

If only there was *khul'*...

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In *Uridu Hallan*, Doreya, a middle-aged Egyptian upper class woman, wants to divorce her husband. Since her only son had grown up and had just left the parental home in order to study abroad, she decided that the time was ripe to divorce her unfaithful, alcoholic, and abusive husband whom her father had forced her to marry twenty years earlier. When she requested him to divorce her he refused, saying that he could not understand that she suddenly wanted a divorce after twenty years of marriage unless "her eye was on another man." As a consequence, Doreya was left no other choice then to file a divorce case in court. Her case was endlessly postponed and she found herself dividing her time between work and going to the court without any results. As her case dragged on, she became more interested in learning the difference between women's divorce rights in Islam as compared to the divorce rights she had as an Egyptian Muslim woman under the Egyptian legal system. She discovered that Islam gives women the right to divorce their husband unilaterally through a procedure called *khul'*. One day, she found the police at her door—sent by her husband—to force her back to the marital "home" through a so-called "ta'ah" (obedience) ordinance. Instead of returning "home" Doreya ran down the stairs and fled to her brother's apartment.¹ There she met a friend of her brother and after a while they fell in love. Slowly Doreya started getting hopes for a new future.

Yet, the "obedience" ordinance had angered her to such an extent that she decided to make an appointment with the Minister of Justice. During her visit she told him about the "*khul'* hadith" in which a woman approached the Prophet telling him that she hated living with her husband although she

thought of her husband as a good and religious man. The Prophet asked her if she was willing to give back to him the *mahr* (dowry) which he had given her upon marriage. She agreed, and after she returned it to her husband, the Prophet divorced her from him. The Minister of Justice was impressed by her knowledge of Islamic law and he promised to study the matter. He abolished the "obedience" ordinance in the sense that the police was no longer allowed to force a woman back "home."² However, he did not give women the right to divorce by way of *khul'*, nor did he set out to facilitate the existing divorce procedures so as to put an end to a practice which made women spend years in court without necessarily obtaining a divorce at the end of that period as happened to Doreya. After four long years the judge refused to grant her a divorce. Instead of marrying the friend of her brother whom she was in

In the mid 1970s, a film, *Uridu Hallan (I Want a Solution)*, drew attention to the plight of women applying for divorce under Egyptian law. Three decades later, Egyptian women are the first in the Middle East to have gained the right to unilateral divorce through a procedure called *khul'*. Cartoons and two films now depict *khul'* as a law designed mainly for immoral westernized Egyptian women from the upper classes.

love with, she was still legally married to a man whom she hated and from whom she had already been separated for years.

Finally there was *khul'*

In actuality Doreya is a character played by Fatin Hamama (1931-), one of Egypt's most famous actresses. Released in 1975, *Uridu Hallan (I Want a Solution)* had a profound influence on

the public and many claimed that it revived the reform initiatives of the old Personal Status Laws which had last been amended in the 1920s. It is difficult to measure its effects, but it is beyond doubt that the film reflected the mood of the seventies in which hope, when a new reform proposal was introduced, and disappointment, when it was rejected again, succeeded each other. While the reform initiatives of 1971, 1975, and 1977 were all rejected by Parliament, Sadat pushed through a reform of Personal Status Law in 1979 during a period of parliamentary recess. The new law aroused a lot of controversy and especially the fact that women were given automatically the right to a divorce in case their husband married a second wife, enraged religious leaders, as well as the general public. However, since Sadat had issued the law when Parliament was in recess, some lawyers appealed the constitutionality of the law in the High Court which declared it unconstitutional on formal grounds in May 1985. The High Court did not declare the law unconstitutional on the ground that its content violated the Sharia. Although in July 1985 a new, adapted version of the 1979 law (law no.100/1985) was accepted by the Parliament, women felt disappointed. They again set out to reform Personal Status Law.

Where in the film, Doreya went to visit the Minister of Justice in order to ask him to change the "obedience" ordinance and urge him to introduce unilateral divorce by way of *khul'* instead, more than a decade later, women's activists also went to see the Minister of Justice, in order to discuss how they could facilitate the procedures governing judicial divorce cases initiated by women. After years of working with the Ministry of Justice, government officials, well known lawyers, and religious authorities, the women's activists made a big step forward when the

Cartoons appeared to provide a very popular means for those opposing reform of divorce rules to express their criticism of the new "*khul'* law."

A woman tells her new lover: "Just a minute please... I will divorce my husband (through *khul'*) and come to you immediately!"
Al Wafd Newspaper, 8 February 2000



AL-WAFD NEWSPAPER, 2000

People's Assembly passed Law no. 1/2000 on the Reorganization of Certain Terms and Procedures of Litigation in Personal Status Matters.³ Soon the law became known as the "khul' law" after one of its 79 clauses which allowed for a khul' without the consent of the husband. According to this interpretation of khul': "A married couple may mutually agree to separation. However, if they do not agree and the wife sues demanding it; separates herself from her husband by forfeiting all her financial legal rights; and restores to him the *sadaq* (dowry) he gave to her, then the court is to divorce her from him" (article 20).

The "khul' law" criticized

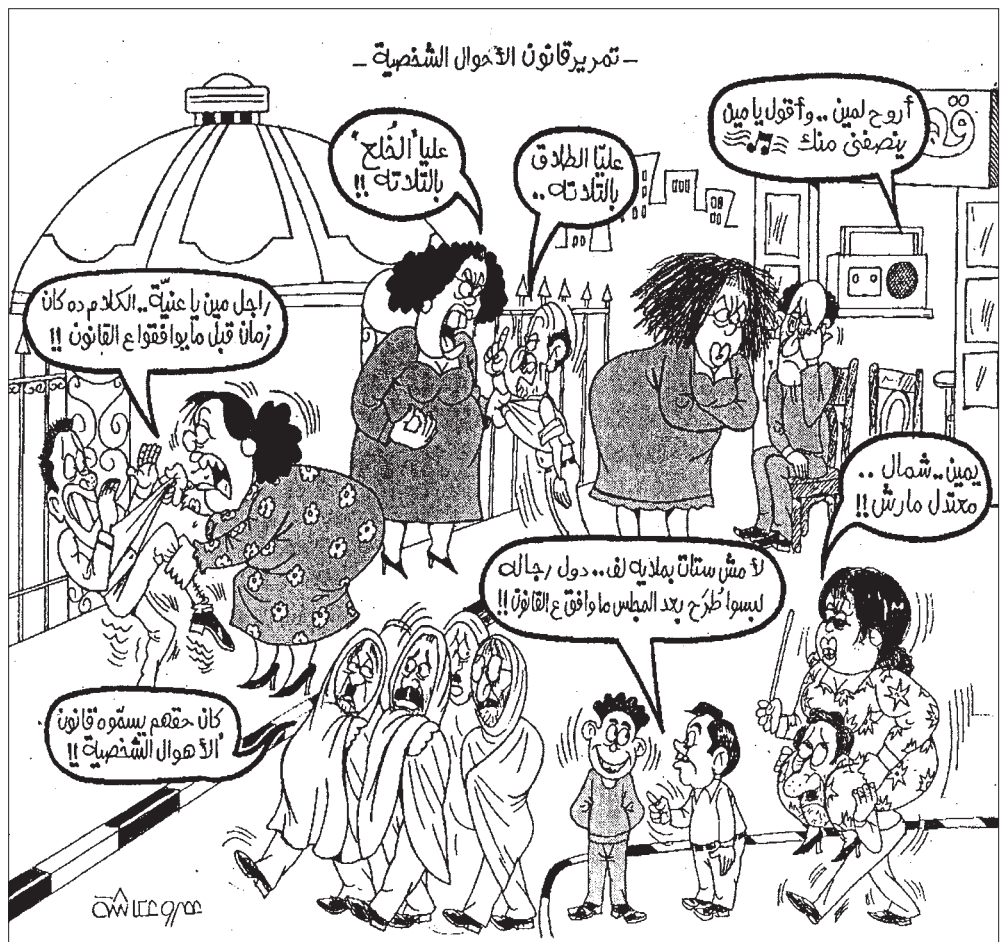
In contrast to what one might expect, khul' was criticized by many defenders of women's rights, one of whom was Husna Shah, the scriptwriter of *I Want a Solution*. In an interview in an Egyptian newspaper in 2000 she said that khul' will only be used in case of extreme necessity since the wife will have to forgo her financial rights such as alimony. For this reason, a woman will hesitate to approach a court. Husna Shah even predicted that women who do not opt for khul' but who continue to live in discordant marriages, will resort again to "the cleaver and the plastics bags," a reference to criminal cases in which women, unable to obtain a divorce, ended up murdering their husbands.

Husna Shah did not stand alone in her criticism. Other proponents of women's rights also were of the opinion that khul' would only be an option for richer women since they were the only ones likely to be able to pay back the dowry as well as give up their financial rights. Opponents of reform of the existing divorce rules articulated much fiercer criticism. They also stated that giving women unilateral divorce rights would lead to skyrocketing divorce rates, and hence the destruction of the Egyptian family since women were too emotional to be given this right. As long as women remained obedient to their husband, family life and society in general would prosper. However, when women would leave their husband and ask for a khul', this would lead to the breakdown of the Egyptian family and, hence, to that of Egyptian society at large. Often opponents called women applying for khul' *nashiz* (disobedient).

Cartoons appeared to provide a very popular means for those opposing reform of divorce rules to express their criticism of the new "khul' law." They depicted women with moustaches, women flirting with other men, men in shackles and men pushing prams, all conveying the same message: once women were giving the right to unilateral divorce, they would misuse it. As a result Egyptian family life would fall apart. What is particularly interesting is that many, if not all, cartoons depicted women as westernized Egyptian women who did not wear the veil, but instead wore tight garments and who walked on high heels.

The issue of westernization and women's (dis)obedience was also a central theme in two films which dealt with the development of khul' after its introduction in 2000. Both films were comedies and in both cases they showed how two women from the higher classes tried to divorce their husbands. The first film, *Muhami Khul'* (*Khul' Lawyer*) was released in 2003 and showed how a young and attractive woman of the high heels and tight clothes type, who owned a factory wanted to divorce her husband because he was snoring. For this purpose she approached a lawyer who accepted her case but only on the condition that they would construe snoring as sexual impotence, otherwise they would have no chance of winning the case.⁴ During the process they (not surprisingly) fell in love with each other. She won the case but in the end the two did not marry each other after she caused a scandal by swimming in her bikini in the river which ran along the house of his parents in the village.

The title of the second film *Uridu Khul'an* (*I Want Khul'*) is a pun on the film *Uridu Hallan* and was released in late 2005. Again, we see how an upper class woman with two children resorts to khul' in order to pressure her husband to give her permission to leave the house in order to work again. He had refused to let her work after he had come home one afternoon only to find out that his two children had changed the house into a chaos during his wife's absence. Since he thinks that her main responsibility is in the house, he refuses to let her work again after which the wife files the first khul' case in the country. The media, eager to cover this first khul' case, starts to cover her case in every na-



tional paper and on television. As a consequence the husband, afraid of his high position, becomes so embarrassed that he starts to give in to her wishes bit by bit.

Both the cartoons and the two films use the imagery of westernized Egyptian women to suggest that khul' is only in the interest of already liberated and immoral rich elite women who will only use it for frivolous reasons. In fact, however, the majority of those filing for a divorce through khul' are Egyptian women from the lower middle classes who do not wish to divorce their husband merely because they snore or because they forbid them to work, but because their lives have in some way been made impossible. Many of these women have husbands who do not have jobs and refuse to work, or husbands who have left them for another woman without divorcing them, thereby forcing them to run the household alone and to work outside the house as well as making it impossible for them to remarry. In such cases it is ironic that husbands frequently react to their wife's khul' case by filing an "obedience" ordinance. Apart from attempting to save their honour by putting the blame on their wife, they hope to make it difficult for her to obtain a divorce or they hope that the "obedience" ordinance will scare her to such an extent that she will withdraw her case.

The problems of these women are not easily recognized as the main discourse still relates khul' to women's disobedience and consequently the destruction of the Egyptian family. Approximately 35 years after Doreya's *Uridu Hallan* Egyptian women are in a position to say *Uridu Khul'an*. The relationship between khul' and disobedience, however, makes filing for a divorce through khul' a stigmatizing experience. What is more, this problem is not limited to a small group of westernized elite women as most women who resort to khul' are from modest backgrounds.

Notes

1. When a wife left the marital home without her husband's permission he was legally permitted to force her home by police force.
2. It was really abolished in 1967.
3. For more information, see Diane Singerman, "Rewriting Divorce in Egypt: Reclaiming Islam, Legal Activism, and Coalition Politics," in *Remaking Muslim Politics, Democratization* (Princeton: Princeton University Press, 2005), 161-188.
4. This clearly goes against the idea of the "khul' law" of 2000 under which women no longer need to prove that they have "valid" reasons for divorce.

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Cartoon from Al Wafd Newspaper foresees that, after the passing of the new Personal Status Law, women will be in control, 27 January 2000.