

The legal Status of Women in Egypt: Reform

and Social Inertia

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Despite the undeniable strength of traditional Islam today, both as a religion and as a font of legislative and judicial authority, a number of legal reforms have been introduced in the Muslim countries.

In any case, the reforms are always expressed in terms of an Islamic framework, not in terms of a secularization. No Arab country has created a non-confessional state. Islam is the state religion everywhere except in Lebanon. What reforms have been adopted are always presented by the legislators themselves as new interpretations of the "Sharia," an adaptation of the Holy Law to the modern conditions which have so transformed the family, especially in the towns where the extended and multiple family group has given way to the nuclear family.

Although women are still dominated within the nuclear unit, they do occupy a more important position. The reforms are thus a belated and timid acknowledgement of what has already happened.

Unlike most Arab countries, Egypt is an old nation, whose identity has never really been threatened, despite the Ottoman, French and British presences. This is probably why, as early as the turn of the century, Egypt developed an enlightened intelligentsia who broke away from the doctrinaire teachings of Al-Azhar, the great Islamic university, and turned to study the new thinking from the West, which they eventually adopted as their own. Early in the century 1923, a woman member of this intelligentsia, Hoda Sharawai, publicly removed her veil and established a feminist movement which enjoyed the support of political, social and even religious reformers. The latter

felt that the degradation of Egyptian society stemmed from the isolation of women. The movement's actions were entirely oriented towards the emancipation of women, with the removal of the veil as its symbol. In the early 1940s, Hoda Sharawi founded the national Union of Arab Women. Even earlier, in 1920, working women had organized themselves and forced the government to pass the first laws regulating women's employment in the factories (mainly textiles) and commercial establishments. Until then they had been made to work 15 to 16 hours for a low wages.⁽¹⁾ Thanks to their struggle, they obtained better working conditions and salaries.

The same feminist movement, called for the creation of schools and the development of education for girls. By 1928, despite public opposition, young women were admitted to the University.

Similarly, as early as 1925, the traditional Egyptian form of repudiation, was outlawed.⁽²⁾ From that time onwards, all the legislation has been geared to discourage repudiation and divorce. The Egyptian legislature was also quick to ban force on early marriage, young people having reached the age of consent were allowed to marry without requiring the permission of a guardian or parent.*

In other words, Egypt reformed its laws to bring about a gradual recognition of women's rights long before most other Arab countries. The new reforming legislation nonetheless remained firmly within an Islamic framework. Without going into details, it is worth noting that Nasser's rise to power reinforced the reformist tendency and that by 1956, women had granted full political rights. That same year, free education was instituted for both boys and girls. Due to the shortage of teachers and buildings, mixed education became the rule in state

schools. later, co-education, which had originally been prompted by lack of facilities, became Ministry of Education policy, in an attempt to change and "modernize" the attitudes of both men and women.

Despite the reforming legislation, women used to complain that the long-promised improvement of women's status had not been properly implemented. Their demands were finally met in June 1979, despite the strong opposition of the Muslim Brotherhood, which is particularly powerful in Egypt.

The new reform further restricts men's rights to repudiate their wives. From now on, a man is required to inform his wife that she has been repudiated, which was not the case before. Similarly, a man must inform his spouse if he takes a second wife. The economic constraints imposed by the new law are also likely to discourage men who are thinking of repudiating their wives or taking a second bride. If a man repudiates his wife, he will be obliged to pay her maintenance and compensation; for instance a wife with children can expect to retain occupancy of the family home. Furthermore, the State Bank will provide financial support to the repudiated spouse by paying her advances on the maintenance payments which will later be deducted from the ex-husband's salary.

Custody of the children, which used to be granted to the mother only until the age 10 for little girls and 7 for little boys, has been extended.

Girls now stay with their mother until marriage, and boys until they are 15 years old, providing the repudiated wife is deemed blameless. However, the legislators did not insist that divorces be decreed by a tribunal. They accepted the 1931 law which required that the proceedings be registered by a departmental official; this was a major ad-

vance at the time but seems sadly out of date nowadays.

When it comes to reforms of the marriage laws, to women's right to divorce, *ilkhul'* (divorce on demand) and contraception, Egypt certainly does not lag behind the other Arab countries. The legislation has long striven to keep abreast of social changes. True, polygamy is still allowed, but it is only 3% of all marriages are polygamous. The justification offered is that polygamy is a lesser evil than divorce; the children continue to have a home and even the women are thought to prefer sharing a husband to not having a husband at all. Legislative reforms to upgrade the status of women in all spheres of life are still subject to further studies inside the Parliament. It is important to present a survey of the legal codes that impacted the status of women in Egypt.

The Religious and Political impact on Personal Status law in Egypt

As been stated above, that right after the Egyptian Revolution of 1952, a new era had started based on the socialist ideology that necessitated the participation of women in the process of progress development. Therefore, the new political atmosphere that was shaped by the "Army officers," the leaders of the Revolution of 1952, gave legal rights to women in all domains of life the political economic and the social. These rights given to Egyptian women were stated in the constitution of 1956, that stated the rights of women in education, work , political vote as well as to become a candidate. Despite the fact that Islamic legislation "Sharia," was not the main source of legislation, it was considered " a source ," as stated in article 2 of constitution of 1956. * The new reforming legislation nonetheless remained firmly within an Islamic framework. Egypt reformed its laws to bring

about a gradual recognition of women's rights long before most other Arab countries. Men and women move side by side without any apparent problems, even at work, however, despite the reforming legislation, women used to complain that the long-promised improvement of women status had not been properly implemented. Thus, no doubt, Egyptian women status, on paper, had greatly improved, however in practice laws are far in advance of people's thinking. Unfortunately, keeping women in a permanent state of dependency is still seen as the best guarantee against decadence. This state of dependency reflects the patriarchal nature of the society that has been reinforced by all agents of socialization: family, school, peers, religious institutions, media and political leaders. Despite the reforming legislation, women used to complain that the long-promised improvement of women status had not been properly implemented. Their demands were finally met in June 1979, despite the strong opposition of the Muslim Brotherhood, which is particularly powerful in Egypt.

The position of the Muslim Brothers has been adopted and continues to be so by representatives of the religious establishment and other conservative elements in society, thereby reflecting the influence they have in shaping the content and structure of the mainstream Islamic discourse. The Muslim Brothers violent tendency in the 1940s and 1950s is largely overlooked by most Egyptians; that particular aspect of the movement in history is seen as being part of the resistance against the British and other imperialist forces. The association's initial claim of peaceful advocacy, which it has chosen to reaffirm since the early 1970s, is the aspect most remembered by people. Also, in comparison with other groups, the Muslim Brothers are perceived as rational and moderate. This allows them to provide many of the so-

called traditionalists, as well as the general lay public of Muslims, with a frame of reference for the Islamic order.⁽³⁾

Following Egypt's defeat in the 1967 Arab-Israeli war, disillusionment with the performance of Nasser's regime set in. A wave of religiosity swept through Egypt, encompassing both Muslims and Christians. Claims that the Virgin Mary had appeared above the Cathedral of Zeitoun came alongside a widespread feeling that the defeat was the result of having abandoned faith in favor of human-made ideas and belief systems. In the same vein, some have noted that the 1973 victory was explained to have resulted from the return to religion. It was this general mood of religiosity, coupled with state encouragement, that led to the emergence and growing influence of the Islamic groups (Jamaat), and their proliferation first within and then beyond national universities. In his fight against remnants of the Nasserist regime, President Sadat achieved noticeable headway by allowing the Muslim Brothers to reissue their monthly publication *El-Dawa* (The Call), and by giving the Islamists a free hand on university campuses.

From the 1970s onward, the relationship between the regime and Islamists began to deteriorate. The first confrontation between them occurred in 1974 when a group of cadets from the Military Academy (MA) attempted a take-over of the academy. The event, which was aborted, was planned as a precursor to a coup d'état, which the cadets perceived as necessary in order to reinstate Islamic rule. The MA incident was followed in 1977 by a confrontation with the group known as *Jamaat El-Muslimin*, otherwise known as *El-Takfir Wal-Hijra* (Repentance and Holy). The deterioration of relations also encompassed

the Jamaat. Weary of their influence, the state began to curtail their activities and disallowed the wearing of female niqab, which had begun to spread around. Although the general trend is towards women's liberalization and greater equality between men and women, many active educated young women are putting on the veil again, of their free will. Visitors to Cairo are usually intrigued by this curious phenomenon. In fact, this new behavior, which might be called 'anti-feminist,' may well turn out to be a sort of feminism in reverse,' with a political connotation as well as a moral one. The political aspect of these women's attitude is clear. Their position is similar to that of the Muslim Brotherhood, to whom they are in no way hostile.

The Shift from State economy to Market economy

The socioeconomic changes in Egypt through the last two decades impacted the family structure particularly the women status. The increasing "feminization," of the Egyptian family as a result of male migration to urban areas in the same country, neighboring Arab countries, or to the west. Accordingly, many men left their wives in charge of the household while they were away. While finding this pattern of life very stressful at least initially, many Egyptian women have developed a sense of efficiency, autonomy, and independence. In the early 1990s, as husbands returned home and tried to resume their traditional power in the family, gender conflicts erupted. Consequently, there was a need to amend the established laws concerning family code or the personal status law to cope with the changing circumstances of the status of women in terms of marriage, divorce, custody and inheritance. In 1997, a new Bill was issued, Law 44 which gave the wife the right to ask for divorce if she discovered that her husband

is married to another woman and she refused to live with a second wife.⁽⁴⁾

Legal reforms were met with opposition, especially if it fell within the realm of Sharia. For example the opposition to Decree 44 of 1979 amending the Personal Status Law of 1929 is a case in point. Also opposition to what was referred to as Jihan's law (named for its sponsor and ardent supporter First Lady Jihan Sadat) was most vehement among the Islamists, both establishment and opposition. They perceived Mrs. Sadat's attempts to reform the Personal Status Law as the ultimate proof of a conspiracy against Sharia. Adding to the intensity of their opposition was the fact that the decree was passed during the summer recess of Parliament, thereby casting doubt on its constitutionality. In fact, the Decree was declared unconstitutional in 1985 by Egypt's Higher Constitutional Court. Law 100 of 1985, which subsequently replaced it, did not add much to the 1929 Personal Status Law.⁽⁵⁾ The minor changes that were introduced did not come close to those secured by Decree 44, nor did they reflect the efforts toward greater equity exerted by Egyptian women throughout the century.*

Gabhat Al-Azhar (The Al-Azhar Front) was established in 1969 as part of Al-Azhar University. Its mission was to protect religious education against attempts at co-optation by the general curriculum. Over the years the Gabha came to represent the Muslim Brothers, albeit informally. While a number of the Gabha members are active in the Muslim Brothers association, the association has enjoyed the sympathy of non-affiliated individuals as well.⁽⁶⁾

The renewed vitality of Islam as an alternative to secular ideologies has been explained as due to a number of economic, political, and so-

cial factors. Economically, the open-door policy (infitah) of the 1970s was perceived as a threat to the middle class, the key strata in Egyptian society. The rank and file of both militant and non-militant Islamic activists come from the middle class. They are the government officials and professionals who lost the edge they had gained during the socialist Nasser era to the new class of businessmen and entrepreneurs that began to emerge in the mid-1970s. Conspicuous lifestyles and excessive consumerism appeared, contrasting with the low key, largely unobtrusive ways of living that had prevailed throughout the 1950s and 1960s. More importantly, the younger elements of the middle class felt they had been short-changed. Young and educated in Egypt's most prestigious universities, they had all the attributes of a professional elite, but none of the opportunities or rewards they had been led to expect. On the political front, the rapprochement with the United States and the subsequent peace treaty with Israel were decried by many in the middle class, who accused Sadat's regime of having sold out to the enemy. The souring of relations with most Arab countries and the loss of its leading position in the Arab world were perceived as too high a price to pay for the return of the Sinai.

As a result of emigration to the oil-rich Arab countries after the 1967 war, Egyptians were exposed to new values and practices, many of which were absorbed into their lives upon returning to Egypt. Even the practice of Islam was affected by their stay in the more conservative Arab countries. Consequently, much of the polemic of the Islamists, including issues related to morality, the family, and gender relations, is derived from or based upon interpretations and practices of Islam that are not the usual moderate ones for which Egyptians are renowned.

Today, Egypt is in the throes of an economic adjustment program. Its costs are high and its benefits have not yet trickled down to the middle and lower classes. Consequently, there was a pressing need to redefine the personal status law.

REDEFINITIONS OF WOMEN AND THE FAMILY: PERSONAL STATUS LAW

When drafting laws earlier this century, a compromise was reached: secular law was used in civil, commercial and penal codes, while the family and the governance of the personal lives of men and women remained under Islamic law. As a result articles of personal status codes often conflict with the constitutions of Arab countries.

While the latter guarantee equal rights for all their citizens, the former extend privileges to men in the family (in the areas of marriage, divorce, and child custody) which are denied to women. The family is often identified as a primary location of women oppression. Given that the Personal Status Law organizes the relationship of marriage through all its stages, it has a tremendous impact on gender and power hierarchies within the family. It was issued in 1925 as Law 25, then amended in 1929. More recent changes have taken place in 1979 and in 1985. In general, the Personal Status Laws dealt with women as part of the regulation of the organization of the family, not as individuals with their own separate or equal rights.⁽⁷⁾ This was an indirect contrast to the changes taking place for women in the realms of education and work. The entire mechanisms of society could alter but the patriarchal family unit was guarded from any such change. Polygamy is still the legally and religiously sanctioned right of Muslim men. This is in direct conflict with the Egyptian National Charter

(1962), which claims that the family is the first cell of society and therefore, in the national interest, it must be afforded all means of protection. Women's needs and demands were short-changed yet again. Even when a faction within the government attempts to institute some reform, the remainder of the government will often give in to the more conservative strands of public opinion. This normally happens regarding women's issues, but with other policies the government often enforces them regardless of public protest. Unfortunately, most of the compromises and concessions seem to take place in the domain of and at the expense of women's rights.⁽⁸⁾

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 essentially as legal minors under the eternal guardianship of male family members. These laws "deal with women as part of their own separate or equal rights"⁽⁹⁾

Despite the advances women have made in Egypt in other areas, such as education and access to the public space, finally 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."⁽¹⁰⁾

Personal status laws for Muslim Egyptians rely predominantly on

Islamic law ('Sharia). These religious -based personal status laws violate equality provisions in Egypt's constitution because, as one scholar has noted, "while the constitution guarantees equal rights for all citizens, the family (in the areas of marriage, divorce, inheritance, and child custody) which are denied to women.

All the three of Egypt's presidents since independence, Gamal Abdel Nasser, Anwar 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 as stated above.

Despite their varying efforts of 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 such as arranged marriage , divorce, house of obedience.

Divorce and Custody: "...he was my husband and any time he wanted to do anything to me I must let him and not fight him.

Divorce is the dissolution of the marriage contract. A man's right to divorce his wife without witnesses or recourse to a court, is sanctioned in Sharia (Islamic Legislation). Law 24 of 1920 claimed that if a husband was unable to support the his wife or if he suffered from an irreversible illness, a woman had grounds for divorce. However, di-

divorce still remained a male utterance in private and not a reality debated in a court of law. When these laws were being revised in 1929, to insert the amendment that a man could not pronounce himself divorced from his wife if it was in a moment of duress, and that a wife could ask for a divorce. Women could be granted a divorce if they could prove that their current marital situation was in some way harming (darar) them. Unfortunately the final judgment was left to male judges who might or might not be sympathetic. Of course, the repercussions of divorce affect women from various classes in radically different ways. From the early decades of the century until today, the reality is that alimony or compensation are rarely paid to the wife, who is left to fend for herself.

Custody, a mother's right to keep her children until they are of a certain age, was extended from ages seven for boys and nine for girls in 1929 to ages ten and twelve respectively in 1979.

However, in both cases the judge is allowed to exercise his discretion in extending the duration of custody. Should the mother remarry, she loses custody of her children, while the father never loses that right. Again the realities of this law affect women differently depending on socio-economic factors: a wife's recourse to the legal system is an expensive and time-consuming option, making it virtually inaccessible to poor women. Moreover, even if there were gender-sensitive laws, the general lack of legal literacy among women is an impediment to the attainment of their rights, as are the biased attitudes of male judges.

Bayt al taah: 'I had married, and so found myself living behind bars.'

Bayt al-taah (house of obedience) is not derived from or related to the Quran [Islamic Holy Book] or Sunna [the practice of the Prophet], yet it is law. The idea of bayt al-taah is inextricably linked to a man's right to demand obedience of his wife. The origin of bayt al-taah is the belief that a wife must remain in the conjugal home and obey her husband in exchange for his financial support. Should she leave the conjugal home (hence disobeying her husband) then he has the right to order her back, either to their home or to another that fulfils certain criteria. The criteria for this abode are that it should normally be a suitable healthy place for the family, duly equipped and furnished and not shared with other families. It is advised by the law that neighbors should be near enough to be able to hear the scream of the wife and therefore be witnesses on what takes place between the married couple. This stipulation offers a hint about the nature of the relationship between the spouses, especially when the husband forces his wife to return to him and obey his commands against her will. Bayt al-taah has been used by men as a loophole to avoid alimony payments to the wife: if the wife refuses to go to bayt al-taah then she becomes deviant (*nashez*) and forfeits her right to alimony upon divorce. The "Women Union," known as the EFU, formed by a number of educated upper and middle class women, campaigned for its abolition in the 1920s but was unsuccessful. There was an amendment to the bayt al-taah law on 13 February 1967: a Ministerial order was issued that prohibited the use of the police to bring a woman back to the house.⁸¹ Attempts to abolish it have continued through the decades to no avail. This situation is sanctioned by society, protected by legislation, and apparently exempt from change because it is falsely ascribed to religion.

Minimum Marriage Age: 'My father was not punished for having married me off when I was a legal minor.'

Again, feminists' perceptions of women's problems came from their own experiences. Huda Shaarawi's marriage in her early teens to her cousin, a man much older than herself, served as a reminder of the negative implications of marriage at a young age. In the 1920s, the EFU petitioned the government to set a minimum marriage age. Parliament acquiesced and set the minimum marriage age for girls and boys at 16 and 18 respectively. Unfortunately, at least for girls, this law is rarely enforced and falsification of the necessary documents is easily achieved.

Moreover, as usual, a law governing minimum marriage age affects segments of society differently. It is supportive for middle and upper class families who want to continue the education of their daughters. The law also encourages the completion and attainment of school degrees for boys (at age 18), whereas girls education can be curtailed earlier (at age 16), implying that it is of secondary importance. The dangers of early childbearing and the problems of access to health care are exacerbated by this law. Thus due to the influence of the cultural heritage, reform within the family was not sufficient; women wanted access to a public life within society. To realize equal rights and equal citizenship, women needed: an education, the right to work in the profession of their choice, and the right to vote. Denied these rights and life options, they were homebound within a domestic power hierarchy. This hierarchy was rarely favorable to them as they were always social dependents.

The legacy of the nineteenth century was to create a dichotomy of

cultural outlook produced by the introduction of a State school system modeled on European lines and the expansion of the missionary and foreign community schools, superimposed on the religious Kuttab system... the religious schools continued to provide a rudimentary education for the masses in the form of the three s (reading, writing, and arithmetic), while the modern government schools provided a secular European style education for the existing and aspiring elite.⁸⁶

In 1873 the first state girls primary school was created, teaching its pupils religion, mathematics, history, geography, and home economics. However, girls were not entitled to sit for a final examination until 17 years later. Qasim Amin's nationalist and emancipatory discourse propagated education because it enhanced women, but only in service to the nation to produce better children, not to grant women greater life opportunities. Women themselves espoused this discourse; some believed in it genuinely while others used it as a loophole to get what they wanted.

While the post-revolutionary government (1952) was seen to encourage women to obtain an education and seek employment, the Egyptian National Charter (1962) sent contradictory messages.

It told women that the family was their primary concern, and that they alone were to preserve the national tradition within society. In 1963 laws were passed promoting the idea of equal pay for equal work and equal right to promotion between men and women.

In 1962 a woman named Hekmat Abou Zeid was appointed Minister of Social Affairs. During this time, the socialist government was still sending mixed messages to Egyptian women. During

Sadats' rule (1970-1981), a new constitution was passed. According

to Article 11 of that Constitution: ...the State guarantees the reconciliation of woman's duties toward her family with her work in society, and her equality with man in the political, social, cultural, and economic fields of life without prejudice to the principles of Islamic Sharia.

Men's duties to that family are not mentioned and women are painted as torn between their primary concern (the home) and their adopted environment (work outside the home). Furthermore article 9 states that: This is a line from a song by Sayed Darwish entitled *Banat al Yom* (Today Girls) from the early decades of this century. His music was exceedingly popular for its passionate nationalism. The family is at the base of the society and is shaped by religion, ethics, and nationalism. The state pledges to preserve this genuine character of the Egyptian family, the customs and values it represents, and to generalize them to the rest of the society. Given the emphasis of Islam on women's roles as wives and mothers, grounding women within the religious and nationalist framework was highly constricting. Interestingly enough, a strand of nationalist thinking looks upon women as the producers of good sons that will add to the nation's glory, not unlike the previous stance.

By 1957, modest changes occurred in the new constitution to enable Egyptian women to participate in the political arena. Accordingly, two women elected to the National Assembly. Armed with the right to vote, women felt that the door was open. However, The 1960s and 1970s were ambiguous decades for women's rights. There was a general silencing of all groups, including women's organizations, perceived to be too political.

During the 1970s, First Lady Jihan Al-Sadat's voice dominated, but her position as the President's wife often worked against what she tried to achieve. Women who were not part of the official regime, like Nawal El-Saadawi (whose feminist organization was eventually closed down), were silenced. However, the United Nations Decade for Women (1975-1985) began to revitalize the issue in Egypt. This coincided with increased disillusionment from unfulfilled promises over women's rights, whether from the government or other movements that proposed alternative systems. The rise of Islamism also forced middle class women to organize themselves in opposition to its socially restrictive goals. But the question still remains: how are Egyptian women faring today and what is being done to improve their lot?

EGYPTIAN WOMEN TODAY

As has been stated above, Egyptian women have struggled throughout the century to establish their presence as full-fledged partners with men in the public sphere. Their presence outside the domestic sphere has increased as a result of numerous factors, namely education, economic necessity, and the will of the political elite; but most importantly as a result of their own efforts.

Any threat to the gains women have made constitutes a legitimate cause for concern for both women and men who believe that the well-being of society cannot be achieved or maintained through politics of exclusion. Consequently, while the post-revolutionary government assumed a comprehensive transformation that would encompass women, it has been noted that women's liberation has never come to assume the primacy of political or economic liberation. Women's particular concerns have been, and continue to be, subordinate to those of so-

ciety, the nation, and development. Also, Egyptian men like their counterparts in the West have resisted the process of redefining gender roles and allowing women more equity. The growing presence of women in the public sphere has not been paralleled by more equity in the employment fair. After the 1952 revolution, however, opportunities opened up for women, allowing them more space in the public sphere. Nevertheless, for a number of reasons, including male unemployment women's participation in the labor market has remained modest. The percent of women in the labor force in Egypt has risen somewhat over the last decade, in 1995 the percent working for wages (not family workers) stood at 21% of urban women, 11% of rural women.

Article 14 of the Constitution of 1971, gives all citizens equal access to public employment irrespective of gender. Law 137 of 1981 allows women to work at night in hotels, theaters, and airports as long as adequate protection is provided (a rather ambiguous clause that is largely ignored). Despite such increases in women's labor force participation, women's average wages are approximately one-third lower than those of men. On the whole, women hardly ever reach leadership positions, and when they do, the occurrence is viewed as an anomaly. Moreover, women's representation in labor unions remains insignificant; only 621 women belong to labor unions compared to 17,441 men. This suggests that women do not perceive unions as beneficial to their interests. Women's business initiative and acumen are constrained by their entrenchment in the domestic sphere, restrictions on their mobility, and by their lack of exposure to information about loans and training opportunities. Consequently, small, traditional, home-based enterprises are often women's only alternatives. This is

especially true among women from the middle and lower socioeconomic strata who, instead of reallocating the income from these enterprises to the expansion or upgrading of the business, are often required to use it for household and other emergency purposes. Moreover, the skepticism surrounding women's business abilities often works as a deterrent to their entrepreneurship. The discouragement of women's economic role is legitimated by the prevailing value system and associated norms. These values and norms denigrate women's labor and contrast it to women's domesticity, which is generally commended and even, in the case of the Islamists, sublimed. The perpetuation of the image of the house as a woman's kingdom is part of the resistance of society to women's emancipation. Moreover, women who have ventured in the public sphere have often been blamed for much of the violence inflicted upon them, both in the work place and on the street, while domesticity has been presented as the way for women to preserve their dignity.

Women are also subjected to other difficulties that further their isolation from the public sphere. Working hours that are incompatible with family obligations and inappropriate modes of transportation are among the many factors that women encounter both in private and in public sector employment. The letter cited below, from female government employees, illustrates the institutional obliviousness to the multiplicity of roles that women play: *By Force...Not By Choice*: It is true that the evening shift at the Registry office is optional and not mandatory, yet this is only in theory. The reality is somewhat different. Women represent approximately 80% of all employees at the Registry; consequently, whoever refuses to work in the evening is deprived of the additional income which is in fact a major source of in-

come for most of us. Moreover, the way the shifts are organized from 8:00 am to 2:00 pm, and from 5:00 pm to 8:00 pm make it impossible for us to go home and come back. Most of us live in remote areas, and the traffic does not help. By the time we go home, it is already time to leave for work. What about our children? How are they supposed to fare during our absence. We would prefer to work one long shift from 8:00 am till 4:00 or 5:00 pm so that we can fulfill our obligations both at work and at home. We hope that the Minister of Justice will understand our conditions and that he will be receptive to our suggestions.

WOMEN AND POLITICAL PARTICIPATION

Political participation and representation are issues of concern for Egyptians regardless of gender. The apathy characterizing participation in the Egyptian political process has been noted by many scholars, but a discussion of this apathy is beyond the scope of this monograph. However, despite a general lack of political participation and representation, the situation among women is especially dismal. The marginal presence of women in Parliament has become especially evident since 1990, when the law setting a quota of seats reserved for women was declared unconstitutional. The idea that politics is a male preserve is inculcated into women from childhood and throughout adolescence, via a conservative discourse that portrays different roles and obligations for each gender.

While the 1956 Constitution asserts equality between women and men in the exercise of their political rights, women's registration to vote in electoral ballots is optional while men's is obligatory. In the mid 1990's the level of women's registration remained less than 10 percent. The actual participation of women in Parliamentary elections

was only 6 percent in 1990.

Family opposition, limited knowledge of the law, and scarce resources combine to discourage women from entering the political arena. A research project based on case studies of women parliamentarians indicated that family support has been a crucial factor in determining the course of their political careers. These women however, are exceptions. The political game is a dirty and rough one, in which men-as the supposed stronger species-are more apt to engage. Further, when campaigning in elections, women's effectiveness is limited as they tend to abstain from raising or engaging in debates related to gender issues for fear of compromising their chances of being elected. The reluctance of political parties to support women from their own ranks also restricts women's candidacy in elections. Awareness of the constraints to women's political participation has prompted the formulation of a program of action to enhance their participation in decision making processes. A workshop was held prior to the 1995 elections in order to formulate an electoral program for Egyptian women.

One survey of action-oriented interventions designed to enhance the socioeconomic status of Egyptian women recommended that a center for supporting women candidates be established. It also recommended that the laws affecting women's political participation be revised, and that women be trained in leadership skills in order to serve as leaders for poor communities. The project, initiated by the Ibn Khaldoun Center for Development Studies in 1995, is designed to provide women with such support.

Women Equity As Interpreted By The Legislators:

Another area in which women have not been treated equitably is the law. While contention has been strongest regarding the family and nationality laws, women are also short-changed in the penal code. Though much of the discrimination that takes place is due to the interpretation of the text and its application, which are left to the discretion of a predominantly male judicial body, there is also a differentiation between genders in the body of the text. A notable example is the difference in the penalty for the murder of one's spouse upon discovery of adultery. Whereas men are given a light prison sentence (not more than three years) for murdering their adulterous wives, women are often sentenced to hard labor for life for murdering their unfaithful husbands. This difference is justified by the widespread attitude that a man's honor is dependent upon his wife's virtue. Consequently, his violent reaction to his wife's adultery becomes excusable, especially if committed in the heat of the moment.

The interpretation of the text also presents problems. Although rape itself is penalized, forced or non-consensual marital intercourse is not considered by the law to constitute a criminal offense. However, a study conducted by the New Women Research Centre and El-Nadim Centre found that 93 percent of the women in the sample considered intercourse under such conditions as rape.

The fact that 46 percent of the men in the sample said they are entitled to force their wives into intercourse reveals the discrepancy between their world view and that of women. The penal code is also applied differentially by gender. In cases of spousal battering, the punishment is usually harsher for a woman who beats her husband than for a husband who beats his wife. This research project is an in-

initiative of the Ibn Khaldoun Center for Development Studies and El-Nadim Centre and New Woman Research Centre, 1994: 38-39. By law, husbands are entitled to physically punish their wives in case of disobedience (*masseya*) so long as no permanent damage is inflicted, yet women are not allowed similar provisions. The difference in penalties exacted from each gender reflects the preeminence of a value system in which the purity of women is assigned utmost importance, and men's sexual latitude is indulged. Moreover, the supremacy (*qawama*) of men over women is accepted with varying degrees among Egyptians of both genders. For example, the 1995 Egyptian Demographic and Health Survey found that a not insignificant number of women, especially among lower and middle income women and those residing in rural areas, believed that wife beating was justified under certain circumstances.

Also contentious is the nationality law. Law 26 of 1975 stipulates that an Egyptian woman married to a non-Egyptian man cannot confer her nationality onto their offspring, yet if the father is unknown, the children are registered as Egyptian citizens. Men do not face the same problems.

Non-Egyptian wives can apply for Egyptian nationality two years after marriage, and their children are automatically registered as Egyptian citizens at birth, regardless of their mother's nationality.

The social, political, and economic implications of this law extend far beyond the blatant differentiation between men and women. One implication is that the offspring of Egyptian mothers married to non-Egyptians are deprived of all the rights and privileges of Egyptian citizens. They cannot vote, serve in the army, or be employed in the gov-

ernment. They are required to obtain residence visas and work permits. They register at schools and universities as foreigners and consequently, pay fees that are much higher than they would otherwise pay as Egyptians. The economic burden that this law entails is often shouldered by the mother who is forced to resort to extreme measures to bear the costs involved. Moreover, the preventive and hence protective aspects of the law are emphasized and presented as justifications for the persistence of discrimination. Suggestions for reform remain unheeded. Consequently, the nationality law remains a main item on the agenda of Egyptian feminists, together with the Personal Status Law. Despite decades of active lobbying, the government has resisted changes in the personal status law, so much so that the law has been described as the ultimate mainstay of control as manifested in the new marriage contract.

THE PERSONAL STATUS LAW AND THE NEW MARRIAGE CONTRACT

O mankind, we have created you male and female and appointed you races and tribes, that you may know one another.

This verse from the Quran has often been used to legitimate the complementarities of the genders. Equality such as that sought by the amended Personal Status Law 44 of 1979 and the proposed new marriage contract has been the subject of fierce resistance from both secular and religious establishments. When President Sadat issued the presidential decree known as Law 44 (or Jihan's Law, because of support from First Lady Jihan Sadat), it was met with vehement resistance from all factions of the political spectrum. The secularists opposed it on procedural grounds because Parliamentary approval had not been

secured. The religious establishment, the opposition, and other conservative forces objected to the law on the basis that it did not conform to Sharia. The main supporters of the amended law were its initiator and patron (Mrs. Sadat) and a group of feminists who celebrated it as a victory crowning their long struggle for a less discriminatory personal status law. The law did not receive adequate support from society at large, but especially from men, for a number of reasons. Most importantly, the amendments had economic implications that favored women; in addition, both men and women refused to relinquish the tradition of men's superior hold over women.

Under the amended law, a woman obtained the right to ask for a divorce on the basis of injury (*darar*) within one month of being officially notified of her husband's marriage to another woman. After this month, she could no longer claim injury; thus in case of divorce, she lost her rights as stipulated by law. The main advantage of the amended law was that it gave women the right to refuse being part of a polygamous relationship, without being legally and materially penalized. Prior to this amendment, women were often not notified of their husband's second marriages; and if they objected and asked for a divorce, they lost their rights to alimony and to remain in the marital home as long as they retained custody of their children, in addition to any other material compensation stipulated in the marriage contract. The law also curtailed another practice called *bayt al-taah* (house of obedience) (discussed previously). In order to enforce his wife's obedience, a man had had the right to call upon the authorities to enforce his wife's return to the marital home. The practice has been the cause of much controversy because it forced a woman to remain married until she could legally prove that the marital relationship could no longer be

sustained.

The widespread objections to Law 44 resulted in its reversal and the subsequent reinstatement in amended form as Law 100 of 1985. The new amendment made Sharia the sole basis for personal status legislation rather than one of its bases. Thus Islamic law became the one and only frame of reference for matters pertaining to personal status.

The idea of the new marriage contract was born in the mid-1980s; however, due to opposition, it has not yet come into effect. Apart from requiring a medical examination before marriage, the new contract contains no compulsory clauses. Aspiring to more equity within the institution of marriage, this new contract provides a checklist, which includes many issues. The existing marriage contract allows for the inclusion of conditions agreed upon by the partners; however, the fact that it does not include a checklist intimidates women and discourages them from establishing themselves on a more equal footing within marriage. For example, among the most contentious issues of the new marriage contract is that it allows both spouses the right to divorce (*esma*). Other possible clauses relate to ownership of the furniture and conjugal home, as well as the right to education and travel. The new marriage contract has been decried under the pretext that it would lead to the disintegration of the family and an increasing number of divorces. A well known proverb is often cited in rebuttal to the proposed contract: *Al-markeb eli leha rayessin teghraq* (A ship with two captains sinks). Most vocal women's organizations in Egypt (refer to chapter V: Strategies of Resistance) focus on research, monitoring, advocacy, counseling and service provision. The effectiveness of their

work on the ground is limited due to legal, as well as institutional constraints. Law 32 of 1964, which regulates associations, has been criticized for restricting the ability of NGOs to address community concerns because excessive regulations that limit their ability to act in a timely manner. For example, while religious NGOs have the freedom to mobilize funds through alms (zakat), non-religion based NGOs are not allowed to solicit funds unless they obtain special permission to do so from the Ministry of Social Affairs.

Opposition to reform of the Personal Status Law and the marriage contract is embedded in ignorance of the law, as well as in conservatism. For example, most Egyptians do not know that the existing marriage contract does not oppose the inclusion of provisions such as sharing the right to divorce. Moreover, practices that the proposed changes were designed to curtail are justified in a patronizing manner. The gist of such justifications is that protection of women, family, and society are incumbent on men and that polygamy, bayt al-taah, and male monopoly over the right to divorce are mechanisms that enable them to fulfill this obligation. Resistance to Law 44 took many forms. While some were able to vocalize their opposition, the majority expressed their standpoint by circumventing of the law (men) or by choosing not to exercise their rights (women). For example, some men avoided notifying their wives of their second marriages, and some women, upon being informed of their husband's second marriages, chose not to exercise their legal rights. The conservative tendencies of the Egyptian middle class have been explained as the result of their exposure to rigid interpretations of Islam, either directly through migration to the oil-producing

Gulf countries during the late 1960s and the 1970s, or indirectly through contact with returning migrants. Consequently, the manner in which opposition to Law 44 and to the new marriage contract was expressed can be said to reflect the changed circumstances and world view of the middle class. This conservatism of the middle class is accompanied by a focus on gender relations and sexuality.

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. 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.

Although women have nominal equality persists in Egyptian society and numerous laws directly violate these constitutional guarantees. Under article 4 of ministerial decree 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. Under decree, a husband can prevent his wife from travelling, 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, de-

spite the fact that Muhammad Sayyid Tantawi, the Sheikh of al-Azhar, 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.

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, whereas a husband is penalized for no more than six months. 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. The murder of a wife (but not a husband) in the act of committing the crime of murder to the level of a misdemeanor.

The Egyptian women's movement, considered by many to be the forerunner of the Arab women rights movement, has been actively working to repeal discriminatory laws and advance women's status in Egypt for decades. The various regimes, of both left and right, which have succeeded one another in Egypt over the last 20 years, have all sought to modernize structures and attitudes by passing laws or decrees, including some which have allowed women greater autonomy vis-à-vis the family and men in general. The real problem has been one information, of making sure that the laws were known and enforced. The initiative for change particularly in the legal codes comes from above.

This modernization, from which the notables and their wives have benefited most, was clearly the product of the West's impact on the

Egyptian ruling classes, who saw it as a new means of enriching themselves and, eventually, of developing the country.

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. 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 Sharia " the principle source of Egyptian legislation." In this constrained environment, any departure from conservative interpretations of religious text by women rights activists has resulted in backlash. Egyptian women who have raised concern about women's status, particularly within the family under Egypt's Sharia-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. "

Women issues were almost absent in the political discourse of the ten candidates contesting in presidential elections, despite the fact that women constitute 41% of the national votes. One woman, Ashgan El Bihiri, a lawyer, who dared to join the presidential contest and picked an application in order to continue the rest of the procedures, was rejected because she nominated herself without being affiliated to any political party.

Almost all the political discourse of the political parties ignored addressing women's rights and problems. According to the candidate of

the "New Wafd" party, women already have received their rights, and there is no discrimination against them. The candidate of "El Ghad" party, Ayman Noor, suggested the establishment of a ministry dedicated only for women issues. In general the political support of the political parties and the candidates for women's issues was very poor in order to win the support of the Islamic conservative trends. Even in media campaigns for elections, women issues, were not addressed as a public opinion's interest or concern, instead they were marginalized except for the ruling party that gave solid support to women in many areas, social, economic and political, because it is in hold of institutional equipment.

In general the presidential campaign was considered a forgone opportunity to forward women issues and highlight the importance of women participation to attention of the public opinion. Even 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.

The question that would pose itself in this context, could the issue of women equality be achieved by presidential decrees, inserting new constitutional articles, or should it be supported by the civil institutions: professional syndicates, political parties, non governmental organizations, intellectuals, and by the large popular sector? The answer of this question could be a good proposal for further research work on the issue of gender equality.

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Index

- (1) Juliette Minces, The House of Obedience :Women in Arab Society ,London Zed press, 1978. p. 95.
- (2) -Ibid.
- Juliette Minces, The House of Obedience :Women in Arab Society ,London Zed press, 1978, p. 9 5- 96.
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- (4) Lalila Abdel Gawad, Personal Status Laws in Egypt, a study, Published by the National Center of Social and Criminal Studies, 2000.
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- (*) The minor changes that Law 100 included was that the wife has the right to ask for divorce if here husband married another women without her consent and that this second marriage harmed her physically and psychologically. THE PROBLEM WITH THIS LAW THAT THE FIRST WIFE HAS TO SUBMIT TO THE COURT AN ALLABY TO PROVE THAT SHE WAS HARMED PHYSICALLY AND MORALLY TO RECEIVE A DIVORCE..
- (*) (refer to chapters II and IV, A Century of Struggle and The Public Discourse in Egypt).
- (6) Ibid
- (7) Juliette Minces, The House of Obedience, p.95
- (8) Ibid.p. 97
- (9) Ibid pp.97-99
- (10) Ibid.