Khul' divorce in Egypt: public debates, judicial practices, and everyday life
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Introduction

Presenting: the “khul‘ law”

In January 2000, the Egyptian nation was rocked by the implementation of a new procedural law in the field of Personal Status. This was ‘The Law on Reorganization of Certain Terms and Procedures of Litigation in Personal Status Matters,’ or Law no. 1 of the year 2000. As its name suggests, the new law aims at facilitating and speeding up litigation in matters pertaining to Personal Status Law disputes such as divorce by compressing the 600 clauses of the old procedural law into 79.

One of the clauses of this law, article 20, gives women the right to unilateral divorce or khul‘. According to this article on khul’, women have the right to divorce their husbands unilaterally on condition that: they renounce their outstanding financial rights and pay back the dower to the husband; go through a three months period of arbitration and explicitly claim in court that they hate living with their husband and, as result of that, are afraid to cross the limits of God. It was the first time in modern Egyptian history that women could divorce their husbands irrevocably without the latter’s consent being relevant and, upon fulfilling the above mentioned conditions, not even a judge was able to stop them from obtaining a divorce. Moreover, compared to already existing fault-based divorces, which could often take many years under the Egyptian legal system, a khul‘ divorce could be obtained within a few months, in theory at least.

In practice, law no. 1 of the year 2000, was soon nicknamed by Egyptians “the khul‘ law” as the article on khul’ (article 20) proved highly controversial and provoked widespread public discussion in the People’s Assembly, among the ‘ulama’ (religious scholars) and the general public.3 Opponents to the law frequently claimed that since women in a khul‘ procedure needed to give up their financial rights and pay back the dower, the law was merely for rich women who wanted to divorce their husbands for frivolous reasons, for example, to marry another man. In general, women were perceived to be irrational and, when no longer controlled by their husbands or under the supervision of a judge, women would misuse the right to divorce. They would abandon their families and their children in order to marry more handsome or wealthier men, leave their children to grow up like vagabonds and in the process Egyptian family life would be destroyed. Often, women’s irrationality was juxtaposed with men’s rationality and

3 There were other controversial points in the new law, such as the recognition of ‘urfi marriages and the clause which was finally removed to allow women to travel without their husbands’ consent. However, for most people, the law will always be known as the khul‘ law.
related to Islamic religion by saying that women are under the guardianship of men. Opponents did not deny the Islamic basis of *khul'* but they claimed that the sources of Islam were misinterpreted because the four schools of Islamic law only know a form of consensual *khul'* divorce. Even though a woman can take the initiative to request a divorce from her husband, she still cannot do it without his permission. In some cases, opponents were of the opinion that *khul'* was pushed through by international Western organisations and they accused the Egyptian government of having become a lackey of the West.

*Khul'* , however, was not only much talked-about in Egypt. Throughout the Muslim world, and especially in the Middle East, the developments in Egypt were closely followed. By introducing a form of *khul'* divorce in which the consent of the husband is irrelevant, the Egyptian legislator had given women one of the most extended divorce rights in the Muslim world, the only exceptions being Turkey (1926), Tunisia (1956) and Pakistan (1967). Just like in the case of Tunisia and Pakistan, the right of Egyptian women to divorce their husbands unilaterally was presented as being derived from Islam and *shari’a*. As such, the Egyptian *khul'* could be presented as a case of how Islam and Islamic law could be used to women’s advantage and various countries have taken the Egyptian *khul'* as an example to improve women’s rights to divorce (Welchman 2007).\(^4\) Despite the fact that its opponents had criticized *khul'* for being pushed through by international organisations, it must be mentioned that Egypt’s divorce system in general, and *khul'* in particular were also criticized by some of these same international organisations, especially Human Rights Watch (HRW). In that sense, the *khul'* reform forms part of what Welchman calls a third phase of Muslim personal status law reform in the Arab world (from approximately the last quarter century onwards) (2007, 13) in which due to “changed global, regional and national circumstances in Arab states…amendments to Muslim family law demonstrate an intense political contingency reflecting national and international pressures and dynamics” (2007, 42-3). In line with this, academic research in the late twentieth century has set out to evaluate the impact of such reform on the position and options of women (ibid, 14). This study on *khul'* offers one such modest

\(^4\) Besides the Egyptian and Jordanian judicial *khul’,* Welchman also pays attention to other approaches to judicial *khul’* such as the divorce based on *niza’ wa shiqaq* (discord and strife) and the Yemeni rules on dissolution for hatred or aversion (*karahiya*). In case of *niza’ wa shiqaq*, one or both of the spouses can ask the court to proclaim a divorce on the grounds of irreconcilable differences that make the continuation of marital life impossible. In such cases, the court will appoint mediators who must try to solve the marital dispute. If they fail, the court is obliged to rule for a divorce; to establish which of the two parties is at fault; and to assess financial rights accordingly (2007, 120). For more details on the Yemeni divorce based on *karahiya*, see Würth (2003, 14). For the Palestinian *niza’ wa shiqaq* divorce, see Moors (1995, 143).
contribution to academic research on a ‘third phase’ of Muslim personal status law reform.

**Research questions and research perspective**

Although the introduction of this new form of *khul’* divorce received a lot of attention, both in and outside Egypt, to my knowledge the subject has not been studied in a comprehensive manner within academia. Apart from the public debate on *khul’*, which has been analysed to a certain extent, there has been no study which also takes into account the way in which *khul’* operates in the courts and in daily life. This, I felt, was important since I depart from the idea that when people debate and criticize *khul’*, they are engaged in a struggle over hegemony that invokes and refers to wider issues of concern in Egyptian society. What are these wider issues? Do they also relate to Islam and Islamic law or are other non-religious factors at play as well? In order to provide an answer to these questions, it is necessary to conduct a comprehensive study on *khul’* which not only analyses the public debate on *khul’* but also relates and compares this debate to the operation of *khul’* in daily life. Hence, in light of a PhD project, I started in March 2003 with a study on *khul’* consisting of two sub-research areas: an analysis of the public debate on *khul’* as well as an analysis of the way in which *khul’* operates in the Egyptian courts and in contemporary everyday life.

1 **Analysing the public debate on *khul’***

As indicated above, the public debate on *khul’* has been studied to a certain extent. For example, in a comparative study on India, Israel and Egypt, Yüksel takes as a point of departure the 1955 reforms under Nasser which abolished the religious communal *courts* and unified them under a network of national courts. He shows how the Nasser government did not, however, abolish the communal *laias* and did not unite them under a common civil code. As a result, the language of Islam remained important in the field of Personal Status Law (PSL) and by using the example of the “*khul’* law” of 2000, Yüksel makes clear that if the Nasser government had united all communal laws under one civil law there would not have been any need to use the language of Islam. This phenomenon has actually weakened the control of the state over the social and religious institutions that it originally intended to establish by means of the 1955 reforms (2007).

Another study of the public debate on *khul’* by Singerman also pays attention to the phenomenon of women movements’ increasing usage of the language of Islam to push through substantive reform in the field of PSL. In fact, Yüksel refers a lot to this study by Singerman, published in 2005, which offers the reader an account of how the women’s movement, and their cooperation with high
ranking government officials, was instrumental in bringing about and ushering through parliament a form of unilateral khul’ divorce in Egypt. According to Singerman, using the language of Islam and seeking cooperation with government officials even “strengthened the links and the relevance of parliament to civil society” (2005, 164). A more factual account of the debate on khul’ by Zakariyya (2003) and Fawzy (2004) makes Singerman’s assumption doubtful as both Zakariyya and Fawzy show how even the MPs of the ruling NDP party strongly opposed khul’. Only through enforcing party discipline, the political leaders of the NDP were able to finally push through parliament the article on khul’.

What all of these studies have in common, is that their analysis is based on interviews with the main actors behind the law as well as newspaper articles and other written texts. At first, I also wanted to approach the analysis of the public debate in this way but after my first period of fieldwork in May and June 2003, I began to realize that other kinds of publicity, through popular culture media such as films and cartoons, played an important role as well.

When I arrived in Cairo in May 2003, the film muHāmī khul’ (The Khul’ Lawyer) had just been released. It would be an exaggeration to claim that the film was the talk of the town but when people asked me what I was doing in Egypt and learned that I was there to study khul’ they would at first laugh mischievously and then suggested that I should see this film. “It is a comedy about a very rich woman who wants to divorce her husband because he is snoring” they would say while giggling. Was this the heavily debated khul’ law which had aroused so much controversy and which had even led MPs of the ruling National Democratic Party (NDP) to proclaim their opposition to it and now people were making fun of it?

During that period I also watched urīdu Hallan (I Want a Solution), starring Fatin Hamama, one of Egypt’s most famous living actresses and who is also known as sayyidat al-shasha al-‘arabiya (The Lady of the Arab Screen). Full of drama, the film, which was released in 1975 tells the story of an upper class woman – Fatin Hamama - who wants to divorce her alcoholic, abusive and unfaithful husband but who fails to convince the judge of her “good” reasons for divorce. After four years of legal battle, the judge declines her case.5

I found out about this film in the same way that I had found out about muHāmī khul’. In both cases it was the word khul’ that lead people to direct my attention to these two films. In the case of urīdu Hallan some people commented that I had to see the film and that it was a sad film because of its depictions of unjust court practices and wrongful oppression by the husband. However, then they would start to laugh playfully and say that it had all changed now and that if

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5 In a study on popular Egyptian cinema Shafik analyzes the film urīdu Hallan in the context of what she calls “cinematic misery feminism.” Cinematic misery feminism represents a view that sees women as objects of male power thereby neglecting women’s capabilities to improve their situation (2007, 133-7).
I wanted to find out, I should see muHāmī khul’. In other cases, people would say the opposite: “muHāmī khul’ is a comedy. If you really want to learn about the practice of divorce in Egypt you have to see urīdu Hallan.”

In this same period (shortly after my arrival in Egypt in May 2003), this feeling was reinforced when I told my Arabic teacher that I was studying the khul’ law. He warned me not to focus only on khul’ as there were other controversial issues in the law such as ‘urfi-marriages which had provoked a lot of consternation too. ‘Urfi-marriages are marriages which are not officially registered with the relevant state authorities. Before the introduction of the khul’ law women who had married through ‘urfi could not obtain a divorce. This, my teacher told me, had left many people in bewilderment, wondering what would happen to Egypt with these secret love marriages (which it was thought were often conducted by young people without the parents’ knowledge with no other purpose than sexual pleasure outside marriage) now officially being recognized by the state. “And,” he continued, “to make things worse, a film was released which confirmed all the things they had been afraid of.” The film my teacher was talking about was mudhakkira al-murāhiqa (Diary of a Teenage Girl) by Inas al-Daghadi. It was released in 2002, two years after both the controversial khul’ and ‘urfi article had been implemented and it tells the story of a young girl who becomes pregnant after she and her boyfriend conduct an ‘urfi marriage without their parents’ knowledge.

Hence, a few weeks after my arrival in Egypt in May 2003, I had already seen three films and many cartoons about divorce in Egypt but I had hardly glanced at any written materials such as newspaper articles. When a film by the title urīdu khul’an (I Want Khul’) was released in 2005 – a spin on the film urīdu Hallan - I became more convinced that popular culture in general and films and cartoons especially were playing an important role in the public debate on khul’. The importance of popular culture media is based on certain factors. One factor is related to the relatively high level of illiteracy in Egypt. As a result, written texts, such as those found in newspapers, are inaccessible to large parts of the population. Secondly, in a culture where political opposition is limited, Egyptians use fun and joking “as a safe way to express rejection, opposition and anger, and to break tension” (Saleh 2004, 2). Thirdly, not only do works of popular culture release tension but Egyptians are extremely fond of their film stars. In this sense, Abu-Lughod even speaks of “star magic” as stars serve as icons of Egypt and

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6 This, of course, is different with regard to talk shows on television in which rational arguments are exchanged through the use of the spoken word. However, it could also be argued that formal usage of language also serves to create a distance between speakers and viewers. For my analysis, however, I have chosen to not include television talk shows in the analysis as it was difficult to gain insight, retrospectively, in a television debate that had been raging at the end of 1999 and the beginning of 2000, a period in which I was not present in Egypt.
people’s attachment to them even fosters a sense of national belonging: “To be involved with the stars is to be part of a national romance,” she says (2005, 228).

**Studies on public debates & reform of Muslim Personal Status Law**

Eager to know more about the subject of Personal Status Law in relation to popular culture, I searched for literature on public debates surrounding reform of Personal Status Law in Egypt and other Muslim countries. I found a few studies which explicitly analyse public debates on reform of Muslim Personal Status Law, but these did not analyse films, cartoons or other works of popular culture.

For example, in an issue of the journal *Islamic Law and Society*, four case studies are presented in which Buskens, Welchman, Schulz and Würth provide an analysis of the public debates which surrounded reform of PSL in Morocco, Palestine, Mali and Yemen respectively (2003). They point out the different participants in the debates and show how the circle of participants in the public debates on reform of PSL has widened and has increasingly come to include Islamists and women NGOs with a Western agenda who were supported by international donor organizations. As well as the inclusion of new participants, the authors also pay attention to processes of exclusion (Moors 2003). In addition, and in line with Yüksel, Singerman, Fawzy and Zakariyya, they mention how all participants use the language of Islam in order to convince the other of the merits of their case. In a study on the enactment of Personal Status Law in the *shari’a* court of Gaza city in Palestine, Shehada (2005) also pays attention to these questions.

Notwithstanding that these studies on public debates over law reform, both in and outside Egypt, were informative and insightful, the sources they used were largely based on verbal statements of participants in interviews and from newspapers and there was little mention of statements made through cartoons and films. As a result, I was not sure how I could relate these studies to the Egyptian public debate in which films (both drama and comedies) and cartoons seemed to play an important role and in which words but also dress and other non-written expressions were used to articulate a certain message.

There are a few works which allude to the influence of popular culture on PSL reform. For example, in her already mentioned article, Singerman refers to the film *urūdu Hallān* saying that the film had taken the reform of PSL “out of the closet”. In a study on judicial discretion in Syria, Carlisle believes that legal awareness is influenced by popular culture, a factor which “has yet to receive the attention of studies into Muslim family law in practice” (2007, 58). Finally, in the introduction to the above mentioned issue of *Islamic Law and Society*, Moors presents a Palestinian documentary to illustrate how the debate on reform of PSL

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7 In fact, the approach to chapter 2, which deals with an analysis of the public debate in newspapers and magazines, is largely based on these studies.
has come to include a large number of participants. Although interesting, these references did not provide me greater insight into the role of films and cartoons in public debates. However, in *Religion, Media, and the Public Sphere* Moors explicitly pays attention to the “...ways in which particular media in Palestine present and engage with public debates on family law” (2006, 115). According to Moors, texts and films provide the audience with different information. Where written texts mention that the main participants in the debate on reform of PSL have become the Islamists and women NGOs, films depict a different picture as they (unintentionally) show that women Islamists also partake in the debate. Although these women remain silent, it is through their body language and style of dress that they make their presence felt. By comparing written texts to films, Moors makes clear that women Islamists are not mentioned in, and therefore excluded from the debate in written texts, while in the films they are not only visibly present but also know how to make their voice heard (2006, 125).

Not only did Moors’ study make me understand why it is insightful to include visual materials in the analysis, it made me realize that in order to form an idea as to what themes were included and/or excluded in the Egyptian public debate on *khul’*, it was important to analyze national media such as newspapers and magazines as well as popular culture media. In this way, it becomes clear whether newspapers and magazines address the same issues as films and cartoons.

With regard to the debate on *khul’* I found out that where newspapers often pointed to the conformity or non-conformity of *khul’* with sharia, the films and cartoons did not mention religion, at least not explicitly. While in newspapers the West and the Egyptian government were accused of participating in a Zionist conspiracy the only intention of which was to attack Islam, in the films and cartoons it was the modern city which was juxtaposed with the Egyptian countryside. Hence, where newspapers highlighted the difference between Egyptian Islam-based culture versus Westernization, the films pointed out the difference between the Egyptian countryside versus the modern Westernized city of Cairo. The latter difference is played out by the element of dress but also by the elements of music and language whereby the Egyptian countryside is presented as good, while the modern Egyptian city is presented as detached from its roots and therefore as foolish and bad. Yet, there was one element which the newspapers, on the one hand, and the films and cartoons, on the other hand, had in common and this was the fact that they both presented a picture of *khul’* women as being westernized women from the upper classes who threatened Islam and the Egyptian countryside, respectively. The inclusion of films and cartoons made clear

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*Zarzycka also claims that cultural productions are a form of knowledge which can offer an understanding of the subject matter under study—in this case pain and the female body—that is unavailable through purely cognitive means (2007).*
that the debate on *khul‘* did not only centre on Islam and Islamic law-related issues. Upon closer inspection, other issues such as cultural authenticity, modernization and changing notions of man- and womanhood were at stake as well.

At this point, it needs to be stressed that the interpretation of the films which I just mentioned, is a product of my own analysis and not based on interviews or statements of the filmmakers or others involved in the films’ production or performance. While looking for literature in connection with my analysis of the films, I came across the work of both Abu-Lughod and Armbrust on popular culture in Egypt. I was especially interested in Armbrust’s analysis of a film genre which he calls the “vulgar genre.” With Upper Egypt being the stereotypical site of backwardness and the subject of many jokes made by Egyptians living in the urban areas of Egypt, in his study on mass culture and modernism in Egypt, Armbrust directed my attention to a new film genre in which the region is no longer the site of backwardness but representative of the honour of the nation instead. This reversal is used to criticize the modernizing project of the government and I found it interesting because this reversal also takes place in the two films on *khul‘*.

In her study on the politics of television in Egypt, Abu-Lughod explicitly pays attention to the modernizing project of the Egyptian government and how it uses television serials to disseminate its message to the population. While this is interesting in itself, I also found her study interesting for another reason. While, according to Abu-Lughod, television serials are used by the government to underline its modernizing project and to educate its citizens, they often do not bear much resemblance to the lives of its viewers (in her study: women villagers and female workers in Cairo), as most television serials deal with urban, often upper-class problems. As a result, viewers tend to be selective in their reading of the message of television dramas. Viewers merely perceive the television serials to be constructed fantasy with a high level of entertainment (2005, 237-9).

If we apply her analysis to the two films on *khul‘* it would mean that the lives of the upper class women in the films who file for *khul‘* are very different from the lives of the people who watch the films, and one would tend to believe that *khul‘* would only be used by upper class women. However, the first woman of the country who filed for *khul‘* was not a rich woman from the upper class as was the case in the film *urīdu khul’an* (which presented the case of this woman as the first *khul‘* case of the country) but a *fallaha* (female peasant) from Lower Egypt! Dressed in a black *gallabiya* (long, loose outer garment) and the veil typically worn by lower-class women and pursuing a *khul‘* divorce because her husband was abusing her and had married a second wife, this woman clearly was not the
modern westernized woman depicted in films who only wanted to file for a divorce because her husband was snoring.

This of course raises the question as to the daily reality of khul’. Is khul’ a problem of the urban upper (middle) class or did the two films present in a comical way a problem that bore resemblance to the lives of its viewers and which could not solely be explained away as what Abu-Lughod calls “constructed fantasy” (2005, 238)? It is at this point that the analysis moves from the public debate on khul’ to the implementation of khul’ in the courts and its operation in daily life.

2 Analysing the operation of khul’ in practice

With khul’ sparking much controversy in the public debate, I wondered if this would affect its implementation in court. Of course, it is difficult to establish a causal relationship between the public debate and the way in which judges implement khul’ in the courts. Nevertheless, I was eager to know more about judges’ opinion on khul’; whether they related khul’ to Islamic law; what they thought of women who use khul’ and whether these perceptions influenced their professional attitude in court. I wanted to analyse this both by interviewing judges and by observing in court sessions how judges interacted with women litigants who had filed for a khul’ divorce.

Interesting court studies on Egypt had been conducted by Hill and Zaalouk in the 1970s. When I was doing my main fieldwork between October 2003 and October 2004, I initially was surprised to learn that hardly any other ethnographic research had been conducted after this period. This I found somewhat strange for two reasons. First, Egypt has always taken a prominent place in academic literature on legal reform in the field of Islamic law in general and PSL in particular (cf. El-Alami 1992; El-Alami and Hinchcliffe 1996; Bernard-Maugiron 2004; Bernard-Maugiron and Dupret 2002; Brown 1997; Esposito 1982, 2001). Second, in general, studies on the implementation of PSL in (Islamic) courts have increased (see also Hirsch 2006). According to Hirsch “Much recent literature on Islamic courts consists of ethnographic studies in a wide range of societies” (2006, 176), such as Iran and Morocco (Mir-Hosseini 1993), Morocco (Rosen 1989; Buskens 1999), Indonesia (Bowen 2003), Malaysia (Peletz 2002), Palestine (Shehada 2005), Yemen (Würth 1995) and Syria (Carlisle 2007). In all these studies, a legal-anthropological perspective is used in which the interaction between litigants and judges is studied. Apart from these works which deal with the here and now, historical studies on court records have also increased, as the works of Shaham on Egypt (1997) and Tucker (1998) on Ottoman Syria and Palestine, show.9

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9 For more information on scholarship on court studies in general, see Hirsch (2006).
The reason for the relatively few ethnographic court studies on Egypt might be related to a methodological constraint which I came across during the fieldwork: I was not allowed to attend PSL cases in the courts of Egypt and could only talk to judges, women litigants and lawyers on an individual basis. This also transpires in the report of Human Rights Watch on women’s divorce rights in Egypt (2004) in which interview fragments with judges, lawyers and women litigants are presented abundantly but where no mention is made of how judges interact with female clients and/or their lawyers. This was different in the early 1970s when Hill conducted her research on the Egyptian court system. Her book *Mahkama* (1979) is full of references to court sessions, both personal status sessions and sessions in other fields of law. However, in the mid to late ’70s, a shift towards secrecy seems to have occurred as personal status cases were no longer heard in public (Agrama forthcoming).

The draft to law no. 1 of the year 2000 even included an article stating that all personal status cases needed to be heard in secret out of respect for public order, morals and the sanctity of the family (ibid, 28). Under parliamentary discussion, the article was changed and in its final form it was left up to the courts to decide whether or not personal status hearings should be held in secret in particular cases, based on public order considerations (ibid, 29).

This methodological constraint made me realize that I would not be able to conduct a court study in the “traditional” way. Yet, I also had another reason for not wanting to do this. In my eyes, the court studies which I mentioned above are often focused on the figure of the judge (an exception would be the study of Buskens 1999). What does the judge say and what does he do in reality? Hirsh too claims that although court studies explore the court’s operations as part of ongoing social life, ultimately, though, judges receive the most scholarly attention (2006, 176-7). However, if we want to know more about women litigants, what they say in court and what they really do both in and outside court, we need to proceed in a way that takes us away from the court’s premises.

In the case of the Egyptian khul’, newspapers had often claimed that women would only use the law to marry a rich and more handsome man. Women in court, however, often vehemently claimed that they had enough of marital life and that they never wanted to marry again. What happened in reality? Did women really remarry and if so, to what type of men or did they remain single? Where did

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10 In this article Agrama argues that the shift from open personal status sessions to secret sessions is an example of a conflict in Egypt that seems to arise from a clash between Islamic precepts and secular ideals. In actuality, he argues, this and other conflicts arise from deeper tensions within liberal secularism itself (forthcoming).

11 In 2008, al-Sharnani published a report on Family Courts in Egypt. The data on which the report was build largely consisted of in-depth interviews but also of observations of court- and mediation sessions.
they live after the divorce? Were they supported by their families and others close
to them? Did they take their children with them or did they abandon them, as
opponents to khul’ had often predicted? Were they forced to work or were they
already employed? Were they involved in other (PSL) cases?

Providing an answer to these questions is important since there are few
studies which deal with the lives of divorced women in Egypt. In a study on
female-headed-households in Egypt, Bibars pays attention to the phenomenon of
divorce but she does this in an indirect way since her study concerns female-
headed-households in general, and not only those in cases of divorce (2001). The
interesting ethnographies on family life in Egypt (mainly Cairo) by Wikan (1980);
Rugh (1985); Singerman (1995) and Hoodfar (1997), do not pay much attention to
the issue of divorce. This is surprising when we consider that approximately one
out of five marriages ends in divorce; that women are under constant threat to be
repudiated by their husbands; that Egyptians frequently claim among themselves
and in the public debate that divorce rates have sky-rocketed; and that divorce is a
recurrent theme in popular media.

An interesting work on women and divorce is Jansen’s Women Without
Men (1987). Focusing on an Algerian town in the 1980s, she pays special attention
to women who are widows, divorced or orphaned. She shows how they all have to
provide for themselves, how they have come to occupy a marginal position in a
society in which men are expected to provide for female family members, but that
this women’s marginality simultaneously leads to forms of emancipation (1987).
Interestingly, Jansen also remarks that “Widows and others on the fringes of the
kinship structure of North Africa have not been studied by scientists, but their
situation has received ample attention from novelists and filmmakers” (1987, 4).
Two decades later, this situation does not seem to have changed. There are still few
scholarly works which pay attention to the lives of divorcees from an
anthropological perspective while the issue of divorce still receives ample attention
in cartoons and films (such as urīdu Hallan, muḤāmī khul’ and urīdu khul’an). 12

Because of this, and for practical reasons as mentioned above, I have
chosen not to take the courts as a point of departure but instead to focus on the
lives of women who file for a divorce through khul’. Specifically, I focus on the life
of one woman whom I met in court and who had filed a khul’ divorce. After our
first meeting, she invited me to meet her colleagues, her friends and family.
Through these meetings and the telephone conversations we had, I was able to
gain an understanding of how divorce in general and particularly the controversial

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12 In Women, the Family, and Divorce Laws in Islamic History, Sonbol (1996) pays attention to women and
divorce but from a historical and not an anthropological perspective, while Chemais “Obstacles to
Divorce for Muslim Women in Egypt” (1996) is based on a study of court documents, law texts and
interviews with judges but not on anthropological study of the lives of divorced women.
"khul'" divorce impacted on her life during, but especially after, the divorce. It showed me that there was a difference between her words, her plans and her hopes as expressed in court and their actual realization in her life after the divorce. It also became clear that there was a discrepancy between the themes that were brought forward in the public debate, and those brought by this woman, to whom I have given the fictitious name Nura, and other women's daily experiences. In this light, Mernissi would say that the way in which women were depicted in the public debate was a defense mechanism against profound changes in sex roles and sexual identity, a psychological need to maintain a minimal sense of identity in a confusing and shifting reality (1987, xxvii). This study particularly singles out this “shifting reality” by analyzing socio-economic changes that do not only influence the making of the law by the legislature but also its remaking by people, to use the words of Shehada (2005, 8). We will see that husbands' obligation to maintenance and wives' obligation to obedience play an important role.

**Organization of the study**

In the first chapter, I pay attention to the evolution of PSL in Egypt, from the early 1920s when the first codified PSL codes were introduced, until the introduction and implementation of Egypt's first law of the new millennium, the “"khul' law"” of 2000. In this overview I will not contextualize PSL by presenting a full picture of Egypt's legal system. Others have done that (cf. Bernard-Maugiron and Dupret 2002). Neither will I elaborate on the sources of Islamic law which underlie the issues that are codified in PSL (such as marriage, divorce, custody and inheritance) or the different techniques which reformers used to present the reforms as being in accordance with Islam and Islamic law. Apart from the fact that others are more knowledgeable in these fields (cf. Arabi (2001, 2001b, 2002); Layish (2004); Lombardi (2006)), I am of the opinion that in this case it is more interesting to relate reform of PSL to the film *urīdu Hallan* since many Egyptians whom I encountered during research for this thesis said that this film was a catalyst for publicly exposing issues surrounding the reform of PSL. While it is of course difficult to answer the question as to whether this is really true, it is still worthwhile to briefly present the film and then elaborate on the issues which according to Egyptians I met, aroused most empathy. These issues are: the ease with which husbands can throw their wives on the street, leaving them without any source of income or a place to stay, even if there was no fault on the part of the wife; sluggish court procedures; abusive husbands who refuse to grant their wives a divorce and prevent them from starting new lives, in some cases even invoking a so-called *ta'a* ordinance where the police could force a wife to return to the marital home. In a way, all these issues encompass the so-called maintenance-obedience relationship. This relationship which is still anchored in Egypt's PSLs today
demands that husbands are providers and that, in return, women need to obey their husbands.

While the maintenance-obedience relation is a legal concept, it also featured prominently in the public debate on *khulʿ*. In newspapers, for example, women’s irrationality was often presented as the main reason behind women’s need to obey their husbands and in the films and cartoons we see what happens when women no longer need to obey their husbands because they can divorce unilaterally. In chapter 2 and 3, I relate the maintenance-obedience relation to the public debate on *khulʿ* and show how it was politicized by the different parties to the debate. In chapter 2 this will be done for the public debate as it appeared in the written texts of national media such as newspapers and magazines. Here I follow the authors of the *Islamic Law and Society* issue by posing the same questions: who were the parties to the debate; what arguments did they use; did they try to exclude each other from the debate, and if so, what were their methods (Moors 2003)?

In addition to an analysis of the debate on *khulʿ*, I also decided to analyse reform of PSL which was adopted in the wake of the “*khulʿ* law” in the period between 2000 and 2007. I decided to do this after I had noticed how, in contrast to the debate on *khulʿ*, the controversial nature of these reforms (such as the right of women to travel without the permission of their husbands) was not reflected in the public debate in newspapers. In this light Moors claims that it is not only important to understand who gains or loses positions of authority, but that a study of the public debate should also try to investigate “...the moments when groups highlight their particular identities and interests, and when they downplay such specificities” (forthcoming). By applying this to the analysis of the public debate on PSL reform during 2000-2007, I found out that this time the strongest criticism did not come from newspapers but from two films: *muHāmī khulʿ* (2003) and *urīdu khulʿ’an* (2005).

In chapter 3 I present these two films. I describe and analyse the use of dressmakers, music and language and show how in these works of popular culture they served to articulate a political message through which the Egyptian state was ridiculed and criticized. These first three chapters cover part I which analyses the public debate on *khulʿ* and which also provides a background to part II where the discussion turns to the operation of *khulʿ* in practice.

Part II comprises of 5 chapters. Chapter 4 describes the first meeting with Nura in the Zananiri court of Cairo. An analysis of this first meeting challenges the claim that *khulʿ* is for rich women only as the case of Nura and other women makes clear that the amount of the dower is only symbolic. I explain why this is the case; how it led husbands to appeal the return of the dower; how and why judges often
took the side of the husband, and made women pay back an amount which exceeded the dower they had received.

In chapter 5, the issue of court arbitration is discussed. In light of the establishment of a new Family Court in 2004, which took as it main rationale solving marital disputes in an amicable way, I wonder whether this new opportunity for “dialogue” between judges and women litigants influences judges’ perception of women who file for *khul*. I pose the same question with regard to the professional court-appointed arbitrators who started working in the new Family Courts from 2004 onwards. Although it turns out that both judges and the male arbitrator often link *khul* to women’s disobedience, this does not necessarily mean that they treat women accordingly.

After the divorce, Nura wanted to travel abroad in order to find a well-paid job through which she hoped to take back into custody her children. Chapter 6, then, presents the issue of women travelling without the consent of the husband. While opponents to the law had often claimed that the travel article would only give rich women the opportunity to travel without the permission of their husbands, the case of Nura shows that it is not unlikely that lower class women also want to travel, preferably to the countries of the Gulf. The reason for their travel is economic as they either are not married at all or have husbands who are not working. However, travelling without the husband’s consent exemplifies women’s disobedience par excellence and gives the husband the right to call his wife back into his obedience by submitting a *ta’a* claim. In this chapter it will become clear when and why men and women turn to court to submit *ta’a* and divorce claims, respectively.

After the divorce Nura started living with her old and sick mother. This, however, did not mean that Nura started to take care of her mother. In chapter 7, I pay attention to this phenomenon by bringing up the issue of female-headed-households. I show how they exemplify the decreasing strength of family ties in general and the decreasing ability of the family to negotiate in cases of marital disputes in particular; and whether, in the absence of family, friends take up such tasks. I also pay attention to the problems between wives and their in-laws.

Finally, chapter 8 shows how Nura wanted to marry again. However, in order not to give up her independence and freedom, she only wanted to marry an already married man. I discuss why she wanted to marry again and why she chose to marry in this specific way. By doing so, I simultaneously deal with the subject of secret marriages, the so-called *‘urfi* marriages, which also formed a point of heated discussion in the public debate on *khul*, both in newspapers and in films.
Research methods

As indicated earlier, this study on *khul’* is part of a PhD project which I started in March 2003. In May and June 2003, I stayed in Egypt for the first period of fieldwork. From October 2003 until November 2004, the second and main period of fieldwork was carried out. Thereafter, I returned to Egypt for several shorter periods of fieldwork in May 2005, September 2005, November 2005, and April 2007.

A comprehensive study on *khul’* in Egypt is ambitious and complex. It crosses disciplines and requires the researcher to have a good understanding of these disciplines. In what follows, I elaborate on the research methods which I used for this study as well the problems and limitations I encountered.

After four years of studying Arabic language and culture, including a semester in Cairo, I found conducting interviews in Egyptian or standard Arabic not so easy. But there was no escape. In general, people’s command of English was very limited. Even in the case of well educated judges and lawyers, especially when we spoke about their work, we had to use Egyptian Arabic, and often even Standard Arabic as will be seen in chapter 5. I learnt a whole new legal vocabulary (at the time I did not have a background in law) and I also had to read legal texts (such as legal books, legal documents and different Personal Status Laws), newspaper articles and watch films. In my contacts with “common” Egyptians, I had to switch from formal (legal) discourse in Standard Arabic to informal talk in Egyptian Arabic. This felt like learning a new language. As a result, during the different periods of my fieldwork, a considerable amount of time was invested in improving my Arabic. I must say that my reading and communication skills in Arabic, both Standard and Egyptian, improved quickly and I found mastering the different levels of the Arabic language the most enjoyable part of my research.

1 Analysing the public debate on *khul’*

I have used different sources with regard to the analysis of the public debate. Chapter 2, which deals with an analysis of the debate in written national media, is based on Egyptian newspapers and magazines which are distributed nationwide and which cover both governmental (*al-ahrām*, *al-jumhūrīya*) and oppositional (such as *al-sha’b*, *al-wafd*) papers. The opposition papers cover both left and right wing positions. In general, all papers are written in Arabic although I have also made use of an English-based newspaper by the name *al-Ahram Weekly*. Since the papers dealt with a debate which had largely taken place in a period when I was not in Egypt, I had to rely on the archives of the American University in Cairo. Other papers of a later period I simply bought and read when I was in Egypt.
I decided to limit the analysis of the national media debate to written texts and to exclude the debates which were broadcasted on television during the introduction and implementation of the “khul’ law.” Although rational arguments can and were also expressed through the use of the spoken word in talk shows on television, it was difficult to gain insight, in a retrospective way, in a television debate that had been raging at the end of 1999 and the beginning of 2000, in which period I was not present in Egypt.

With regard to the analysis of the public debate on khul’ in films and cartoons, I partly relied on the same sources. For example, I found most of the cartoons for this study in the library of the American University in Cairo, while others have been gathered from private collections. I bought all the films I watched and since they were all in Egyptian Arabic, I always made sure that I watched them in the company of a native speaker.

2 Analysing the operation of khul’ in the courts

Most of the limitations of this study are to be found in the sub-research area which deals with the operation of khul’ in the courts. First of all, and as indicated before, I was not able to attend personal status sessions in court. It was only during a short period of fieldwork in May 2005 that I met a judge who was willing to let me attend his personal status sessions. It was through his cooperation that I was able to attend four personal status sessions. Being too good an opportunity to be true, and in order not to miss out a word, I always made sure that a friend, Muhammad, who was a graduate of law, accompanied me to these sessions and that both Muhammad and I made notes which we compared and processed immediately after the court sessions.

Secondly, the geographical location of the courts was limited. During the main fieldwork period which extended from October 2003 till November 2004, I mainly visited courts in Cairo (especially the Zananiri court), and only once a court in Kafr as-Sheikh, a provincial town in Lower Egypt.

Inside the courts, I conducted formal interviews with about fifteen judges. I never made appointments but simply let the hagib (bailiff), knock on their door and introduce me to them, after which they were always willing to be interviewed. Interviewing them was difficult because they were hardly ever alone and often, I found myself speaking to several judges at once and sometimes others, such as friends of the judge or the katib (court clerk) also mingled in our conversation. Therefore, the interviews were rather loosely structured and I was not always able to bring the same topics to the attention of each individual judge. I interviewed most judges only once, but there were also two judges whom I was able to interview a few times. Obviously, the statements of these two judges play an
important role in the analysis. As a result of these limitations, the interviews with judges should not be used to make numerical conclusions.

It was difficult to obtain statistics on a number of topics such as the number of women-initiated divorces in Egypt; the number of women who file for *khul'*; and the time it takes for different divorce cases to be issued a ruling, if at all. All endeavours from my side and from others to collect statistics were in vain and I ceased research in that area.

In the courts I also spoke to arbitrators, lawyers, *hagib*-s, *katib*-s and litigants, mainly women but also a few men. The interviews with them ranged from loosely structured to informal unstructured conversations and discussions which also varied greatly in length (from a few minutes to a few hours). I talked to the same categories of people outside court as well, in the same way: sometimes casually and loosely structured while at other times the conversations were more structured and formal.

With regard to the arbitrators, it must be mentioned that the new Family Court, in which the arbitrators had started working, was up and running in October 2004, at which period I was preparing to leave Egypt. Consequently, I was only able to conduct research on the new Family Court during the fieldwork period which lasted from May until June 2005. In this period, I was lucky enough to get permission to visit one arbitration office in Cairo’s Zananiri court and conduct interviews with the male and female arbitrator. I was able to observe the way the arbitrators interacted with their clients; and to obtain from them the reports which these arbitrators had to submit to the judge. Yet, since these findings are based only on a month-long observation from this particular arbitration office and its two arbitrators, I am reluctant to state that they give an exact picture of reconciliation in the new Family Courts. Instead, they rather show one way of doing this.13

### 3 Analysing the operation of *khul’* in daily life

As indicated above, the analysis of the operation of *khul’* in daily life formed a important part of my research since I believe it fills a gap in the anthropological study of the lives of divorced women in Egypt and in the Muslim world in general. The analysis of this part of the research is mainly based on informal conversations with men and women from different social-economic backgrounds. I must say that the communication with Nura, whose story forms the basis of the five chapters of part II, was somewhat difficult. Even though she was extremely friendly and cooperative she would change the subject every few minutes making it difficult for me to follow her and to elaborate on any one subject in depth. In addition, she was

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13 For a more numerical study on arbitration in the new Family Courts, see al-Sharmani (2008).
hardly ever alone. In court, at work and at home, she was always surrounded by others who would interrupt our conversation; who would provide their own opinion; or who would change the conversation into another subject. In fact, the only time I was really able to systematically interview her and take notes was during our first meeting in the court in Cairo. The other meetings and telephone conversations with her were all informal, unstructured conversations. The same applies to her colleagues, friends and family, whom I met several times during the research and whose life stories I was also able to follow to some extent.

Apart from Nura (and her colleagues, friends and family), I also met a lot of other women, often through mutual friends, who wanted to divorce: either through khul’ or a regular judicial divorce, while others had not taken any legal steps yet but were “only” considering the possibility of divorce. The meetings with these women were sometimes arranged rather formally by my friends, while in other cases they were coincidental. Some of these women I would only meet once but through my friends, I was able to stay informed of their situations.

In many other cases, I only heard stories about women with marital problems without actually meeting these women. Friends often knew that I was conducting research on khul’ and when a story would come to their attention, they would tell me about it. Most of my friends, and the women I met through them, were young women from the middle and upper middle classes who were in their twenties and thirties and who lived in Cairo, or who had come to Cairo in order to study and work.

However, many close friends were also men whom my partner Tom had befriended and with whom we spent many enjoyable evenings in the many qahwa-s (coffeehouses) of Cairo. I always felt that the presence of Tom increased my research opportunities considerably. In his presence, I could go out with men without raising any suspicion and at the same time hear these men argue about khul’ but also about marriage and divorce in general. As a matter of fact, the subject of marriage and divorce often aroused strong emotions as many of these men were in a phase in which they were considering or even preparing for marriage. One of them became such a close friend that we accompanied him on several occasions to a village in Lower Egypt where we met his family as well as his old schoolmates and friends. With his mother, brother and sister-in-law, I talked a lot about marriage and divorce related issues during the day while Tom and I would accompany him in the evenings to a qahwa (coffeehouse) where he would meet friends. Like my female friends, most of these male friends were young middle and upper-middle class men in their twenties and thirties who lived in Cairo or were there to study and / or work.

Tom and I were also introduced into a group of older men and women from the higher middle classes the majority of whom lived, like us, in Masr al-
Gadida, a large upper-middle class district, thirty minutes away from the center of Cairo. This group consisted of men and women who were highly educated and who gathered a few times a week in one of their apartments or somewhere outside the home, in order to have a drink and discuss literature and other intellectual subjects. Living lives completely different from that of Nura and most of the other people I met, they always reminded me of Duriya, the main actress of uriddu Hallan. Since they had grown up; married; become mothers and fathers and had often also divorced in the mid-sixties of uriddu Hallan, they were able to depict a very lively picture of this period.

I have also included many stories which came to my attention through people whom I did not know such as taxi drivers; women in the metro; street vendors and so on. This was related to the fact that many wanted to know what I was doing in Egypt and when I explained to them the purpose of my visit, they would often tell me their opinion about khul’ and illustrate this by a case they knew. I should also mention the lawyer’s office of Amal. During the fieldwork Amal worked as a lawyer in an office in Cairo which offers women free legal assistance. This office was part of the Egyptian NGO called The Egyptian Center for Women’s Rights (ECWR). I often accompanied Amal on her visits to the courts in the mornings. In the courts, there was never time to meet women litigants as Amal was always in a hurry, filling out and submitting different forms in different parts of the courts. Even when she met litigants in court, there was hardly ever time for me to talk with them. However, in the afternoons she would go back to the office to prepare the court cases for the next day and to register the cases of women who dropped by and who wanted to apply for a divorce. I frequently accompanied her to the office in order to interview these women. These interviews were conducted in a private room adjoining the room where Amal and her four colleagues were working. In Amal’s office, I interviewed around fifteen women from the lower and lower-middle classes who wanted to divorce either through khul’ or a regular judicial divorce. In contrast to the other data I collected, these data were based on interviews which lasted approximately one hour; were taped and transcribed and conducted in a rather formal and structured way; and were carried out in the course of one meeting. Although I could not follow these women’s stories over the course of time, I found them very useful as I compared the issues which were raised in these interviews with those that occurred in the lives of the many women and men whom I met in a more informal way.

Finally, I should mention that, in order to protect the anonymity of my respondents, I have chosen to give them fictitious names.