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Rights & Reality – On the Legal Reality Faced by Women in Arab Countries

As Exemplified by Matrimonial Law

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Foreword

It is a known fact that women in many countries face difficulties in obtaining their legal rights. Yet only little information is available in international cooperation on the actual barriers that prevent women from successfully claiming those rights. The present publication aims to make a first contribution toward closing that information gap, by identifying the factors that determine the legal reality faced by women in Arab countries.

The Arab Human Development Reports published since 2002 identify structural discrimination against women as a key cause of the social and economic problems faced in the Arab region. The Arab Human Development Report 2005 is indeed devoted entirely to gender issues. It makes a determined call for the social status of women to be improved, and especially for legal discrimination to be eliminated - both formally and in legal practice. The present paper aims to help respond to that call.

On behalf of Germany's Federal Ministry for Economic Cooperation and Development (BMZ), the GTZ programme "Promoting gender equality and women's rights" supports gender mainstreaming within German development cooperation, and advisory activities to help eliminate gender discrimination. Innovative civil-society approaches are being promoted in Latin America, Asia and Africa. The lessons learned from cooperation with a wide spectrum

of partners provide key impetus for the ongoing development of approaches and strategies for international and German development cooperation in the context of democratisation, good governance and the rule of law.

The present publication is the second in the "Women's Rights in the Arab World" series. The first provides an overview of gender discrimination against Muslim women in the context of national family law.¹ The third will present innovative approaches and strategies that can help enable development cooperation support women in claiming their rights. Like the others in the series, this publication is designed for interested professionals and experts.

At this point we would like to express our heartfelt gratitude to all of our colleagues whose valuable contributions have made this publication what it is. Our special thanks go to Anna Erdelmann, Elvira Ganter, Juliane Osterhaus, Angela Paul and Katrin Schneider for their valuable inputs.

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¹ Würth (2004): *Women's Rights in the Arab World: Overview of the status of women in family law with special reference to the influence of Islamic factors*. GTZ/BMZ publication, Eschborn 2004.



Introduction

Most Arab countries lay down the equality of the sexes in their constitutions. A total of 18 of the 22 Arab League states have signed the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).² These countries have, however, entered reservations, particularly regarding those articles that relate to women's legal position within the family. By declaring these reservations, the states withdraw from the obligation to implement the corresponding provisions of CEDAW. Accordingly, in virtually all Arab countries family law (and the personal status law) prescribe the inequality of women and men, to differing degrees. Even more recent family law reforms implemented in a number of countries - in Algeria, Morocco and Egypt, for instance - have failed to eliminate the legal inequality of women and men within the family. Legal discrimination against women - also extending beyond family law - thus remains an integral part of legal systems in the Arab world.

Yet inequality does not mean the women are totally without rights: Despite significant differences between individual Arab states, government legislation in general does guarantee women certain rights such as the right of

consent to the marriage contract, the right not to be married before reaching a certain age, the right to divorce on the grounds of misconduct of the husband, and the right to maintenance (for a limited period) from their divorced husband. In recent years legal reforms implemented in several Arab countries have produced a number of improvements for women.³ Laws alone, however, are not sufficient to ensure that legal rights are actually enforced.

The **legal reality** is such that the legal rights enshrined in international conventions, and in national constitutions and laws, are often of little relevance to the lives of many women in Arab countries, especially those who are poor. These women are often unaware of the aforementioned rights, or are unable to claim and enforce them in a court of law. They are, for instance, married either as minors or without their consent, or go without the support for themselves and their children to which they are entitled.

This publication focuses on the legal reality faced by Muslim⁴ women in Arab countries as exemplified by matrimonial law, although we must be aware of the fact that there are also





major differences between the countries of the Arab world, and that conclusions drawn there cannot be transferred to Arab societies in sub-Saharan Africa. Only few meaningful generalisations can be made. The publication can therefore merely highlight examples of discrepancies between legal wording and social practice – which is to say between what the law says, and the reality of how it is actually applied. It sheds light on the legal structures that women utilise in conflict situations, on the form in which they utilise them, and on what reasons or structural conditions may prevent them from successfully asserting their rights.

The first part of the publication identifies a number of root causes – cultural, social and economic barriers – that make it more difficult for women in their respective environments in the Arab world to gain access to the law. Though, the wider political and social contexts of these situations can only be briefly touched on here.

Building on this, the second part of the publication illustrates barriers and gender-specific forms of discrimination faced by women seeking to claim their rights, as exemplified by

matrimonial law. The main focus is on state legal systems. Local institutions of customary or religious law, as well as traditional extra-judicial conflict resolution bodies, are also dealt with, though not in such depth, due to the lack of available data. The authors are aware of the fact that this kind of conflict resolution is often the legal reality of women's lives. Yet the issue of legal reality has rarely been addressed by research to date. Where it is addressed, it is considered in the context of the legal precedents set by state legal systems. There are virtually no representative studies – and certainly no cross-country studies – except on individual indicators such as rates of illiteracy, birth rate etc. Due to the sheer breadth of the topic and the lack of available data, this publication can only highlight examples, and makes no claim to be exhaustive.

The publication is based primarily on studies on Egypt, and detailed studies on the implementation of family law in Yemen. It also includes information drawn from secondary scholarly literature and newspaper articles on Algeria, Jordan, Iraq, Lebanon, Morocco, Palestine, Saudi Arabia, Syria and Tunisia.

² The exceptions are Palestine, Qatar, Somalia and the Sudan.

³ This kind of legislation in Tunisia has long placed women in a better position than is the case in other states, and only recently Morocco has made major efforts to radically overhaul its family law.

⁴ The situation of non-Muslim women is not dealt with in this publication.



1. Obstacles to claiming rights

.....
"The social environment is a crucial factor in discrimination against women, regardless of what the law may say."⁵
.....

There are many factors preventing women in Arab states from claiming the rights that even discriminatory legislation in principle accords them.

.....
"Whether or not laws afford protection for women's rights depends not only on how the laws are worded, but also on the social relations of the context in which they are to operate."⁶
.....

Cultural, social and economic factors come into play here that are inextricably linked and mutually reinforcing, such that they cannot be viewed independently of one other.

One key **cultural** factor that negatively affects women's perception of their rights is education. According to the Arab Human Development Report 2005, discrimination against women is cemented inter alia by traditional educational models.⁷ Boys and girls in the Arab world, for instance, are usually educated along very different lines. "The system of norms governing the everyday life of women is mainly derived from the concept of the preservation of the family."⁸

Gender-specific education emphasises girls' obligations within the family, but not their rights. "While girls are taught obedience toward their parents and later on their husband, mothers and fathers expect their sons to be very self-confident and independent."⁹

The assumption frequently expressed in the West that gender-specific discrimination in the Arab world originates from the religious sources of Islam is rejected by the AHDR 2005, however, pointing out that there are explicitly women-friendly interpretations of the Qur'an.¹⁰

The results of the study conducted by Al-Khayyat in Iraq in 1990 remain valid to this day. The concepts of honour and shame still play a major role in the way girls are brought up. Some families, for instance, do not allow their daughters to leave the house unaccompanied. Laughter, raised voices and debates are also frowned upon, as behaviour of this kind could bring shame on the family. Above all, girls are taught obedience.¹¹ Ways of thinking and acting are thus transmitted to girls that make subjugation to men appear "natural". This pattern continues in later life:

.....
"As for decision-making in the family, any participation of the wife should be covert, since it might suggest an 'unmanly' attitude."¹²
.....

Relationships within the family are also determined by the authority of the father over his children and the husband over his wife.¹³ The extent to which women are able to claim their rights is therefore dependent on the attitude of the male members of the family. Concretely, this means, for instance, that if a woman is in conflict with her husband then her father, brothers and uncles will intervene on her behalf. The social norm that male relatives "protect" a woman and her rights in the event of conflict goes hand in hand with the notion that these male relatives are allowed to exercise control over girls and women. Having said that, behavioural patterns do also differ with individual countries:



.....
 "The belief that women must be controlled remains, of course, subject to variations across different countries, social classes, standards of living and general consciousness. It shows itself particularly among the poor whose marginal positions in society affords them less legal and social protection and leaves them exposed to the dominant patriarchal culture."¹⁴

This results in the following:

- ☞ Girls and women are generally highly vulnerable if they have no male family members, or if these male relatives are unwilling or unable to help them. Particularly hard hit by this are girl orphans, older women and women, who have been expelled from their families of origin for breaking social conventions. The vulnerability of this group of women and their children becomes particularly clear in the case of unmarried women; this as well is a topic that is increasingly a subject of debate in Morocco and Algeria.¹⁵
- ☞ Girls and women from poor and marginalised groups are particularly hard hit, as the economic interests of the male members of the family may outweigh their social responsibility toward the women. Though relatively restrained, this debate too is being conducted in a number of Arab societies, for instance in relation to trafficking in girls and prostitution.¹⁶

Lack of education among women and girls is a key **social** factor. More than 57 million people in the Arab region are unable to read or write¹⁷ Some two-thirds of them are female: In 2005, 47.6% of women and 25.3% of men were unable to read or write.¹⁸ Here too the picture varies dramatically from one country to another within the region: In 2005 74.8 % of women and girls over the age of 15 in Iraq were illiterate (as compared to 43.4 % of boys and men). In Kuwait the rates were 17.2% and 14.3 % respectively, and in Jordan 11.8% and 3.7%.¹⁹

The opportunities for women to familiarise themselves with and understand state legislation increase, the higher the level of education they have enjoyed. Though women without formal education may also have a strong sense of their rights, they usually lack the detailed knowledge of their national legislation and the bureaucratic mechanisms of the legal system they would need. The fact that literacy is prerequisite to initiating legal proceedings in many countries is particularly disadvantageous to illiterate females, who are then virtually unable to claim their rights in a court of law without the support of a lawyer. This is compounded by the fact that mechanisms such as support for legal costs, free legal aid etc. are virtually non-existent in Arab countries.

5 Arab Human Development Report 2005, p. 19.

6 Women Living Under Muslim Laws (2003), p 33.

7 Arab Human Development Report 2005, p 24.

8 Barakat (2005), p 53.

9 Waletzki (2001), p 299.

10 Arab Human Development Report 2005, p 13.

11 See Al-Khayyat (1990), p 22.

12 Fawzy (2004), p 26.

13 Arab Human Development Report 2005, p 16.

14 Ibid., p. 16.

15 For further discussion see Bargach (2002); also Dennerlein (1998), p. 117.

16 See CRC/C/15/Add.266, Concluding Observations of the Committee of the Rights of the Child, 3.6.2005, para. 70-71.

17 UNESCO (2006). http://www.uis.unesco.org/ev.php?URL_ID=5204&URL_DO=DO_TOPIC&URL_SECTION=201 (02/08/07).

18 ESCWA (2005). <http://css.escwa.org.lb/Abstract/chap02/index.asp> (02/08/07).

19 Ibid.



Women face the major problem that judges are usually men, because in most Arab societies women are considered too emotional to work as judges.²⁰ As a result, judges are hardly ever women, even where the law permits them to be. This often leads to women being discriminated against in court cases, as male judges frequently harbour massive prejudice against women.²¹ (For more detailed discussion of this see Section 4.2 The difficult path through the legal system.)

A final factor influencing women's ability to claim their rights is their economic independence, which varies according to their social status (a key **economic** factor). To initiate legal proceedings, women need money that they can dispose of independently. According to the United Nations Economic and Social Commission for Western Asia (ESCWA), however, only 29% of wage labour in Arab countries is performed by women, and the unemployment rate is higher among women than among men:²²

.....
"A tight job market, slow job creation and the spread of women's education, along with society's irrational preference that men should take what jobs there are, have combined to increase the unemployment of women, especially educated women."²³
.....

This situation has various causes: First of all the region has experienced a decline in economic growth since the 1980s, which has affected women disproportionately:

.....
"Declining real wages, rising unemployment, and shrinking job opportunities make it more difficult for women to find a job since regional tradition emphasizes men's role in financially supporting their families while women's main contributions are perceived to be their domestic roles and motherhood."²⁴
.....

In addition, many women in Arab countries are under the tutelage of their father or husband, and are therefore treated as if they were not autonomous legal agents. They need the consent of their father or husband before accepting a job, before carrying on working after getting married, or before travelling, including business trips.²⁵ The fear felt by many men that a woman's independence and her having her own income might jeopardise the harmony and stability of the family is one reason for them to withhold their consent.

Furthermore, in most Arab countries discriminatory inheritance law and property rights make it difficult for women to save their own capital.²⁶ It is very often the case that women are either denied their portion of estate entirely (in Kuwait, for instance, fathers often bequeath their entire estate to their sons, even though this is against the law), or they agree voluntarily to renounce their inheritance in order to secure their brothers' protection for themselves and their children.²⁷ A study in Palestine demonstrates that real estate inheritances in particular are withheld from women: Only 8% of all Palestinian women own land or real estate.²⁸ Consequently, women rarely have the collateral needed to apply for a loan. In many countries women also need the consent of their father or husband before they can take out a loan.²⁹

All this leads to a situation in which women in the Arab world – depending on their social status – face major constraints on their financial opportunities, and thus also on their opportunities to claim their rights through the courts.

Below, practical examples will be discussed that illustrate how the general restrictions on women affect their ability to claim their rights within the specific context of marriage law.

2. Marriage and the regulation of married life

Marriage is extremely important in the lives of Arab women. Although a life without marriage is possible for Arab women (and men), it is difficult. It is, for instance, usually only possible for educated unmarried women to pursue a professional occupation, if they live in major cities. However, there is little low-cost accommodation available in the cities, and many landlords refuse to let housing to single women (or men). Through marriage and children, women acquire respect and recognition within society. El-Azhary Sonbol has the following to say concerning Jordan:

.....
 "(...) there is one constant fear in the life of a Jordanian girl that she will never be married."³⁰

Nevertheless, both the age at which people get married and the proportion of men and women

remaining unmarried have risen in recent decades.³¹ On the one hand, in poor rural families in particular the eldest daughter is often not married at all, because she has to look after her younger brothers and sisters and help her mother with the household duties. She is thus retained by the family as a source of labour. On the other hand, getting married and being married are a costly matter in Arab societies, which means that young men first have to save enough money to be able to "afford" marriage. The high costs arise because women often receive their only asset when getting married – the dowry. The husband also acquires a legal responsibility to provide financially for the marital home and the upkeep of the family. Although economic constraints in a growing number of countries in the region now mean that women (must) also contribute toward the household income, society's ideal remains that of the man as sole breadwinner of the family, as a result of which many men refuse to allow their wives to pursue gainful employment.



20 "Women in Egypt have rights. But to become a judge, one must first work as a prosecutor. That means going out in the middle of the night to investigate a murder or some other gruesome crime. No Egyptian man would let his wife go investigate a murder." Kelleher (2004). See Section 4.2 for further discussion
 21 Interviews conducted with employees in the legal system by Human Rights Watch (2004), p. 27f.
 22 ESCWA (2004), p. 26.
 23 Arab Human Development Report 2005, p. 20.
 24 ESCWA (2004), p. 215.
 25 Ibid., p. 39.
 26 This inequality in inheritance law is justified on the grounds that men are obliged to support the female members of their family financially. More detailed information on inheritance law in Yemen is provided by Mundy (1995), on inheritance law in Palestine by Moors (1995).
 27 See An-Na'im (2002), p. 103.
 28 See Hamami (2004), p. 132.
 29 Moghadam (2004), p. 31.
 30 El-Azhary Sonbol (2003), p. 125.
 31 Data obtained from UNIFEM (2004), p.143-146.



Shari'a and Islamic law

Borrowed from the Arabic, the term "Shari'a" (literally: "way") in the strict sense denotes the body of legally and religiously binding prescriptions. These were derived from the sources of Islam by scholars – most of whom to date have been men. The main sources are the Qur'an, the revelation and the Sunna, which are derived from the Hadith, the collection of reports on the actions and sayings of Muhammad. Since the Qur'an and Sunna were not able to provide extensive answers to all questions even during the formative period, legal scholars also drew on two further sources of Islamic jurisprudence: *ijma'*, the consensus among legal scholars on a certain topic, and *qiyas*, the principle of analogical deduction. New cases were decided on the basis of precedent. Islamic jurisprudence (Arabic: *fiqh*) is based on these sources. In the course of Islamic history, experts from the various legal schools worked out legally binding norms by applying defined and highly detailed methods. In Sunni Islam four legal schools became established: the Hanafites, Shafiites, Malikites and Hanbalites. The most important legal school in Shiite Islam today is the Jafarites. Although the legal schools agree on basic issues, they do differ in their respective interpretations and answers to particular questions. Consequently, there are different interpretations of the Shari'a. Furthermore, in countries with an Islamic majority both customary law and positive state law, neither of which is entirely in harmony with Islamic law, have been and remain in place.³²

According to Islamic law, on which family law in most Arab countries is based, marriage is formally concluded by the signing of a written contract between the bride (or her guardian) and bridegroom, confirmed by two witnesses.³³ In most Arab countries there is a minimum age for marriage, and the marriage must be entered into voluntarily by both parties. The bride receives a dowry (*mahr* – also referred to as the morning gift), which becomes her property (i.e. is not paid for instance to the father) and serves as security in case of divorce or widowhood. Within the marriage, the husband is responsible for financial support. In return, he as the head of the family can demand, and if necessary legally enforce, obedience from his wife. In many countries the duty of obedience encompasses exclusive and comprehensive

sexual rights to the wife.³⁴ The husband also has the right to restrict the wife's right of self-determination for the benefit of the family, for instance by forbidding his wife to pursue gainful employment.³⁵ Only in Tunisia and Morocco has the wife's legal duty of obedience been abolished.

Nevertheless, the marriage contract does in theory provide women with a large number of options for laying down or having laid down additional rights, such as the right to complete an education, the right to insist on the husband fulfilling his marital obligations, or the right to divorce. The everyday reality, however, is that many women are unable to enforce these rights, as will now be explained below.



2.1 Underage marriage

Despite a legally prescribed minimum age for marriage, underage marriage remains a common practice in many countries of the Arab world – especially in rural areas. Marriages of this kind are per se arranged by the parents, and often the wishes of the bride are not taken into account.

The reasons why girls are married early are diverse: In poor families in particular, this alleviates a financial burden. Other important reasons include values such as protecting the honour of the family, and the need to ensure the bride's virginity. These values play a major role in deciding to marry daughters as early as possible, particularly in rural areas.³⁶ Nasser has the following to say concerning Egypt:

.....
"It is always a worry for a family having to keep, and, to a great extent, guard younger women, to avoid any unwanted male interaction, which may cause the concerned family great social shame and damage."³⁷
.....

When a marriage is registered by the public authorities, there is a legal obligation to specify the age of the spouses upon marriage. Though there is no empirical research on this, individual reports from Jordan and Egypt do indicate, for instance, that the necessary papers (birth certificate or if that is not available a certificate of age issued by a doctor) can easily be bought, and that local doctors and village chiefs cover up this practice.³⁸ In other countries marriages

are concluded before the minimum age is reached, but are registered only later.

Most Arab countries have laid down an age of marriageability. This age is often lower for women than for men. In Kuwait, for instance, the minimum age is 15 for women and 17 for men, while in Egypt the respective ages are 16 and 18, and in Algeria 18 and 21. Boys and girls can sometimes even be married earlier if this is approved by a judge. Only Yemen has no prescribed age restriction. Since the legal reform there in 1999, it is possible to marry a girl below the age of majority, though she must have reached puberty. There are, however, no legally prescribed monitoring mechanisms or sanctions that would come into play if this provision were not observed.

Girls are often unable to resist an arranged marriage, because they do not want to upset their family, lose their support or damage their reputation in the eyes of society. The family also implicitly takes responsibility for ensuring that a marriage they have arranged works. Sha'aban notes, for instance, that in Syria, parents support their daughters in marital disputes especially when the marriage is one that they themselves arranged.³⁹ Of course not every arranged underage marriage need become an unhappy one or lead to a difficult predicament – this is always dependent on the particular circumstances.⁴⁰ There are also underage girls, who are married with their own consent, and who look forward to the higher status or financial security that this affords them. In rural areas and in poor

32 See Würth (2004), p. 8.

33 Whereas since the legal reforms of 2004 women in Morocco have had the right to conclude a marriage themselves once they have reached the age of majority, in many other countries in the Arab world women need a guardian to do this, who is usually a close male relative.

34 See Würth (2004), p. 20.

35 Ibid.

36 Rashad, Osman und Roudi-Fabimi (2005), p. 3.

37 Nasser (1999), p. 195.

38 El-Azbary Sonbol (2003), p. 148 on Jordan and Fawzy (2004), p. 28 on Egypt. For more detailed discussion on Egypt see: Nasser (1999).

39 Sha'aban (1996), p. 55.

40 It is therefore neither sociologically nor legally correct to equate arranged marriage with forced marriage; on the current debate concerning the need to clearly distinguish between the two terms see: Siddiqi (2005) on Bangladesh, Bielefeld (2005) on Germany.



families in particular, girls associate leaving their parental home with greater freedom and independence.⁴¹

From the (human) rights perspective underage marriage must be rejected, as it constitutes a massive violation of the human rights of those involved. On the one hand, minors cannot in principle consent to such marriages themselves as they lack legal competency. On the other hand, the negative physical and psychological impacts on young girls are often severe, regardless of whether the marriage was forced or voluntary.

Underage marriages entail early and frequent pregnancies, as young married couples generally know little or nothing about contraceptive methods. Also in most Arab countries, and especially in rural areas, the couples are expected to produce offspring soon after marriage. Very young mothers, however, face an elevated risk of complications at birth that can cause their death or the death of the baby.⁴² The birth of the first child usually means that the young woman has to discontinue her education or training, which increases dependency on the husband. And the younger the bride is, the less she is usually able to articulate and assert her own needs.

2.2 The terms of the marriage contract

As explained above, marriage is a contract under civil law without religious sacrament between the bride, or her guardian, and the bridegroom, i.e. it can be simply dissolved. The parties enjoy broad contractual freedom and can define contractually what they think married life should be.⁴³ They can, for instance, specify whether both parties should live in one place, or what kind of place that should be (e.g. parents' home or married couple's own home), or whether the wife is to make some financial contribution to the household income and in return receive certain freedoms. They can also agree on provisions covering the eventuality of conflict, or how assets jointly earned are to be handled in the event of death or separation.

Even divorce arrangements can be provided for contractually, although most Arab legal frameworks provide for divorce in the form of the husband's prerogative to repudiate his wife. The wife, however, is required to take legal action and demonstrate in a court of law that her husband is failing to perform his marital duties. In Islamic law this repudiation (Arabic: **talaq**) is a right accorded exclusively to the husband to divorce his wife with immediate effect.



Repudiation in Islamic law

Islamic law distinguishes between revocable and irrevocable repudiation. It remains revocable after the repudiation formula has been repeated once or twice, and becomes irrevocable after the third repetition. A revocable divorce can be revoked by the husband within three months. In Jordan, Lebanon, Libya, Morocco and Syria a court must confirm the repudiation and the wife must be notified. In Tunisia it has de facto been abolished.



The marital partners can in theory agree on an equal right to divorce for the wife in the marriage contract. In reality, however, this rarely occurs because in most Arab countries the view prevails that only the husband can have the right to divorce, and he would lose his own right to divorce, if he were to concede a right to divorce to his wife by marriage contract. El-Azhary Sonbol explains that men in Jordan equate this with losing their manhood:

.....
 "Within Jordanian traditional structures, if a woman demands her rights, especially the right to seek divorce, it is considered a shameful act that dishonors not only the women's family but also the husband, who would be regarded as 'not man enough'.⁴⁴

Before the contract is signed, the notary public or registrar is obliged to inform the couple of all their rights arising from the marriage contract. Yet only seldom is the couple's attention drawn to the scope for contractual regulation of their married life because of the fear that this information might cause conflict between them. As a registrar (Ma'azun) in Egypt puts it:

.....
 "Those that put conditions are very few. In 1000 contracts, maybe only one [adds any conditions]. There is a fear of tension and ruining the marriage. If I tell them about the conditions, I'm opening up a door for tensions."⁴⁵

There are also reports that even women, who are aware of their theoretical rights to protect their interests, are given to understand very clearly by their relatives and the registrar that a "respectable" woman need not avail herself of such rights.⁴⁶

Furthermore, the negotiations concerning the individual provisions of the marriage contract and possible additional clauses are usually not conducted by the wife herself, but by her guardian. Consequently, it also depends on the guardian whether it is agreed, for instance, that the wife can complete her education or can later obtain a divorce, without needing to initiate legal proceedings. The bride only becomes involved when the marriage contract is signed before the registrar.⁴⁷ This is particularly true in rural areas and within poor families. Poor knowledge of the legality and legitimacy of provisions in the marriage contract to protect the woman's interests is not, however, the main reason why women do not exhaust their legal options. It is rather that society almost across the board frowns upon anyone availing themselves of the legal option of regulating married life contractually when entering into marriage. It is widely believed that the success of a marriage depends not on the legal protection of equal rights, but on the performance of duties – chiefly by the wife.

The women's rights campaigner and Senior Policy Research Advisor at the UNDP Regional Bureau for Arab States (RBAS) – Azza M. Karam – describes this situation as follows:

.....
 "In Egyptian society, for a woman at the outset of her marriage to set conditions (some of which may entail divorce) is at best a bad omen, and at worst simply not done."⁴⁸

41 Nasser (1999), p. 195.

42 World Health Organization (2003), p. 2.

43 The provisions may not contradict the Shari'a, however.

44 El-Azhary Sonbol (2003), p. 156. For similar debates on Egypt see: Fawzy (2004).

45 Human Rights Watch (2004), p. 19.

46 Amawi (2000), p. 172.

47 Only in Tunisia and (with certain restrictions) in Morocco can the woman negotiate the terms herself.

48 Karam (1998), p. 146.



3. Marriages not registered by the state

Along with the minimum marriageable age for both sexes, many Arab states have also introduced the condition that marriages must be registered with the public authorities in order to be recognised by the state. Parallel to this there exist in all countries traditional or customary law forms of marriage that are not officially registered. Customary law marriages used to be chosen by the majority of parents as a way of avoiding the legal prescriptions concerning the minimum marriageable age. Today these arrangements often legitimate sexual relationships between young adults, who have neither the financial means to get married officially, nor the permission of their parents.⁴⁹ Furthermore, married men use customary law marriages to secretly marry another woman. This form of marriage often has disadvantages for women: They do not receive a dowry for getting married (a "must" in every official marriage), they are denied the social recognition conferred by the public marriage ceremony, and they often do not live with their husbands, but conduct a more or less secret "visiting" or "ambulant" marriage. Dr. Aziza al-Mani, a Saudi Arabian author and defender of women's rights, describes the customary law marriage as follows:

.....
"This is a secret marriage, in which the wife stays at her parents' house, where the husband comes to visit her secretly during daytime, so as to keep the first wife in ignorance of her husband's (second) marriage...
What miserable phenomenon is this..., in which men's minds fall to this base level of subservience to desires and insatiable whims.
This marriage represents the opposite of what is required in marriage, which is publicity and declaration. These 'ambulant' men don't mind the forms of deception, lying and cheating that they practice on their wives in order to satisfy their insatiable desires.

The polygamous marriage can only be one of two things: either it is rightful, and then the husband must declare it and not conceal it, and assume its obligations; or it is wrong and then the husband must not practice it; there is no middle way between the two."⁵⁰
.....

In case of separation, the wife can only enforce a claim for maintenance if she is able to demonstrate that the marriage exists. The same thing applies if she wishes to obtain a divorce in order to remarry. For men, on the other hand, society still often tolerates polygamy.⁵¹

It is usually not easy for women to provide proof of the existence of a customary-law marriage. A study on court rulings by the Supreme Court in Algeria in the 1980s explains that in the cases studied it was consistently the wives, who applied for their unregistered marriages to be recognised by the court and the status of their children to be legalised.⁵² The fact that children resulting from customary-law marriages are not automatically recognised as the offspring of the male partner is problematic.⁵³ A Moroccan university professor from Rabat interviewed by the Moroccan anthropologist Jamila Bargach describes the potential impacts on the children resulting from customary-law marriages as follows:

.....
"We are now in an era of physical promiscuity, of easy and available sexual encounters, and thus we can no longer ignore the consequences of these changes. Abandoned and street children become the victims here. I think there should be some way of solving these issues by having recourse to genetic and blood tests so that the fathers can no longer deny their paternity and therefore their responsibility. Husbands walk off on women who are left with the burden of these children; how can these women cope? ... Legally, if this woman goes to court, she needs to bring witnesses



that she was indeed married ... this is ridiculous...
in an era of scientific miracles, we still need
witnesses. ... We are making the children pay
dearly for the errors of their parents,
or more so the fathers in this case."⁵⁴

It is unclear how often women attempt to have their children's paternity acknowledged in a court of law.⁵⁵ Only in Morocco, since the reform of the family law, can the husband be forced to undergo a DNA test by a court. In many other Arab countries DNA tests are not recognised by the courts. In Egypt and Tunisia, on the other hand, it is a matter for the judge's discretion to require a paternity test.



Hind Al-Hinnawy fought successfully to have her daughter's paternity acknowledged

The 27-year-old Egyptian designer Hind Al-Hinnawy caused a stir when she publicly admitted to having a daughter and named the actor Ahmed Al-Fishawy as the father. Her daughter, claimed Al-Hinnawy, was the issue of a customary-law marriage between the two. The 25-year-old Al-Fishawy, the son of famous actors, admitted to having had a liaison with Al-Hinnawy, but denied the existence of a customary-law marriage. In the court of first instance the mother's claim had been rejected because she was unable to provide proof of the marriage. Al-Fishawy had the papers, so she said. But then the court ordered a DNA test, which until then had been unusual in Egypt. Following that, even supreme Islamic authorities gave their blessing to DNA paternity tests as being in conformity with Islam. The judge of second instance subsequently ruled that as well as the marriage contract, the proof of joint offspring was also sufficient proof of the marriage, and upheld the paternity claim. In the view of women's rights campaigners, this legal precedent will in future make it more difficult for men to evade their responsibility for children issuing from customary-law marriages.⁵⁶

49 No reliable statistics are available. Significantly, various figures quoted in the Egyptian press indicate that between 17.2% and 67-70% of all students supposedly enter into such marriages.

50 Arabi (2001), p. 188.

51 Only Tunisian matrimonial law prescribes monogamy. In Morocco the first wife must give her consent if the husband wishes to take a second wife. If the husband marries against her will, she has the right to divorce.

52 Dennerlein (1998), p. 115ff. For a similar study on Morocco see: Mir-Hosseini (1993).

53 Lange (2004), p. 8.

54 Bargach (2002), p. 5.

55 For information on Egypt see: Fawzy (2004).

56 Nüsse (2006), p. 8.



The question as to whether it is more advantageous to a woman to enter into a state-registered or customary-law marriage needs to be considered in the respective social context. Since the 1990s, socio-economic changes have made customary-law marriages more common, regardless of the negative consequences that such marriages unregistered by the state may entail, particularly for women, as described above. The economic crises in the region, with unemployment, inflation and housing shortages, are creating financial conditions that make it increasingly difficult for young Arab adults to get married.⁵⁷ As a result, and in spite of their many negative aspects, customary-law marriages are virtually the only means of maintaining relations with the opposite sex without having to fear criminalisation. These marriages may not comply with the will of parents or the norms of society, but they are in harmony with basic Islamic principles. They also offer certain liberties to financially independent women.

4. Paths to divorce

Whereas men in most Arab countries are able to divorce their wives extrajudicially at any time and without giving reasons simply by repudiating them, for women there are two ways of bringing a marriage to an end.⁵⁸

1. They can attempt to persuade their husband to let them buy themselves free out of court (so-called *kbul'* divorce). Here the wife offers her husband financial compensation (also in the form of a relinquishing of her rights) in return for repudiation. Alongside the talaq, the *kbul'* divorce is by far the most widespread form of ending a marriage in most Arab countries, among other reasons because neither party needs to seek the

intervention of a court. Lynn Welchman confirms this, for instance, for Palestine. In the early 1990s most divorces in Palestine (West Bank and Gaza) were of the *kbul'* type, followed by unilateral repudiation. In the second half of the 20th century at most 10% of all the divorce cases that went through the courts were initiated by women.⁵⁹

2. The alternative option is to apply for a divorce through the courts. This is discussed in more detail below.

Although improvements in family law in many Arab countries have now made it easier for women to obtain a divorce, the population, especially in rural areas, are often unaware of these changes and women are therefore unable to avail themselves of these rights. Even in Tunisia, where divorce law treats men and women as equals, twice as many men as women seek to obtain a divorce every year:⁶⁰ "Despite ongoing modifications and government propaganda, almost 57% of the population [...] remain unaware of the modern marital status law [...] 62.6% of women (51.6% of men) indicated that they were unfamiliar with the CSP [Code du Statut Personnel, i.e. the family law]."⁶¹



Divorce in the Western Sahara

In the Western Sahara the essentially progressive family law reforms introduced by Morocco in 2004 actually tended to have negative impacts on women. This is because love matches predominate in this region, and divorce does not mean a loss of honour for the woman – on the contrary, a great celebration is put on to console her and at the same time to announce that she is once again "available". In this region of Morocco, men like to marry older women and divorced women because they are considered experienced and self-confident. To protect women against arbitrary repudiation, divorces will in future only be available through the courts – a rule that was celebrated by women's rights activists. However, people in the Western Sahara consider recourse to the courts degrading; in their view, it complicates the divorce proceedings unnecessarily. Another unusual aspect in the Western Sahara is the fact that domestic violence does not appear to be accepted: "In the Western Sahara, if a man beats his wife the minimum he must do to ask her forgiveness is hold a second wedding, with all the gifts of camels and jewellery which that entails. Even so, he will rarely be successful in convincing his wife to return."⁶²

4.1 Divorce petitioned by the wife

If a woman does not succeed in reaching agreement with her husband, she must seek to obtain a divorce through the courts. She is then required to provide proof of legal grounds for divorce, or prove that her husband's behaviour is so abusive that the continuation of the marriage has become intolerable for her (the principle of irretrievable matrimonial breakdown).⁶³ It is usually difficult to provide this proof. As the Egyptian lawyer Nagla Nasser puts it:

.....
 "...it is hard in a disintegrating spousal relationship to allocate the blame to only one party. A woman, in one way or another, is bound to have participated to the existing form and stage of her relationship with her husband. If her husband proves that the provocation of his wife or her misconduct is the cause of the abusing mistreatment, the woman will either lose her case or her financial rights, as the case may be. Courts look unsympathetically at disobedient wives."⁶⁴

57 See Singerman (2004) on *Mabr*.

58 Although in many states it is compulsory to register repudiations, this is merely an official recording of the action that has already been taken. The legal consequences of the repudiation in cases such as these only come into force once the repudiation has not only been recorded, but the wife also notified of this. In Tunisia, repudiation is prohibited.

59 Welchman (1999), p. 142.

60 According to legal statistics, divorce proceedings in 1990 were initiated by wives in 2,888 cases, and by husbands in 9,309 cases.

61 Waletzki (2001) cites a UNFT study published in 1995, p. 311.

62 Harter (2004). <http://news.bbc.co.uk/2/hi/africa/3532612.stm> (02/08/07).

63 In most Arab countries gross negligence of the duty of maintenance, unreasonably prolonged absence or impotence of the male spouse, as well as serious strife or injury to the wife, are considered legal grounds for divorce.

64 Nasser (1999), p. 198.



Legal proceedings are usually considered a "disgrace" for the woman concerned and her family – private matters are dragged into the public spotlight, individual and family failures and loss of honour are made public:

.....
"Because of what is commonly considered appropriate or inappropriate behaviour for a dutiful, decent and virtuous wife, recourse by a woman to the courts to demand her rights, or those of her children, is widely frowned upon as a form of public indecency."⁶⁵
.....

The middle classes in particular tend to believe that it is only the lower classes, who lack moral fibre and, who have neither honour nor reputation to lose, and thus seek recourse to the courts. Women, who get divorced, are also exposed to a real risk of losing their home. Without any income or assets of their own, mainly poor women find it virtually impossible to survive (even temporarily) without a "breadwinner".⁶⁶ For these reasons, particularly poor women are reluctant to separate from their husbands, and put up with being controlled by their husbands and families, and even with physical violence.⁶⁷ Physical and emotional violence are not automatically considered grounds for divorce. In many countries judges seem to base their decisions on whether e.g. violence within marriage, where it has been proved, constitutes harm to the wife or evidence of irretrievable breakdown, thus making it grounds for divorce, on the socio-economic status of the woman and her family.⁶⁸ It is left to the courts to decide which behaviour by the husband constitutes abuse of the wife. The Egyptian lawyer Nagla Nasser sums the situation up as follows:

.....
"... courts give special attention to the litigating couples' social, cultural and educational standing in the community ... Blue collars are not judged by the same standards as white collars or elite. Each is held to the standard of an average couple in his community..."⁶⁹
.....

Since domestic violence usually takes place behind closed doors, in many cases the witnesses required cannot be provided. In Egypt, for instance, the courts require the woman concerned to produce a certificate of the wounds inflicted issued by a government hospital. The woman must also name two male witnesses to whom she is not related. A lawyer interviewed by Human Rights Watch in 2004 stated that most petitions for divorce fail because the woman is unable to produce witnesses.⁷⁰ On the other hand, the Egyptian lawyer Nagla Nasser states that courts in Egypt take violence within marriage very seriously – though she does not discuss the evidence, which the petitioner is required to produce.⁷¹

The journalist Mariz Tadros reports on two cases in the Egyptian capital in the late 1990s:

.....
"A court in Cairo granted a housewife a divorce based on her exposure to domestic violence... Her husband beat her and threw her out of the house for disobeying him and visiting her family. Although the husband apologised and pleaded for reconciliation, the court chose to act on her request, though it remains unusual for a Personal Status Court to grant a woman a divorce on the basis of her exposure to spousal violence, especially if the husband vows in court not to beat her again. ... By the end of the week the same court had ruled against granting another woman a divorce. Witnesses, it transpired, had heard her screaming and seen her run out of the house pleading with people to come to her aid, but no one had actually seen her being beaten by her husband. The court decided that the marks on her body did not necessarily testify to her husband's abuse, and it was not good enough for the witnesses to have heard her screaming."⁷²
.....



Regardless of the grounds for divorce, the couple must submit to the reconciliation measures required by the court. These attempts at reconciliation are conducted by conciliators named by the family or the court.⁷³ Generally speaking, the wife is seen as being responsible for the integrity of the family. Consequently, conflicts with the husband and a failure of the marriage tend to be "blamed" on the woman, who (so it is believed) has failed to perform her duties properly. Correspondingly, there is a widespread tendency among married women to blame themselves for marital problems or marital failure. These assignments of blame often mean that women do not mention marital problems, especially emotional or physical violence within marriage. As a result, they do not avail themselves of their (limited) rights to protection against violence or their (equally limited) rights to divorce, because if they did, this would make public their "guilt" or "failure". This type of attitude is dominant particularly within the middle class, while the upper and lower classes remain less affected by it.

4.2 Divorce petitioned by the wife

Compared to the unilateral or consensual out-of-court forms of divorce, women's path to divorce through the courts is a stony one in all Arab countries, and a protracted one in almost all of them. Furthermore, corruption is widespread within the legal systems.

The burdens of proof, the bureaucratic language, the culture of institutional referral and the literacy required for a petition in most Arab countries deter many women. *Human Rights Watch*, for instance, reports on a petition for divorce in Egypt that was rejected because the woman was unable to produce the original copy of her marriage certificate. The petitioner herself was required to pay the costs of the proceedings.⁷⁴

Although women in many Arab countries do have the right to become judges, the legal system is dominated by men. Standardised procedures based on stereotypical and prejudiced views concerning women lead to a situation in which applications from women are accepted only in exceptional cases:⁷⁵

.....
 "The depth of male chauvinism among members of the judiciary in some Arab states can be seen in their opposition to the appointment of female judges."⁷⁶

65 Arab Human Development Report 2005, p. 19.

66 For further discussion see Section. 4.5.

67 See UNIFEM (2004).

68 In most Arab countries the law does not define domestic violence as explicit grounds for divorce. In the mid-1990s, for instance, only 52% of men and only 58% of women in Palestine believed that violence within marriage should constitute legal grounds for divorce (Hamami (2004), p. 138f.).

69 Nasser (1999), p. 199.

70 Human Rights Watch (2004), p. 22.

71 Nasser (1999), p. 199.

72 Tadros (1999). <http://weekly.abram.org.eg/1999/446/li1.btm> (02/08/07).

73 For further discussion see Section 4.4.

74 Human Rights Watch (2004), p. 44.

75 Ibid., p. 14f.

76 Arab Human Development Report 2005, p. 19.



In an interview with *Human Rights Watch*, a judge in Egypt, for instance, explained that the work of a judge would be too strenuous for women, who at the same time always have to think of their domestic problems as well. Women, he continued, were also too emotional to be capable of taking rational decisions.⁷⁷ The virtual absence of female judges in the legal system leads to a situation in which male judges' prejudices against women are also reflected in their verdicts.⁷⁸

.....
"Discrimination by the legal community against women is also evident in the way judges use their discretionary authority to deliver lighter or harsher sentences in cases where a woman is one of the litigants."⁷⁹
.....

Human Rights Watch concludes:

.....
"Absent female voices and input informing the judiciary's attitudes and approaches to legal questions, particularly in matters relating to marriage and divorce, the judiciary as a whole cannot claim to have a balanced and neutral framework through which it adjudicates family disputes. The ability of male judges to sufficiently appreciate the concerns of women seeking divorce is rendered questionable by the lack of participation in the judiciary."⁸⁰
.....

The length of proceedings is also a major problem. Whereas, for instance, in Yemen in the early 1990s most divorces cases of first instance were completed within three months⁸¹, divorce proceedings in Egypt prior to the reform of the family law in 2000 sometimes took up to seven years.⁸² This was due not only to the over-stretched legal system, but also to the fact that husbands were able to contest petitions for divorce submitted by their wives right up to the supreme instance of the Egyptian legal system. Women, however, did not have this same right. As a judge interviewed by *Human Rights Watch* put it:

.....
"Normal ... divorce cases take four to five months. ... If the husband wants to keep her [his wife] in limbo then he can go to the Court of Cassation [to appeal], which can take several years."⁸³
.....

In the 1990s Egyptian judges dealt with an average of 60-70 cases a day; according to the secondary literature some 250,000 Egyptian women sought recourse to the courts every year.⁸⁴

Today too, lawyers and their clients throughout the region often spend days in court waiting for their cases to be called, only to find that they are repeatedly postponed. During this period the husband need not continue supporting his wife financially, since she is failing to perform her duty of obedience. Many husbands exploit this opportunity and push their divorce-seeking wives to the brink of economic ruin. Women have to support both themselves and their children financially during the proceedings and have to accept the loss of income that occurs while the case is being heard.⁸⁵ During divorce proceedings they have no opportunity to obtain financial assistance from the state.⁸⁶ The longer the case lasts, the higher the costs become and the greater the risk that women abandon their legal entitlement by dropping the case.

4.3 *Khul'* divorce through the courts

In Egypt and Morocco the latest reforms carried out in 2000 and 2004, and in Jordan an amendment to a law introduced in 2001, have made it easier for women to obtain a divorce through the courts. Due to a reform of procedural law in Egypt, for instance, women are now able to apply for a *khul'* divorce through the courts, without having to prove one of the legal grounds for divorce.⁸⁷

With this form of divorce too, however, women must submit to an attempt at reconciliation ordered by the court (see Section 4.4). They



must also relinquish all their legal financial entitlements (see below). As with a "normal" divorce, here too the husband can put pressure on his wife while the case is under way by withholding financial support, since she is failing to perform her legally prescribed marital duties. One important innovation is that *kbul'* divorces can no longer be challenged by a higher court.

It is not yet possible to say whether *kbul'* divorces will reduce the length of divorce proceedings overall. This does not yet appear to be the case: In the first few years following the reform in Egypt, only 5-10% of all divorce petitions were fully processed within a year, despite the reforms.⁸⁸ The interim figures for the first 18 months since the establishment of

the family courts in October 2004 are similarly disappointing.⁸⁹ Women's rights activists in Egypt had hoped that the family courts would not only deal with family law issues more swiftly due to their assigned focus, but would also produce more women-friendly verdicts. Lawyer Ashraf Zaki put it as follows:

.....
 "A year ago, ... the process was far speedier; *khul'* cases were resolved in no more than six months. With the family courts in place, no less than 20 months are required; indeed before the paperwork can even start, both parties must attend a 15-day 'reconciliation course', with a sociologist and a psychologist. In practice this takes three months - and procedures have not yet started by the end of it."⁹⁰

77 Human Rights Watch (2004), p. 27f.

78 The first female judge in Egypt was only appointed in 2003, and it was not until 2007 that the Supreme Council of Judges decided to grant women general access to this office. Thereupon, 30 female judges were appointed.

79 Arab Human Development Report 2005, p. 19-20.

80 Human Rights Watch (2004), p. 16.

81 Würth (2000), p. 116f. To achieve this, however, the petitioner must be persistent and persevere.

82 Fawzy (2004), p. 39f.

83 Quoted after: Human Rights Watch (2004), p. 25.

84 Singerman (2004), p. 8.

85 In Morocco since 1998/99 divorced women are not required to pay court costs if they take their ex-husband to court for maintenance: UNIFEM (2004), p. 153.

86 Human Rights Watch (2004), p. 40.

87 It should be noted that this reform arose through an amendment to procedural law, and not to the personal status law. Accordingly, the law is called the "law regulating certain circumstances and procedures in personal status litigation". The provisions of the personal status law concerning marriage, maintenance and divorce remain unchanged.

88 See Bernard-Maugiron (2005). According to Human Rights Watch, in 2002 only 62 out of 5,252 pending divorce cases were decided: Human Rights Watch (2004), p. 24f.

89 The family courts comprise two male judges and one female judge. Social workers and psychologists are also supposed to work in each court as mediators.

90 Quoted in: Leila (2005). <http://weekly.abram.org.eg/2005/757/li1.htm> (02/08/07). For thoughts on the initial optimism see: Said (2005). <http://www.metimes.com/print.php?StoryID=20050217-053644-8324r> (02/08/07).



Just as with the out-of-court *kbul'*, women do not obtain a *kbul'* divorce through the courts without paying a price. To obtain this kind of divorce through the courts, they must relinquish their rights. Article 20 of the Egyptian law of 2000 clearly states:

.....
"The spouses may agree to conclude a *khul'*. If they do not agree, the wife may petition for such and buy herself free and divorce her husband by relinquishing all her financial rights and returning to him the dowry that he has given her."
.....

Egyptian legislation explicitly forbids the wife to relinquish her right to custody of her children and their right to financial support. The wife can, therefore, relinquish only her own rights. Normally, this means relinquishing all entitlement to postmarital maintenance. In Egypt, however, this maintenance is in any case limited to one year and is not high enough to cover the cost of living. The wife must also relinquish that share of the dowry to which she would still be entitled, and return what she already received from it when she got married. The size of the dowry varies by social stratum. Middle- and upper-class women receive larger dowries than women from the lower classes. There is a widespread tendency to agree in the marriage contract on a very much lower sum than is actually paid at the wedding.⁹¹

Lawyer Abdel-Hadi Ghazzi describes the impacts of this social practice on *kbul'* cases brought before the new family courts:

.....
"... husbands often object – the amount written in the contract was not the amount paid, they claim. By law the judge must abide by the contract, yet more often than not he will refer the case to a special investigative committee – which means another long delay. Likewise, when a husband asks for gifts given to his wife back, even though

the law makes no provision for such gifts, the judge will refer the case to a special committee to investigate the matter."⁹²
.....

Kbul' divorces monitored by the courts affect a husband's prerogative to decide unilaterally whether to end or continue the marriage. In addition to withholding financial support, however, there are also other ways for him to take revenge on the woman, who is still his "wife", as an example from the counselling work of the NGO Egyptian Center for Women's Rights demonstrates: Negad Ahmed Moudad had decided to leave her husband and to file a petition for a divorce. To take revenge on Negad, her husband accused her of having stolen the furniture in their home, and launched proceedings himself. As a result, Negad's proceedings were delayed. With support from the NGO, however, she finally succeeded in refuting her husband's accusations and in divorcing him.⁹³

Several Arab countries are debating this Egyptian adaptation of the *kbul'* divorce. In Morocco the right to a *kbul'* divorce and the extensive legal reforms introduced in 2004 were also largely the result of the King of Morocco's initiative. In Jordan the hard-won amendment of the personal status law introduced in 2001 provisionally gives women the right to a *kbul'* divorce, after they have undergone a 30-day reconciliation course ordered by the court. The upper and lower houses of parliament have yet to debate this finally, however. Were they to reject the amendment, it would be overturned. In Yemen this kind of divorce has long existed under another name. Unlike in Egypt, where its introduction was the subject of extremely controversial debate with misogynistic undertones, it is entirely uncontroversial in Yemen. In Palestine a survey revealed that a majority of Palestinian women are opposed to the introduction of *kbul'* divorce obtained through the courts, because in their opinion women should not have to give up



their financial rights to obtain a divorce.⁹⁴ In Egypt the solution presently in place also continues to attract criticism. *Kbul'* divorces – according to many women activists – are only an option for those women, who have a secure livelihood of their own. The Egyptian lawyer Mona Zulficar takes the opposite view: In her experience, it is above all poor women, who petition for a *kbul'* divorce because they have the least to lose.⁹⁵ Furthermore, there still remains a very great need to raise public awareness of these legal provisions.

Reports from Egypt suggest that many lawyers and judges do not approve of granting women a right to divorce. The lawyer Ghada Nabil reports the following:

.....
 "I think that the majority of judges do not personally believe in *khul'*. They don't think it is Islamic and they believe that just because it so happened that once in the Prophet's lifetime a woman was granted *khul'*, there is no reason that it should be made into a general right, nor should it be legislated for."⁹⁶

In rural areas in particular, this leads to a situation in which judges ignore the new legal provisions, and do not grant women the right to a *kbul'* divorce, because they fear a backlash within the population and are concerned about their own reputations.

4.4 Legally prescribed reconciliation procedures

In all divorce proceedings initiated by the woman in Arab countries, the respective legislation requires the parties to undergo a prescribed number of attempts at reconciliation.⁹⁷ To this end, male and female conciliators are appointed to try and reconcile the couple. If the couple cannot be reconciled, the conciliators recommend to the judge that the divorce be approved. One key task of reconciliation is to establish who is to "blame" for the failure of the marriage. The issue of blame has major consequences for the wife's financial security after the divorce. The view taken by the individuals appointed to conciliate when the wife has petitioned for divorce can therefore crucially affect the decision as to whether she obtains the divorce, and whether the husband is required to pay maintenance thereafter. In most countries the conciliators are selected from within the families or social milieu of the parties. In Morocco the new family law provides for the reconciliation measures to be conducted by trained lawyers at the family court.

In all Arab countries except Tunisia men, unlike women, can have a repudiation registered before a court without having to undergo any attempts at reconciliation. Having said that, it should be pointed out that in Arab societies a man, who avails himself of his right to repudiation is frowned upon.⁹⁸

91 In Egypt this occurs primarily for tax reasons, as the *mabr* is taxed.

92 Quoted in: Leila (2005). <http://weekly.abram.org.eg/2005/757/li1.htm> (02/08/07).

93 Egyptian Center for Women's Rights (2003). <http://www.ecwronline.org/english/activities/casestady/legal%20aid%20stories.htm> (02/08/07)

94 Hamami (2004), p. 141.

95 Interview with Mona Zulficar on 9 January 2007.

96 Quoted after: Tadros (2002). <http://weekly.abram.org.eg/2002/576/fe1.htm> (02/08/07).

97 The only exception is Tunisia. Here an attempt at reconciliation must also be made when the husband files the petition for divorce.

98 Repudiation by the husband is considered "the most abominable of all permitted things".



The fact that reconciliation measures are legally prescribed means that what would normally be the services provided by marriage guidance agency are transferred to the courts. In Palestine the Shari'a Supreme Judge Department reports that the newly created marriage guidance agency is very successful. It notes that overall, the rate of repudiation was reduced from 15% to 4%. Of the 420 cases dealt with in March 2004 (the nature of these cases remains unclear), only 25%, which is to say 109 cases, were referred to the courts for a decision, while half the cases ended in successful reconciliation.⁹⁹

These instruments of "reconciliation" and "arbitration" that are strongly recognised by society may well involve solutions that are advantageous to women and that solve their current problem. In the course of an attempt at reconciliation a husband may, for instance, be persuaded to make regular maintenance payments to his wife and children, or to avail himself of his right to unilateral repudiation, if this really is his wife's wish. However, the majority of the parties and lawyers involved consider the reconciliation sessions ordered by the courts to be useless. The perception is that the conciliators are prejudiced against women seeking a divorce; they do not seek primarily to solve the problem, but rather to put pressure on the woman to drop her petition for divorce.¹⁰⁰

The lawyer Azza Soliman reports from Egypt:

.....
"Rather than trying to resolve issues between the couple, they try and put pressure on the woman to drop the case."¹⁰¹
.....

Under these conditions, the fact that a woman drops her petition for divorce would not constitute proof that the reconciliation measures have solved a marital problem at least temporarily to the satisfaction of both parties.

Looking at the aforementioned barriers faced by women in gaining access to and claiming their rights, it would appear entirely appropriate to utilise the culturally strongly acknowledged instruments of "arbitration" and "reconciliation". This reduces the level of bureaucracy involved in the resolution of marital conflicts to a minimum. Yet as long as women are significantly discriminated against by family law, as is the case in most national contexts within the region, they will be virtually unable to participate in reconciliation measures as equal partners. In other words, the legal reality is such that this instrument is of questionable value to women.¹⁰²



4.5 The social reality: life after divorce

.....
 "She had hoped that khul' would mean independence, but the reality has been far from the dream. Amany faces another battle at home now, more so this time because she returned with the status of divorcee-to-be. "I am suffocating at my parents' home. They watch my every move, because there is nothing worse than being a divorced woman."¹⁰³

It is not only laws and/or their discriminatory interpretation that make it difficult for women to end their marriages. One important factor is often also the low social status of divorced women. Waletzki describes the situation in Tunisia as follows:

.....
 "The social disdain is directed first and foremost against the woman. Not only is she seen as being mainly to blame for the disintegration of the marriage, she also has to accept an enormous loss of status. By getting divorced, she exchanges the 'honourable' status of married woman for the socially outcast status of divorcee. Divorced women are liable to face discrimination not only in their private lives, but also often at the workplace. This ranges from being ignored by colleagues, to the casting of aspersions, to being passed over for promotion."¹⁰⁴

In the Arab countries a woman's financial dependence on her husband, a lack of support and/or capacity from within her own family, and a lack of opportunity to generate income are often the major constraints to divorce. Azza Soliman offers the following thoughts:

.....
 "If the husband, for instance, comes home once a week, and beats his wife then, we might talk about whether it is possible for her to endure the situation rather than seeking a divorce [which might involve] losing the single room in which she is living and ending up on the street with her children and no income."¹⁰⁵

Especially women from the lower and middle classes, who have small children and no income of their own, find it almost impossible to avail themselves of the existing options for a divorce. One major problem is the housing shortage in most Arab towns and cities, where the only jobs exist. In Egypt and Morocco, women, who have custody of the children, are also entitled to remain in the marital home. If the husband claims that home, he must provide his wife with alternative accommodation of a similar quality. However, just one out of 50 divorced women in Egypt interviewed by *Human Rights Watch* in 2004 was found to be actually living in the marital home. Most of the women were unaware of this provision and had moved back to live with their parents.¹⁰⁶

99 Shari'a Supreme Judge, *Upper Council of Shari'a Jurisdictions* (2004), p. 7f.

100 *Human Rights Watch* (2004), p. 27f.

101 Quoted after: Tadros (2002). <http://weekly.abram.org.eg/2002/576/fe1.htm> (02/08/07).

102 See Section 5 for more detailed discussion.

103 Quoted after: Tadros (2002). <http://weekly.abram.org.eg/2002/576/fe1.htm> (02/08/07).

104 Waletzki (2001), p. 362. Similar consequences also arise for divorced women in Iraq, see Al-Kayyat (1990), p. 172f.

105 Quoted in: Tadros (1999). <http://weekly.abram.org.eg/1999/446/li1.htm> (02/08/07).

106 See *Human Rights Watch* (2004), p. 37.



In the two aforementioned countries, women, who lose the right of custody, are not entitled to the domicile. Pursuant to the amendment of 2005, a mother in Egypt is granted custody of children up to the age of 15; in Morocco too the mother is awarded custody initially, although upon reaching 15 years of age the children can choose whether they prefer to live with their mother or father. If the divorced woman's side of the family is unable or unwilling to take her back, poor women in particular very quickly become homeless.

A woman normally receives postmarital maintenance only if blamelessly repudiated – and even then, only for a limited period, which is usually between three months and a year. For women, who are not financially independent as a result of their professional occupation, divorce is only an option if their families support them. However, this form of social protection is becoming less and less common, especially in urban zones. Households headed by divorced women are thus at the bottom of the income scale, even if the husband is paying maintenance for the children:¹⁰⁷ Palestinian studies show that half the households claiming public welfare are female-headed.¹⁰⁸

The husband is obliged to pay maintenance for joint children living with the mother. However, the maintenance rates laid down by the courts are not enough to survive on.¹⁰⁹ Women also have barely any means of enforcing payment by men, who are unwilling to pay. After receiving a favourable verdict from maintenance proceedings, women often spend several years attempting to have that verdict enforced. Various lawyers in Egypt interviewed by *Human Rights Watch* have, for instance, stated repeatedly that enforcement officials are very corrupt. For a small sum paid to them by the husband liable for maintenance they will, for instance, claim, according to these lawyers, that the former

husband cannot be traced, and that the verdict therefore cannot be enforced.¹¹⁰ Many women know that after a divorce their husbands will refuse to pay any maintenance at all. Poor women in particular therefore sometimes voluntarily relinquish their custody rights from the outset.¹¹¹

Funds exist inter alia in Tunisia, Palestine and Egypt from which women can be advanced cash, should their ex-husband fail to pay maintenance as agreed. In other countries their introduction is being debated. The sums paid, however, are so minimal as to be symbolic, and the number of persons entitled to claim is very limited. Payments are made, for instance, only to divorced women, who have no other "breadwinner". Women, who have either never been married or who are still married, are not allowed to claim from the fund as a matter of principle. The path to submitting a claim is also strewn with bureaucratic obstacles. Women have to present a number of documents, for instance their own personal ID papers¹¹², or – what is considerably more difficult – the birth certificate of the father of their child. To many of the rightful claimants, these bureaucratic hurdles, combined with the prospect of receiving only minute amounts of maintenance, appear a serious obstacle to submitting a claim at all.

A lack of job opportunities, social and legal discrimination, and a lack of state support (e.g. child care facilities) make it difficult for women in most Arab countries to survive on their own after a divorce. As a result, many divorcees have no choice but to remarry in order to survive.



5. Non-governmental conflict resolution bodies

In Arab countries, arbitration is an important way of resolving disputes out of court. Many countries in the region have traditional methods of arbitration such as *sulb* (settlement) or *musalaha* (reconciliation), with *musalaha* being applied especially in village and tribal contexts.¹¹³ There are also a large number of civil society actors that e.g. offer legal advisory services to women in conflict with their husbands. In most

countries, however, this type of service is available primarily in urban areas, and therefore chiefly to the educated middle classes. In rural areas, where the majority of the Arab populations live, these services are less widespread.

There are different types of extrajudicial conflict resolution, which can be classified according to their degree of formalisation and institutionalisation:



107 UNIFEM (2004), p. 153.

108 Johnson and Welchman (2004), p. 150.

109 This is demonstrated for Jordan by El-Azabry Sonbol (2003), p. 182. The situation in Yemen is the same: The ex-wife and children here receive on average 20% of the ex-husband's income: Würth (2000), p. 137 and p. 233f.

110 Human Rights Watch (2004), p. 33.

111 Ibid., p. 39.

112 This is a problem for instance in countries such as Egypt where many women, and especially those of them who are poor and/or illiterate, do not possess personal identification papers.

113 Irani (1999). <http://meria.idc.ac.il/journal/1999/issue2/jv3n2a1.html> (02/08/07).



The sequence of activities is similar in all traditional arbitration mechanisms: The parties in dispute agree on a third party, whom they recognise as neutral. The arbitrators then seek to help bring about a compromise that the parties in dispute agree to. By and large, the agreement is enforced through social sanctions. The main advantages of extrajudicial conflict resolution are:

1. the availability and approachability of the arbitrating body,
2. the speed with which solutions are achieved, and
3. the avoidance of complicated state bureaucracy.

Although, so far, little research has been carried out into non-governmental forms of conflict resolution in matrimonial disputes in the Arab world, it may be deduced that parties – especially in the case of these disputes – will seek an out-of-court settlement before turning to government agencies:¹¹⁴

.....
“...matrimonial disputes in many Arab societies are resolved either within the family or through the unofficial channels of tribal arbitration.”¹¹⁵

This applies especially to disputes during a marriage, for instance concerning the husband's obligation to provide financial support (how much "housekeeping money" he should provide), or the problem of violence within marriage. Since divorce can be obtained out of court in many states, negotiations to end a marriage are often conducted by non-governmental institutions. These bodies thus alleviate very significantly the workload of the state legal system.¹¹⁶

Arbitration mechanisms also vary widely, as do their outcomes. Consequently, it is not possible to draw any general conclusions concerning the benefits of these traditional procedures for women:

.....
“As these mechanisms evolved in the context of a male-dominated culture and male-oriented values, their biased outcomes are often a foregone conclusion.”¹¹⁷

We will now take a closer look at informal mediation by the family, and formal extrajudicial divorce.





5.1. Informal mediation by the family

When serious marital problems arise, the wife often leaves the marital home (which is usually owned or leased by her husband or her parents-in-law), and returns (temporarily) to her parents.¹¹⁸ This of course is only possible if the parents or other close relatives live relatively nearby. The first step a woman can take in the event of a marital crisis is, thus dependent on her family circumstances.¹¹⁹ Women, who have married a man from another region (e.g. women who are rural-urban or urban-rural migrants, foreigners, orphans or refugees), therefore in principle have barely any opportunity to seek family support and obtain protection in the event of a marital crisis.

When a woman is taken in by her family, her negotiating position during such a phase of separation is dependent on numerous factors. It is not possible to generalise on how the wife's parents or other relatives might react to such a step. This will depend firstly on socio-economic factors, such as the space and financial leeway the parents have to provide for their daughter and any children she may bring with her, as

well as on the parents' relationship with the husband. Secondly, individual factors such as the family's attitude are important. Some families, for instance, send the wife back to the husband, believing that she is entirely to blame for their marital problems. Other families react angrily to the husband's maltreatment of his wife, and offer her protection and shelter. A woman from Gaza interviewed by the journalist Amira Hass tells her sister's story:

.....
"... my sister got married at sixteen. To this day, her husband is the one who decides everything. He treats her like a little girl whose only job is to bear children. When girls get married that young it means the husband can mould her according to his own ideas ... Sometimes my sister is really tyrannised by her husband, and runs away to our parents. Once, when she was at our parents' house, I persuaded her not to return home before our father had spoken to her husband. Because our father's signature is on the marriage contract, all problems have to be dealt with by him. When she ran away for the first time, our father was incensed ... and ordered her to return to her husband. But once that man started beating her, our father was on her side."¹²⁰
.....

114 Research on extrajudicial conflict resolution to date has focused on the management of conflicts between men from different tribal, ethnic or religious groups, and usually displays a primary interest in customary law norms or the concrete manifestations of legal pluralism.

115 Arab Human Development Report 2005, p. 19.

116 For many African countries it has been demonstrated that a large proportion of conflicts are mediated by non-governmental institutions - if they were not, the state legal system would collapse.

117 Arab Human Development Report 2005, p. 19.

118 For Yemen, see: Würth (2000), p. 193; for Egypt, see: Tadros (2002). <http://weekly.abram.org.eg/2002/576/fe1.htm> (02/08/07); for Palestine/the Gaza Strip, see: Hass (2004), p. 199.

119 Protective accommodation such as women's refuges (offering protection for victims of domestic violence), rarely exist, and where they do they can be found mainly in major cities. Women threatened in the name of their family's honour are often left with no alternative but to flee to prison, where they are taken into protective custody for an indefinite period.

120 Hass (2004), p. 199.



If a woman has found shelter with her family, and the husband would like to win his wife back, he must make the first move. This involves the husband sending intermediaries to his parents-in-law, usually with small gifts or tokens for the wife. These intermediaries, normally members of the husband's family or close friends, negotiate the wife's return with the male members of the wife's family. These intermediaries can also be women – though it has not been documented to what extent women actually perform this role. It tends to be men, who act as the mediators.

During these negotiations concerning the wife's return, it is customary, for instance in urban Yemen, for the wife's male relatives to demand a written declaration from the husband that he will in future treat his wife better and refrain from the behaviour that has been causing the conflict. They usually also demand repayment of the costs incurred by the wife's family during the period that they have been supporting her (and the children). It is also customary to demand compensation for the wife (e.g. new clothing or gold jewellery) or for her parents.¹²¹ However, husbands often refuse to pay back-dated maintenance or compensation, arguing that their wife was in the wrong for staying at her parents' house. She should come back, a husband might argue, and then he would resume supporting the family.¹²²

It is problematic for women that during the negotiations the intermediaries are basically at pains to reunite the married couple.¹²³ In other words, this means that strong pressure is exerted on the couple to meet their respective obliga-

tions and practice being patient with each other. Pressure is exerted on the couple to do the latter especially if they are still young and/or have very young children. Another difficult aspect, from the woman's point of view, is that she is normally represented by a male relative in the arbitration process. The extent to which the wife's wishes are taken into account is dependent on his attitude. The outcome may therefore either be a compromise that the woman affected does not really want, or it may be that her interests are indeed successfully represented by the male relative, as in the following example:

The Egyptian Karima wanted a divorce, but her husband refused to repudiate her. Various attempts to bring about a peaceful solution through her husband's sheikh initially failed to produce a result. Only when she involved her father and her uncle as intermediaries did Karima succeed in reaching agreement with her husband on an extrajudicial divorce, which the responsible registrar in her municipality carried out. Karima relinquished her claim on the home that her husband had brought to the marriage, on half the furniture she had bought, and on all postmarital maintenance. In return, her husband agreed to the divorce. Within three days they were divorced, without court proceedings.¹²⁴

Before a court, the divorce would have taken very much longer, and depending on the attitude of the judge Karima would in addition to the lawyer's fees and court costs presumably also have had to pay back the dowry to her husband.



5.2 Formal extrajudicial arbitration

If attempts by intermediaries to help negotiate a resumption of the couple's married life are unsuccessful, the parties, which are to say male relatives of the wife, and the husband or his relatives, can agree on formal arbitration. Here, the parties select one or several arbitrators, whom they mandate to arbitrate the conflict. Both parties must recognise the arbitrators, and pay the fees for their services. The arbitration process can take place prior to or parallel to court proceedings. It can also be the outcome of a court case, for instance when a woman's petition for a divorce has not been granted.

Often religious or traditional authorities are employed as arbitrators. When problems arise, either spouse may approach the sheikh or imam and seek their advice – even in large towns and cities. This individual gives advice that is religiously grounded and that both parties are supposed to follow. In Egypt, the Ministry of Social Affairs has also set up counselling agencies that married couples can consult in case of conflict. Here, trained male and female social workers provide counselling and mediation services for marital problems. Apart from Yemen, where the role of non-governmental structures in the administration of justice is much more pronounced than in other Arab countries, there is unfortunately barely any documentation from any country on the results of formal matrimonial arbitration mechanisms. It is, therefore, not possible to draw any general conclusions as to which

advantages or disadvantages they might have, particularly for women, as compared with the state legal system.

The procedure is similar for both extrajudicial and court arbitration. Petition and defence are presented, witnesses heard and proof brought forward. Since the formal arbitrators must be acknowledged in writing by both parties, and are normally esteemed personalities within their communities, the verdicts are usually also carried out.

The Yemenite Amira left her husband because he refused to provide for the family. All attempts at reconciliation by the family failed because the husband was unwilling to pay backdated maintenance, and even less willing to pay compensation to his parents-in-law for having supported his wife and the children. As a result, a public arbitrator was finally appointed. In addition to providing an assurance that he would in future support the family and treat his wife respectfully, the husband had to pay compensation to his father-in-law:

.....
"Amira ... returns to the house of her husband ... as soon as (the husband) pays her and her children maintenance for ten months, YR40.000 (US\$200), furnishes a house in the spouse's place of residence ... and promises to provide for her and live with her respectfully. In addition, (the husband) has to offer two sheep to his uncle/father-in-law, with YR5,000 and another YR5,000 (US\$33) for a new set of clothing (kiswa) for the wife."¹²⁵
.....

121 Würth (2000), p. 162-166.

122 Ibid.

123 Bernard-Maugiron (2005), p. 95 on Egypt.

124 Schlösser (2004), p. 8.

125 Würth (2005), p. 292



In rural Yemen, tribal leaders appointed as arbitrators also have physical means of enforcing verdicts. If, for instance, a wife refuses to return to her husband after having received the agreed maintenance, then her father can be arrested, because according to customary law he is responsible for his daughter keeping to the terms of the agreement.

In Yemen, the maintenance rates for women set in extrajudicial arbitration verdicts appear to be significantly higher than the amounts set by the courts - the latter being more of symbolic value. Assuming, therefore, that the aim is to resolve conflicts and preserve the integrity of marriages, extrajudicial arbitration would appear to be more advantageous for women. If a woman is seeking a *kbul'* divorce, however, then an extrajudicial arbitration procedure would tend to be disadvantageous for women and their families.¹²⁶ The amounts charged by arbitrators for *kbul'* are far in excess of what women have to pay for court divorce proceed-

ings, even if we include the additional time it costs them plus the lawyer's fees and bribes that they may also have to pay. For women, who have a legally acknowledged ground for divorce (such as a lack of financial support from their husbands), court divorces are therefore the more advantageous option in Yemen.

From the precedents set by extrajudicial conflict resolution bodies in Yemen, we can provisionally conclude that arbitration mechanisms translate socially approved ideas of marital duties quite directly into (customary) law: If the blame lies with the husband (as can be indicated to extrajudicial arbitrators by a young wife "running away"), he is made to pay for the extrajudicial negotiation of the continuation of the marriage. If, on the other hand, the woman is seeking a divorce, this is an expression of the fact that it is she, who is failing to perform her duties. Accordingly, she or her male relatives are required to "buy" her freedom. In short: Whoever appears to be

neglecting their duties is made to pay the costs. In many Arab countries, there is also a traditional jurisdiction that comes into play in rural or tribal areas when disputes arise concerning land and water rights, concerning inheritance, or in cases of physical violence that threaten the immediate peace of a large community.¹²⁷ The traditional councils are often made up of community leaders, tribal leaders or sheikhs.

It is appropriate to mention Egypt, where formalised arbitration bodies exist in the form of traditional jurisdictions (*baqq al-'arab* or *majlis al-tabkim*). Their procedures are always public. Their members are often officials of the central or provincial government, which clearly shows that traditional conflict resolution bodies are not monopolised by elements from within traditional institutions.¹²⁸ In Upper Egypt, the arbitration councils are also known as *majlis al-sulb* (reconciliation council), *majlis 'urfi* (customary council) or *majlis al-'arab* (Arab council).¹²⁹

These traditional councils aim to achieve peaceful settlements through dialogue. In Egypt, misdemeanours by the involved families are often translated into monetary values, though these are never paid, as the aim is to reach agreement through dialogue rather than to impose penalties.

To date, there is unfortunately no documentation available as to whether and with what outcome these traditional arbitration councils are also involved in marital disputes.



¹²⁶ Würth (2000), p. 162-166.

¹²⁷ Korsholm-Nielsen (2003). http://www.isim.nl/files/news_13-12.pdf (02/08/07).

¹²⁸ Ben Nefissa (1999), p. 147; Korsholm-Nielsen (2005), p. 13.

¹²⁹ Korsholm-Nielsen (2003). http://www.isim.nl/files/news_13-12.pdf (02/08/07).



Concluding remarks

Despite the relevance of the theme, the research material available on many key aspects of the legal reality faced by Muslim women in the Arab world remains inadequate. In the present publication, an attempt has been made to provide a first exemplary overview. This does not claim to be complete, but it is designed to provide some helpful insights and stimulate further studies.

Given the contextual diversity, it is not possible to reach any exhaustive, summary conclusions concerning the legal reality faced by Arab women. It is important to consider each of the individual nation states, and the various regions within those states, in their own respective contexts.

Nevertheless, we can say that in almost all Arab countries both legislation and the way it is applied continue to discriminate against women in numerous respects, leaving them at a disadvantage compared with men. Even so, the legal reality is in many respects far more progressive than the social reality. It is, for instance, primarily social, cultural and economic barriers that prevent women from asserting their rights.

Within the various Arab countries, these barriers, as well as the laws in place and their respective interpretations, are both heterogeneous and complex.





We can conclude with certainty that the state legal systems, especially in matrimonial disputes, play only a secondary role, and that extrajudicial agencies are preferred. Solutions are first sought within the families concerned, after which traditionally recognised arbitrators are called in to mediate. Only if and when this mediation fails to bring about a solution, is the legal apparatus of the state brought into play.

This publication has attempted to show that there are many women, who do claim their rights in spite of all the obstacles they face. Whether and to what extent they are successful depends on both the educational and economic status of the particular woman concerned, and the attitude of her family and social milieu. The state legal system and formal legislation are alien to a large section of the population, particularly in rural areas. For the most part, it is the provisions of customary law and religion, which vary from region to region, that govern their lives. Consequently, strategies that seek to improve legislation will fall short of the mark unless they are also culturally accepted. The Arab states do not maintain courts everywhere within their territory, which means that desirable mechanisms such as support for legal costs and free legal aid can only ever reach a very small section of the population, especially in rural areas.

A sustainable improvement in the legal status of women in the Arab world will therefore need to be embedded into a more comprehensive strategy. To this end, it will be necessary to conduct studies in the individual countries on the causes of discrimination, and to survey systematically the relevant socio-economic factors such as male role-models, pressure of social expectation, demographic trends etc., in order to sustainably improve women's education and economic self-reliance, and guarantee their equal participation in political and social decision-making processes. This echoes the call made by the Arab Human Development Report in 2005:

.....
"Full opportunities
should be given to Arab women
for effective participation in all types
of human activity outside the family
and on equal footing
with their male counterparts."¹³⁰
.....

130 Arab Human Development Report 2005, p. 220.



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www.gtz.de/gender



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