always wanted to have sex but I didn't want to. He asked for sex a lot... He'd go to the office and before he left he'd say 'today's our day [for sex].' He'd insult me...When I refused him, he'd hit me. He'd give me a black eye.... But if I divorce him, where would I live? I won't get anything. I won't have a home for my children.<sup>154</sup>

The lack of financial independence that is common among many Egyptian women puts them at a greater risk for having to endure violence. For many women, divorce is tantamount to destitution because of the failure of the Egyptian government to enforce court rulings for alimony and child support or provide women with a share of marital property. Nasra Hassan, twenty-five, endured abuse for five years because her family could not support her had she divorced. Her husband became abusive two weeks after they got married. He would take her out into the street to beat her in front of the neighbors. After one particularly brutal beating, her shoulder was dislocated. She recalled: "My mother would say 'endure it.' If you get divorced, who's going to support you?"<sup>155</sup>

Hossam Abu-Yusif is a deputy in Egypt's State Council. When asked why many Egyptian women are forced to endure domestic violence, he told Human Rights Watch:

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<sup>153</sup> Human Rights Watch interview with Rania Omar, Cairo, June 13, 2004.

<sup>154</sup> Human Rights Watch interview with Iman Ahmad, Cairo, June 15, 2004.

<sup>155</sup> Human Rights Watch interview with Nasra Hassan, Cairo, June 14, 2004.

Women [in Egypt] have no financial or economic independence. She [a battered woman] will think a hundred times before she goes to the police station to file a complaint. If she goes back [to her family's] home, her father will not be able to absorb her financially or psychologically.<sup>156</sup>

### ***Inadequate Shelters***

*We don't send her [a victim of domestic violence] back home if she doesn't want to go back. It's her choice... There are places like hotels where she can go.*

— Captain Muhammad Mohsen, Masr al-Jadida police station, Cairo, June 30, 2004

The protective mechanisms established by the Egyptian government to shelter victims of violence are inadequate. Moreover, where these mechanisms exist, they are seldom advertised to those who are in desperate need of their services. The vast majority of women Human Rights Watch interviewed were not aware of the existence of shelters in Egypt. Women seeking divorces often fear that they will have nowhere to go, even if only for a short time, in order to organize their lives post-divorce. The inadequate advertising of shelters perpetuates the belief among many women that choosing divorce is tantamount to choosing homelessness.

The Ministry of Insurance and Social Affairs operates four shelters for victims of violence in Egypt.<sup>157</sup> Given that there are so few shelters in Egypt, one might expect them to be models of efficiency, helping as many women as possible. The opposite is true. In order to be eligible to stay in a shelter, a woman must meet a set of strict criteria set by the ministry. Specifically, she must be a divorced or widowed woman, be younger than fifty years of age, and be experiencing some familial difficulties.<sup>158</sup> Unmarried victims of physical or sexual violence are not eligible for shelter. If a woman passes this initial screening, the shelter sends a social worker to the woman's home to verify this information, thereby potentially alerting the perpetrator of the violence to the woman's future whereabouts. If the woman has an income, the shelter requires her to donate a

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<sup>156</sup> Human Rights Watch interview with Hossam Abu-Yusif, state council deputy, Cairo, June 25, 2004.

<sup>157</sup> The shelters are located in Cairo, Alexandria, Dahiliya, and Ben al-Sawaf.

<sup>158</sup> These requirements apply to all four shelters operated by the Ministry of Insurance and Social Affairs in Egypt. Human Rights Watch telephone interview with Sa'diyya Zaki, general manager, General Department of Women's Affairs, Ministry of Insurance and Social Affairs, October 20, 2004.



quarter of it.<sup>159</sup> Women are allowed residency in the shelter for a maximum of three months, although this period can be renewed in exceptional cases. Officials at the Ministry of Insurance and Social Affairs told Human Rights Watch that they do not force women to go home after three months if they do not want to, although the women need to decide at that point where they would like to go.

Despite an acute domestic violence problem in the country, these shelters usually remain fairly empty. The head of the General Department of Women's Affairs in the Ministry told Human Rights Watch, "Each shelter houses fifty women. They are not always full. Today there could be five people and tomorrow it could be ten."<sup>160</sup> Only ten women were staying at the shelter in Cairo when Human Rights visited the facility on July 3, 2004. This is undoubtedly in part due to the stigma associated with women living outside of the marital home. However, the under-occupancy of the shelters can also be traced to the fact that many women have no idea such shelters exist. The existence of these shelters is not widely publicized in Egypt as a matter of policy. Officials at the Ministry of Insurance and Social Affairs expressed concern that by making the availability of shelters widely known, "many women will come and leave their homes for other reasons [aside from domestic violence]," implying that women who are not victims of abuse may try to seek refuge in these shelters. Given the rigidity of the application criteria and process, it is disturbing that these ministry officials would prioritize their fear of women abusing the system over the health, lives, and safety of battered women who may not know that a place exists in Egypt where they can seek refuge from violence.

Human Rights Watch interviews revealed that the existence of the shelter remains unknown not only to most victims of domestic violence, but even to some government authorities with a direct role in assisting victims, including police personnel. At a Cairo police station, Human Rights Watch met with a social worker whose primary responsibility was to assist women who complain of domestic abuse. When first asked what she would do if a battered woman came to report an assault and did not have a place to go to protect herself, the social worker could not answer the question. Finally, she told Human Rights Watch that she would have to turn away battered women who had nowhere to go.<sup>161</sup> The social worker did not know of the existence of shelters in Egypt. More troubling still, neither the social worker nor any of the officials present at the time asked about or expressed any interest in obtaining further information about the shelters from Human Rights Watch.

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<sup>159</sup> Human Rights Watch interview with Sayyida Abu al-'Ala, director, Cairo shelter, Cairo, July 3, 2004.

<sup>160</sup> Human Rights Watch interview with Sa'diyya Zaki, general manager, General Department of Women's Affairs, Ministry of Insurance and Social Affairs, Cairo, June 28, 2004.

<sup>161</sup> Human Rights Watch interview with police social worker, Cairo, June 30, 2004.

Women who do end up being referred to a shelter sometimes are denied admittance by the shelter staff. This appears to occur because the shelter staff are reluctant to admit women who have had any contact with the authorities because of the perceived demands the authorities will place on the shelter. Underscoring this strange situation, the director of the Cairo shelter told Human Rights Watch:

Police refer these women, but I don't take them. They are catastrophes. They may try to leave the shelter....When the police refer the woman, they may summon her again. It [the shelter] becomes a prison and we reject that...We do not have security. We can't keep her. If I had security, I would take her.<sup>162</sup>

Officials at the Ministry of Insurance and Social Affairs told Human Rights Watch that shelter staff often bring abusive husbands to shelters in an effort to mediate between the couple.<sup>163</sup> Violating fundamental principles of confidentiality and safety, the shelter may send a notice to the alleged perpetrator of the abuse letting him know where his wife is staying. The rationale for informing the husband, according to the director of the Cairo shelter, is to “avoid kidnapping notices” being sent to the police and to avoid being “sued by the husband.”<sup>164</sup> This concern seems to be ill-founded given that the director herself told Human Rights Watch that shelter staff contact the police to verify that criminal charges are not pending against the applicant, at which time they register each woman at the station informing the police that the woman will be seeking refuge at the shelter.<sup>165</sup> It is also unclear whether the women coming to the shelters have any say in the decision to send these notices to their families.

Ultimately, the shelters in Egypt are not intended to protect women while they gather the strength to rebuild their lives. Instead, they are seen as a transit point on the path to reconciliation. Sayyida Abu al-`Ala, the director of the Cairo shelter, told Human Rights Watch, “My primary objective is to solve the problem through reconciliation – to rebuild the family that has been destroyed. I take her if she has a problem that she wants solved.”<sup>166</sup> The emphasis placed on mediation despite potential risks to a woman's safety is not only troubling, but it is illustrative of efforts at reconciliation initiated every time a woman seeks to end or distance herself from a marital relationship. The shelter's attempt

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<sup>162</sup> Human Rights Watch interview with Sayyida Abu al-`Ala, director, Cairo shelter, Cairo, July 3, 2004.

<sup>163</sup> Human Rights Watch interview with Mohamed Tawfiq Mahmud, under secretary of social affairs, Ministry of Insurance and Social Affairs, June 28, 2004.

<sup>164</sup> Human Rights Watch interview with Sayyida Abu al-`Ala, director, Cairo shelter, Cairo, July 3, 2004.

<sup>165</sup> *Ibid.*

<sup>166</sup> Human Rights Watch interview with Sayyida Abu-El `Ala, director, Cairo shelter, Cairo, July 3, 2004.

at mediation is only one in a long line of attempts initiated by the police and the courts.<sup>167</sup>

## VII. INADEQUATE GOVERNMENT RESPONSE

The Egyptian government has recently taken a number of steps to try to improve women's access to divorce. However, its efforts have, by and large, focused on procedural and not substantive reform. That is, the government has sought to make the process easier for women without tackling sex discrimination head-on. The government has tried to address some of the consequences of unequal access to divorce, such as unenforceable court rulings and the delays caused by separate court cases for alimony, child support, and divorce. But the core problem—the parallel and unequal divorce system informed by discriminatory attitudes justified by culture and religion—has been completely ignored. The Egyptian government has made no attempt to address discriminatory laws and interpretations that condone violence against women; condition post-divorce alimony on obedience; deny women custody of their children and leave them perpetually at risk of homelessness; force women, including victims of violence, to attempt to reconcile with their spouses; and, in considering fault-based divorce cases, require more evidence of harm when the applicant is poor than when she is not.

### ***The Limits of Khul`***

The Egyptian government's decision to create no-fault (khul`) divorce in 2000 has improved the range of options for some women, but it has done nothing to end discrimination in Egyptian divorce law. Because of the need to forfeit both the right to any marital assets and the right to any future support, this option is limited to women with significant financial resources or those who are desperate. In this sense, the khul` system does nothing more than add yet another dismal option for women seeking divorce.

Human Rights Watch interviews revealed that many women who suffered significant harm in their marriages, sufficient to warrant a fault-based divorce entitling them to financial support, are opting for a khul` divorce because of concerns over the considerable time, effort, and uncertainty involved in seeking a fault-based divorce. Moreover, many women are driven to use khul` because there is no guarantee that court rulings for alimony or child support will ever be enforced.<sup>168</sup> Given these problems,

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<sup>167</sup> See section on "Compulsory Mediation."

<sup>168</sup> See Section on "Unenforceable Court Rulings."

many Egyptian women feel that khul` divorce is the lesser of two evils. May Ibrahim, forty, is married to an alcoholic and drug-addict who has been imprisoned regularly. She told Human Rights Watch that he is abusive when intoxicated. She described the reasons for opting for khul` divorce:

I'm asking for khul` because although I could get everything [in fault-based divorce], it takes too long. I know that I won't be able to get anything [in the end] anyway.<sup>169</sup>

No-fault divorce was intended to accelerate the divorce process, but it often takes considerably longer than the intended six-month period. Khul` was thought to be faster than fault-based divorce in part because it eliminated the right of a husband to appeal the divorce to higher courts.<sup>170</sup> However, this intended timeframe has neither been observed nor proven realistic for many women. Disputes about the amount of dowry given and repaid as well as the reluctance of some judges to grant khul` divorces has rendered the six-month time limit meaningless. Muntasir Ibrahim, an attorney at the Association for the Development and Enhancement of Women, an NGO that provides legal and financial assistance to low-income female-headed households, explained:

They said it [khul`] would take six months maximum. Some cases we've seen have taken as long as three years even though the law itself was intended to shorten the process....The problem is that the husband says that the dowry is more than what it is, what they agreed upon. The majority of people in Egypt of all classes put a token 1 Egyptian pound [\$US 0.16] dowry [in the marriage contract]. The husband contests this amount and says that he paid more. The judge gives him time to get witnesses. But [then the judge is told that] the witnesses are sick. Other men say that the ayma [list of wife-owned household furniture signed by the husband before marriage] was actually the dowry. The process just keeps getting delayed.<sup>171</sup>

The Center for Egyptian Women's Legal Assistance conducted a one-year survey on khul` from March 2000-March 2001, comparing the number of khul` appeals made with

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<sup>169</sup> Human Rights Watch interview with May Ibrahim, Cairo, June 12, 2004.

<sup>170</sup> Article 20 of Law No. 1 (2000) on the Reorganization of Certain Terms and Procedures of Litigation in Personal Status Matter states: "The ruling for al-khole shall in all cases be incontestable by any method of contestation."

<sup>171</sup> Human Rights Watch interview with Muntasir Ibrahim, attorney, Association for the Development and Enhancement of Women, Cairo, June 16, 2004.

those that actually received a court ruling in six (out of 26) governorates in Egypt.<sup>172</sup> It found that only a small proportion of the appeals were ruled on in the space of one year. In the governorate of Qina in southern Egypt, for example, out of 85 appeals made for *khul'*, not a single case was ruled on. In Sohag, out of 223 appeals for *khul'*, only 2.3 percent received a ruling. In Fayoum, a governorate in the center of the country, only 1.5 percent of the 131 appeals made received a ruling. In Giza, out of 1,199 appeals for *khul'*, only 6.9 percent received a ruling. As for Cairo, which received the largest number of appeals (a total of 2695), fewer than 14 percent received a ruling within the one-year period.

### ***The Family Insurance System Fund***

*The enforcement [of court rulings for alimony and child support] is solved by Bank Nasser. This problem is now considered solved.*

— Counselor Sari Siyyam, Deputy Minister of Justice, Cairo, June 30, 2004

Non-payment of alimony and child support continues to be an acute problem in Egypt, despite a law passed in 1985 that calls for the imprisonment of men who do not pay child support within thirty days of a court ruling.<sup>173</sup> The government's inability to enforce court rulings for alimony and child support was the catalyst behind its decision to outsource the responsibility of collecting these payments. In the past, Nasser Social Bank, a government entity, distributed alimony and child support to women who were unable to have judgments enforced, and later collected it from ex-husbands. The bank eventually stopped distributing these funds to women because it was having too much trouble collecting the necessary funds from husbands, particularly those who work in the private or informal sector.<sup>174</sup>

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<sup>172</sup> See Ahmad al-Sawi, *Al-hasa'd: a'man ala al-khul'* [The Harvest: A Year of *Khul'*] (Cairo: Center for Egyptian Women's Legal Assistance, 2003) (in Arabic).

<sup>173</sup> Law No. 100 (1985), Concerning the Provisions of the Alimony and some Personal Status Issues. This clause was reinstated by the Egyptian parliament in the 2000 personal status law. See Mariz Tadros, "Freedom -- at a price," *Al-Ahram Weekly*, May 25-31 2000 [online] <http://weekly.ahram.org.eg/2000/483/li1.htm> (retrieved August 26, 2004).

<sup>174</sup> If the husband is a government employee, a percentage of his salary is automatically deducted toward alimony and child support payments. The Nasser Social Bank found it difficult to collect alimony and child support payments from men working in the private sector or in unregulated industries.

In 2004, the Family Insurance System Fund law was passed. This law created a specialized fund (attached to Nasser Social Bank) to ensure that alimony and child support payment orders are enforced. Like the new family courts, the Fund is scheduled to be operational by October 2004. The Fund's resources will be generated by administrative fees levied for the registration of births, marriages, and divorces.<sup>175</sup> Twenty Egyptian pounds (US\$3.25) will be charged for birth registrations, while fifty Egyptian pounds (US\$8.13) will be charged for registering marriages and divorces.<sup>176</sup> The government will also contribute to the fund although the exact amount of its planned contribution is unknown.

The Fund will only be able to distribute between 100-300 Egyptian pounds (US\$16 – \$49) per month to each eligible woman.<sup>177</sup> Although these payments will assist a vast number of Egyptian women, assuming the fund commences distributing money as planned, the payments will not be sufficient for many middle class women and will do nothing to help women in debt because of years of accumulated unpaid support. It is a stop-gap measure that should not substitute for more aggressive enforcement of court rulings.<sup>178</sup>

### ***The Establishment of New Family Courts***

Three years after the passage of the khul` law, another law was passed in 2004 establishing a family court system to adjudicate all family disputes.<sup>179</sup> The physical location of the new family court will be in New Cairo, on the outskirts of the capital, with other jurisdictions throughout the country being served by summary (*juz`i*) courts. These specialized courts, which at this writing were scheduled to start hearing cases in October 2004, will also provide counseling and other services to families. The consolidation of divorce-related cases in one court will save women seeking divorce and their attorneys some time and money currently spent on traveling to different courts for each dispute. However, these new family courts are not intended to substantively reform the divorce system. Ultimately, the same discriminatory legal and procedural obstacles will continue to deny women equal access to divorce.

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<sup>175</sup> Prior to the establishment of the Fund, birth registration in Egypt was free. The nominal fees required for marriage and divorce registration have now been increased to 50 Egyptian pounds (US\$8.13). Human Rights Watch telephone interview with Mirvat Ahmad Abou Tig, attorney, October 19, 2004.

<sup>176</sup> Law No. 11 (2004) Establishing the Family Insurance System Fund, article 2.

<sup>177</sup> Reem Leila, "Paltry Solution for Alimony Dodging," *Al-Ahram weekly*, July 8-14, 2004 [online] <http://weekly.ahram.org.eg/2004/698/eg4.htm> (retrieved May 21, 2004).

<sup>178</sup> See section on "Unenforceable Court Rulings" for more information.

<sup>179</sup> Law No. 10 (2004) Promulgating the Law on the Establishment of the Family Courts.

The aim of these family courts, according to government officials, is to end the clogging of the court system by cases involving family disputes and to prevent children from being exposed to criminals in courtrooms that also hear criminal matters. The undersecretary of social affairs remarked:

The main purpose [of the new family courts] is to protect the family. It has been misunderstood as something for the protection of women alone. It is not. That's why they're called family courts. The purpose is to enable all the members of the family to live in the best possible circumstances.<sup>180</sup>

Human Rights Watch met with nine judges who were undergoing training in the family courts on June 30, 2004 to discuss the new family courts. Several judges admitted that they did not feel adequately prepared to implement the new law consolidating all family matters into one court. One judge told Human Rights Watch: "We only learnt of the details [of the new family court] one week ago and now we're supposed to implement it [the law] in a few months."<sup>181</sup> The judges held differing views about whether the new courts would remedy the problems faced in civil courts. One judge remarked: "The new court's procedures are more problematic and complicated for people to understand. It will take longer."<sup>182</sup> Another judge felt that little would change since the courts would rely on the "same prosecutors and the same judges." Others felt that it was impossible to judge the outcome of this change until its operation, because:

We are discussing the implementation of the law. [The outcome] will only be seen after the process [is underway]. We first thought [the application of] khul` would be a problem. We cannot judge a law before its implementation.<sup>183</sup>

It will not be clear for some time whether divorce proceedings are actually accelerated by these specialized courts. In fact, new procedures were introduced by the law that could delay the process. Family Dispute Settlement Offices (*makatib taswiyat munaz`at al-usra*)

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<sup>180</sup> Human Rights Watch interview with Muhammad Tawfik, Undersecretary of Social Affairs, Cairo, June 28, 2004.

<sup>181</sup> Human Rights Watch interview with judge, Cairo, July 1, 2004.

<sup>182</sup> Human Rights Watch interview with judge, Cairo, June 30, 2004.

<sup>183</sup> Human Rights Watch interview with judge, Cairo, July 1, 2004.

will be established within each family court.<sup>184</sup> This office will attempt to mediate between the couple in family matters. Again, in divorce cases, such mediation will be undertaken only when a woman initiates a divorce. Under the new family court law, a woman will not be able even to file an action concerning a personal status matter without first submitting a request for settlement at this office,<sup>185</sup> and judges will not hear cases unless social workers and psychiatrists attempt and fail to reconcile the couple within 15 days (unless the litigants mutually agree to extend the period for attempted reconciliation).<sup>186</sup> Egypt's Deputy Minister of Justice Sari Siyyam explained this requirement:

We created a stage before going to the courts. This was among the changes introduced. The disputants need to go to the dispute settlement office [first]. All families pass through it. The door to the court is closed before going through mediation [at this office].<sup>187</sup>

Under the new law, a social worker and psychiatrist will be assigned to each family dispute. They will offer counseling and mediation free of charge to families, potentially avoiding extensive legal procedures for some couples, especially those engaged in custody disputes. At least one of these employees must be a woman. According to the Undersecretary of Social Affairs Layla Farag:

This is the first time that the law says that women have to be an essential and mandatory part of the court. Without the presence of a female in the court, it will not run.<sup>188</sup>

The participation of a female social worker or psychiatrist is a positive step toward increasing the representation of women in Egypt's courts. However, women will likely

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<sup>184</sup> Article 5, Law No. 10 (2004) Promulgating the Law on the Establishment of the Family Courts states :

One or more family dispute settlement offices shall be established within the area of jurisdiction of each summary court. They shall be attached to the Ministry of Justice and comprise an adequate number of legal, social, and psychological specialists.

<sup>185</sup> Law No. 10 (2004) Promulgating the Law on the Establishment of the Family Courts, article 6.

<sup>186</sup> Law No. 10 (2004) Promulgating the Law on the Establishment of the Family Courts, article 8.

<sup>187</sup> Human Rights Watch interview with Counselor Sari Siyyam, Deputy Minister of Justice, Cairo, June 30, 2004.

<sup>188</sup> Human Rights Watch interview with Layla Farag, Undersecretary of Social Affairs, Cairo, June 28, 2004.



be denied the opportunity to be judges in these newly established courts.<sup>189</sup> Although some thought that the new family court would provide “a much awaited window of opportunity for women to become judges,”<sup>190</sup> this hope has not materialized. There are currently no plans for female judges to preside in these courts. Judges for the new courts will be selected from current sitting judges all of whom are male except for Tahany al-Gebali who, as noted above, sits on Egypt’s High Constitutional Court.<sup>191</sup>

## VIII. EGYPT’S OBLIGATIONS UNDER INTERNATIONAL LAW

Egyptian personal status laws advance a model of the family based on the superiority of men over women. This model violates the rights of women to equality before the law, nondiscrimination,<sup>192</sup> and equality in marriage and divorce enshrined in a number of international treaties that Egypt has ratified.<sup>193</sup> The Egyptian government has a positive obligation to remedy abuses that emanate from social and cultural practices. CEDAW requires that states “take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.”<sup>194</sup> It obliges states to “refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation” and to “take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise.” CEDAW requires governments:

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<sup>189</sup> For more information, see “Absence of Female Criminal Prosecutors and Judges.”

<sup>190</sup> Reem Leila, “A Family Affair,” *Al-Ahram Weekly*, January 16-22, 2003 [online] <http://weekly.ahram.org.eg/2003/621/fe1.htm> (retrieved May 21, 2004).

<sup>191</sup> For more information, see “Absence of Female Criminal Prosecutors and Judges.”

<sup>192</sup> The principles of nondiscrimination and equality are central to human rights. Article 1 of CEDAW defines discrimination against women as:

any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

<sup>193</sup> For example, Egypt has ratified the following treaties: the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), G.A. Res. 34/180, U.N. Doc. A/34/46, entered into force September 3, 1981 and ratified by Egypt on September 18, 1981; the International Covenant on Civil and Political Rights (ICCPR), 999 U.N.T.S. 171, entered into force March 23, 1976 and ratified by Egypt on January 14, 1982; the International Covenant on Economic, Social and Cultural Rights (ICESCR), G.A. Res. 2200 (XXI), 21 U.N. GAOR Supp. (No. 16), U.N. Doc. A/6316, entered into force January 3, 1976 and ratified by Egypt on January 14, 1982; and the African (Banjul) Charter on Human and Peoples’ Rights (African Charter), adopted June 26, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force October 21, 1986 and ratified by Egypt on March 20, 1984.

<sup>194</sup> CEDAW, article 2.

To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.<sup>195</sup>

In January 2001, the U.N. Committee on the Elimination of Discrimination against Women (CEDAW Committee), in reviewing Egypt's periodic report, expressed concern about "stereotypical attitudes about the roles of women and men in the family and society reflected in the low level of representation of women in decision-making at all levels and in all areas."<sup>196</sup> The CEDAW Committee expressed particular concern about the lack of women represented in the judiciary.<sup>197</sup>

Human rights law also requires that governments address the legal and social subordination women face in their families and marriages. Under article 16 of CEDAW, states must:

Take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities *during marriage and at its dissolution* (emphasis added);
- ...
- (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

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<sup>195</sup> CEDAW, article 5(a).

<sup>196</sup> Committee on the Elimination of Discrimination against Women (CEDAW Committee), Consideration of the third report and the combined fourth and fifth periodic report of Egypt (CEDAW/C/EGY/3 and CEDAW/C/EGY/4-5) at its 492nd and 493rd meetings, on 19 January 2001 (see CEDAW/C/SR.492 and 493).

<sup>197</sup> See section on the "Absence of Female Criminal Prosecutors and Judges" for more detailed information.

The International Covenant on Civil and Political Rights (ICCPR) obliges states to “take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.”<sup>198</sup> As the body responsible for interpreting the ICCPR, the Human Rights Committee noted that “any discriminatory treatment in regard to the grounds and procedures for separation or divorce, child custody, maintenance or alimony, visiting rights or the loss or recovery of parental authority must be prohibited.”<sup>199</sup>

Egyptian law violates women’s marriage and family rights under CEDAW and the ICCPR. Egypt is in violation of its obligations due to the existence of parallel and unequal divorce systems for men and women – severely obstructing women’s access to divorce while simultaneously allowing for the arbitrary and unchecked exercise of divorce rights by men. A host of personal status laws expressly permit discrimination against women within marriage and upon divorce, codifying their second-class status in the family. The government has done little to bring Egyptian law into compliance with its international obligations.

Officials condone laws and practices that discriminate against women in the family. The government’s acquiescence to social and cultural patterns of conduct that harm women’s rights to equality violates CEDAW. The introduction of no-fault divorce, or *khul’*, has not only failed to address Egypt’s profoundly discriminatory divorce system, but has also been discriminatory in itself. The Human Rights Committee expressed concern about *khul’* in its 2003 review of Egypt’s third and fourth periodic reports and recommended that Egypt “review its legislation so as to eliminate financial discrimination against women.”<sup>200</sup> Discrimination in practice is exacerbated by official efforts to exclude women from the judicial bench.

The CEDAW Committee, in interpreting women’s right to equality in marriage and family relations, also acknowledged the right of women to own an equal share of marital property both during the marriage and in case of divorce.<sup>201</sup> It noted:

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<sup>198</sup> ICCPR, article 23(4).

<sup>199</sup> Human Rights Committee, General Comment 19, Protection of the Family, the Right to Marriage, and Equality of the Spouses (Article 23), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 149 (2003), para. 9.

<sup>200</sup> See CCPR A/58/40 (2003) “Principal subjects of concern and recommendations” [online] [http://www.bayefsky.com/html/egypt\\_t4\\_ccpr.php](http://www.bayefsky.com/html/egypt_t4_ccpr.php) (retrieved August 23, 2004).

<sup>201</sup> CEDAW Committee, General Recommendation 21, Equality in Marriage and Family Relations (Article 16), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 149 (2003), para. 30.

In some countries, on division of marital property, greater emphasis is placed on financial contributions to property acquired during a marriage, and other contributions, such as raising children, caring for elderly relatives and discharging household duties are diminished. Often, such contributions of a non-financial nature by the wife enable the husband to earn an income and increase the assets. Financial and non-financial contributions should be accorded the same weight.<sup>202</sup>

The Egyptian government's failure to recognize a woman's non-monetary contributions to the home, denying them a share of marital property absent specific title in the wife's name, violates these rights and obligations. The Egyptian government has done little or nothing to combat the view and practice that the marital home is the exclusive property of the husband both in marriage and divorce. In fact, Egypt's laws reinforce this position. Divorced women in Egypt who may have spent years or decades maintaining and contributing to the marital home are left with no ownership interest.

The Egyptian government has an obligation to amend both facially discriminatory and facially neutral laws, regulations, policies, and practices that discriminate against a particular portion of the population. Egypt's obedience law, conditioning a women's receipt of alimony on her obedience to her husband, is a particularly egregious example of a law that on its face discriminates against women. While police can no longer use force to return women to the marital home, the existence of the law denies women their autonomy and their rights to freedom from arbitrary interference with their privacy and family<sup>203</sup> and their liberty of movement<sup>204</sup> in violation of international human rights law.

A facially neutral law, policy, or human rights abuse that has an unjustifiable disparate impact on a group distinguished by sex, and which has the effect of limiting their enjoyment of human rights, could also be read as discrimination within the meaning of the Convention on the Elimination of Racial Discrimination (CERD).<sup>205</sup> Compulsory

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<sup>202</sup> CEDAW Committee, General Recommendation 21, Equality in Marriage and Family Relations (Article 16), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 149 (2003), para. 32.

<sup>203</sup> ICCPR, article 17.

<sup>204</sup> ICCPR, article 12 and CEDAW, article 15(4).

<sup>205</sup> The CERD Committee has argued that when abuses or policies disproportionately affect a group of people based on such distinctions as race, color, descent, and national or ethnic origin, and have the effect of impairing enjoyment of human rights and fundamental freedoms, this "disparate impact" can be understood as discrimination. CERD Committee, General Recommendation 14 on Definition of discrimination (art.1, para.1). (Forty-second session, 1993), U.N. Doc. A/48/18. In General Recommendation 20, the CERD Committee noted that states must take special caution to ensure that any restriction on the rights listed in Article 5 of the Convention is "neither in purpose nor effect...incompatible with Article 1 of the Convention."

mediation in family disputes, while a facially neutral policy, has a disproportionate impact on Egyptian women since only they need to resort to the courts—and in so doing endure the time and effort involved in mediation—in order to end their marriages.

Egypt's reservations to critical articles in CEDAW, and its general reservation to the ICCPR, cast doubt on its commitments to women's rights. Reservations that are incompatible with the object and purpose of a treaty violate international law<sup>206</sup> and are unacceptable precisely because they would render a basic international obligation meaningless. Article 2 of CEDAW, which obliges states to condemn and legally protect against discrimination is considered to be the foundation of this treaty, from which all other provisions stem.<sup>207</sup> At the CEDAW Committee's 13th session in 1994, it expressed alarm at "the number of State parties which have entered reservations to the whole or part of article 16, especially when a reservation has also been entered to article 2, claiming that compliance may conflict with a commonly held vision of the family based, *inter alia*, on cultural or religious beliefs or on the country's economic or political status."<sup>208</sup>

Egypt's reservation to article 2 stating that it is "willing to comply with the content of this article, provided that such compliance does not run counter to the Islamic Shari'a," goes against the very object and purpose of the Convention. This reservation, if put into practice, inevitably results in discrimination against women on the basis of sex, which is contrary to the fundamental purpose of the Convention.

The Egyptian government entered a general reservation upon ratification of the ICCPR noting that "taking into consideration the provisions of the Islamic Shari'a and the fact that they do not conflict with the text annexed to the instrument, we accept, support and ratify it ..."<sup>209</sup> Meanwhile, as recently as October 2002, the Human Rights Committee voiced concern about the "general and ambiguous nature of the declaration made by the State party upon ratifying the Covenant" and recommended that Egypt "either clarify the scope of its declaration or withdraw it. The Committee also regretted "the lack of

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<sup>206</sup> Vienna Convention on the Law of Treaties, article 19(c). Egypt ratified the Vienna Convention on February 11, 1982.

<sup>207</sup> The CEDAW Committee holds the view that article 2 is central to the objects and purpose of the convention. States parties that ratify the convention do so because they agree that discrimination against women in all its forms should be condemned and that the strategies set out in article 2, subparagraphs (a) to (g), should be implemented by States parties to eliminate it.

<sup>208</sup> General Recommendation No. 21.

<sup>209</sup> See Human Rights Committee, Reservations, declarations, notifications and objections relating to the International Covenant on Civil and Political Rights and the Optional Protocols. U.N. Doc CCPR/C/2/Rev.4. (Basic Reference Document) (1995).

clarity surrounding the question of the legal standing of the Covenant in relation to domestic law and the attendant consequences” and urged Egypt to “ensure that its legislation gives full effect to the rights recognized in the Covenant and that effective remedies are available for the exercise of those rights.”<sup>210</sup>

Egypt asserts full authority on the basis of religion to discriminate against women in family matters. It stated that its reservation to article 16 (equality in relation to marriage) of CEDAW stems from its:

respect for the sacrosanct nature of the firm religious beliefs which govern marital relations in Egypt and *which may not be called in question* and in view of the fact that one of the most important bases of these relations is an equivalency of rights and duties so as to ensure complementary which guarantees *true equality* between the spouses [emphasis added].<sup>211</sup>

International human rights law recognizes state accountability for abuses by private actors and requires states to show due diligence in preventing and responding to human rights violations. In General Recommendation 19, the CEDAW Committee emphasized: “States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence.”<sup>212</sup> A state’s consistent failure to do so when women are disproportionately the victims amounts to unequal and discriminatory treatment, and constitutes a violation of the state’s obligation to guarantee women equal protection of the law.<sup>213</sup>

By denying women the right to equality in divorce, essentially condemning many women to violent marriages, the Egyptian government is failing to act with due diligence to

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<sup>210</sup> CCPR A/58/40 (2003). The Committee considered the third and fourth periodic reports of Egypt, (CCPR/C/EGY/2001/3) at its 2048th and 2049th meetings, held on 17 and 18 October 2002 (CCPR/C/SR.2048 and CCPR/C/SR.2049), and adopted the following concluding observations at its 2067th meeting (CCPR/C/SR.2067) on 31 October 2002.

<sup>211</sup> See Division for the Advancement of Women, Declarations, Reservations, and Objections to CEDAW, [online] <http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm> (retrieved October 6, 2004).

<sup>212</sup> Committee on the Elimination of Discrimination against Women (CEDAW Committee), General Recommendation 19, Violence against women, U.N. Doc.A/47/38 (1992) para. 9.

<sup>213</sup> See CEDAW, article 15, and ICCPR, article 26. For further discussions of international obligations with respect to violence against women by private actors, see Dorothy Q. Thomas and Michele Beasley, “Domestic Violence as a Human Rights Issue,” *Human Rights Quarterly*, vol. 15, no. 1 (February 1993); Human Rights Watch, *Global Report on Women’s Human Rights* (New York: Human Rights Watch, 1995), pp. 39-44, and Ken Roth; “Domestic Violence as an International Human Rights Issue,” in Rebecca J. Cook, *Human Rights of Women: National and International Perspectives*, (Philadelphia: University of Pennsylvania Press, 1994), p. 326.

prevent, investigate, and punish violence against women putting women's health and lives in jeopardy. As recently as 2001, the CEDAW Committee expressed concern over Egypt's lack of a "holistic approach to the prevention and elimination of violence against women, including domestic violence, marital rape, violence against women in detention centers and crimes committed in the name of honor or the punishment of perpetrators."<sup>214</sup> The CEDAW Committee also expressed concern about the high levels of violence against adolescent girls and young married women.<sup>215</sup>

Domestic violence prevents women from exercising a host of other rights. The CEDAW Committee noted that "gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men," including the right to the highest attainable standard of physical and mental health.<sup>216</sup> Article 12 of the International Covenant on Economic, Social and Cultural Rights also provides for the right of everyone to the enjoyment of "the highest attainable standard of physical and mental health."<sup>217</sup> Interpreting these provisions, the Committee on Economic, Social and Cultural Rights recommends that state parties "develop and implement a comprehensive national strategy for promoting women's right to health throughout their life span."<sup>218</sup> According to the Committee, "A major goal should be reducing women's health risks, particularly lowering rates of maternal mortality and protecting women from domestic violence."

States undermine the right to health under the Covenant on Economic, Social, and Cultural Rights if they fail to "take all necessary measures to safeguard persons within their jurisdiction from infringements of the right to health by third parties."<sup>219</sup> Violations that fall under this category include, among other things: "the failure to regulate the activities of individuals, groups or corporations so as to prevent them from violating the right to health of others" and "the failure to protect women against violence or to prosecute perpetrators."<sup>220</sup>

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<sup>214</sup> CEDAW A/56/38 (Part I) (2001) - The Committee considered the third report and the combined fourth and fifth periodic report of Egypt (CEDAW/C/EGY/3 and CEDAW/C/EGY/4-5) at its 492nd and 493rd meetings, on 19 January 2001 (see CEDAW/C/SR.492 and 493).

<sup>215</sup> *Ibid.*

<sup>216</sup> CEDAW Committee, General Recommendation 19, paras. 1, 7.

<sup>217</sup> ICESCR, article 12(1). See also African Charter, article 16.

<sup>218</sup> Committee on Economic, Social and Cultural Rights (ESCR Committee), General Comment 14, The right to the highest attainable standard of health, U.N. Doc. E/C.12/2000/4 (2000), para. 21.

<sup>219</sup> Committee on Economic, Social and Cultural Rights (ESCR Committee), General Comment 14, The right to the highest attainable standard of health, U.N. Doc. E/C.12/2000/4 (2000), para. 51.

<sup>220</sup> Committee on Economic, Social and Cultural Rights (ESCR Committee), General Comment 14, The right to the highest attainable standard of health, U.N. Doc. E/C.12/2000/4 (2000), para. 51.

## IX. CONCLUSION

Egypt's profoundly unequal divorce system undermines the ability of many women, including those in violent relationships, from ever attempting to seek a divorce and leaves others languishing in legal limbo for years. This system is rooted in highly discriminatory views about women and their ability to make the decision to terminate their marriages on their own.

As illustrated in this report, the fact that women seeking divorce confront such a biased legal system is particularly regrettable given that women resort to the courts only when they have exhausted all other options. The unfortunate consequences of these biased views and the parallel and unequal divorce system they have fostered is that choosing divorce for many women in Egypt is tantamount to choosing years of legal uncertainty followed by destitution.

The Egyptian government should adopt legislative, judicial, and administrative reforms to guarantee equal access to divorce for Egyptian women. Government officials urgently need to turn their attention to the countless ways that a woman's right to divorce is obstructed by discriminatory laws and procedures causing unnecessary hardship for Egyptian women. Regardless of whether it is rooted in religious or secular law, a divorce process should be established in Egypt based on equality in line with its international obligations.

By adopting legislative, judicial, and administrative reforms aimed at securing equal access to divorce for Egyptian women, women will be empowered to assert control over their lives and bodies. These legal reforms, and the empowerment they would inspire, will begin to erode male dominance in the home and the impunity men currently enjoy in their relationships with women. While sexism fostered by religious and cultural norms may not be eradicated quickly, the provision of equal access to divorce would represent a significant legal reform that could serve as a catalyst for a broader societal endorsement of women's rights.



## X. RECOMMENDATIONS

Human Rights Watch calls on the Egyptian government to ensure equality in the substantive and procedural laws and policies governing divorce initiated by men and women. In order to accomplish this goal, Egypt should ultimately establish a new divorce process that brings equal legal and judicial scrutiny to bear on decisions made by any Egyptian to end their marriage. While Human Rights Watch recognizes that the complete overhaul of the current divorce system will take time, it is clearly a necessary step to ensure full equality in matters relating to divorce. The following actions by the Egyptian government and its relevant ministries represent essential first steps toward this goal:

### ***To the Egyptian Parliament***

- Withdraw Egypt's reservations to articles 2 and 16 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and its general reservation to the International Covenant on Civil and Political Rights (ICCPR). These reservations undermine the intent and purpose of these conventions and seek to absolve Egypt of its obligation to end discrimination against women, particularly in connection with matters relating to marriage and family relations.
- Enact a specific set of laws explicitly criminalizing all forms of domestic and familial violence.
- Repeal in full Section 1 of the Alimony Law, No. 25 of 1920, which conditions a women's receipt of alimony on her "obedience."
- Repeal legal provisions that allow judges discretion in determining the degree of harm sufficient for granting a fault-based divorce based on a women's socio-economic status.
- Apply section 60 of the Criminal Code, which provides for the elimination of punitive damages to acts committed in "good faith," in a manner that is gender-neutral. This law should not be applied in cases involving domestic violence.

## ***To the Ministry of Justice***

- Require Ma'zuns who perform marriages to inform all parties of their right to negotiate conditions for inclusion in marriage contracts, and ensure that Ma'zuns who fail to provide this information are investigated and penalized in a timely, effective, and appropriate manner. Additionally, create a legal remedy whereby spouses who were not informed of this right have a retroactive opportunity to demand such conditions in order for a marriage contract to remain valid.
- Add the equal right to divorce (*isma*) as a default provision within standard marriage contracts.
- Abolish the mandatory mediation program for both fault-based divorce and *khul'* (no-fault) divorce proceedings.
- Adopt policies and procedures for monitoring the work of bailiffs tasked with delivering notices for child support or alimony to ensure that bribes are not taken. Also, promptly and effectively penalize those bailiffs found to have taken bribes.
- Prohibit the Supreme Council of Judges from excluding women from the office of the criminal prosecutor and the judicial bench.
- Require all prosecutors serving as court advisers in divorce proceedings to undertake training aimed at eliminating gender bias in their handling of cases.
- Collect and disseminate, in a timely and transparent manner, comprehensive national statistics on domestic violence, detailing the nature and degree of violence, rates of prosecution and conviction, and the average sentences and penalties that have been levied and sentenced.

## ***To the Ministry of Insurance and Social Affairs***

- Ensure that destitute women awaiting divorce qualify without delay for social assistance.

- Establish quality shelters or other safe spaces for battered women that function as refuges without compromising women's privacy, personal autonomy, and freedom of movement. Ensure that such shelters provide mediation only if a woman requests it.
- Ensure that shelter staff do not have the discretion to turn away women brought in by the police or based upon any other arbitrary or subjective criteria.
- End the practice of having shelter staff send notice of women's whereabouts to abusive spouses.
- Ensure that shelter staff do not seek to effect reconciliation without a woman's consent.
- Create telephone hotlines for victims of domestic violence in all of Egypt's governorates. These hotlines should be widely publicized, with a sufficient advertising budget, and be operated by well-trained staff who can offer basic counseling and provide non-judgmental referrals to specialized service providers and shelters.
- Cooperate with nongovernmental women's and human rights organizations to advertise anti-domestic violence public policies, widely disseminate information on how victims of domestic violence can seek legal redress, and publicize the existence of services for victims of domestic violence.

### ***To the Donor Community***

Bilateral donors, including the United States, Canada, Japan, and the European Union should:

- Encourage Egypt to adopt the recommendations outlined above. Additionally, donors should raise the Egyptian government's failure to address women's unequal access to divorce at high-level meetings and through their embassies in Egypt.

- Encourage Egypt to repeal discriminatory provisions in its family and penal laws, particularly those that have helped create and perpetuate unequal and parallel systems of divorce for men and women.
- Support programs that seek to review and reform existing family laws to ensure that they are consistent with Egypt's obligations under CEDAW and other international human rights instruments, do not discriminate on the basis of sex or gender, and afford women equality of access to divorce.
- Provide support for programs providing basic services for divorced women and victims of domestic violence. These services should include women's shelters, medical care, counseling, literacy classes, job/skills training, and legal aid.
- Urge the Egyptian government to foster the participation of women in all levels of civil society, including the judiciary and the police.
- Assist the Egyptian government toward the better training of police officers, public prosecutors (serving as advisers to courts in divorce proceedings), doctors, and judges in connection with eliminating gender bias in handling divorce proceedings and cases of violence against women.

### ***To the World Bank and other International Lending Institutions***

- Work with the government of Egypt to ensure that development policies and programs are designed and implemented in a manner that promotes women's equal rights in the family. Also, ensure that concrete steps are taken to eliminate discriminatory laws and customary practices that undermine development efforts.
- Increase assistance to civil society organizations working to reform discriminatory provisions in Egypt's personal status laws, including those that obstruct women's rights to equality in divorce.
- Include domestic violence education as a part of the training activities for all income-generation programs targeted at women, in order to inform program participants about the currently available forms of relief from and redress for

domestic abuse. Such training should include basic information about the rights of women to seek termination of marriages tainted by abuse or maltreatment.

- Provide support for broad-based public campaigns aimed at fighting sexist attitudes and misogynistic cultural norms that breed domestic violence and discrimination against women.

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