If only there was khul’...

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.

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 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 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
People's Assembly passed Law no. 1/2000 on the Reorganization of Certain Terms and Procedures of Litigation in Personal Status Matters. 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 (downy) 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 clever 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 downer 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’ rash (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 disobedience was also a central theme in two films which dealt with the development of khul’ since its introduction in 2000. Both films were comedies and in both central theme in two films which dealt with the development of khul’ but who continue to live in discordant marriages, will resort again to “the clever and the plastics bags;” a reference to criminal cases in which women, unable to obtain a divorce, ended up murdering their husbands.

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The issue of westernization and women’s disobedience was also a central theme in two films which dealt with the development of khul’ since 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, Muhammi 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. 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 Urudu Khul‘an (I Want Khul’) is a pun on the film Urudu Hallan and was released in late 2005. Again, we see how an upper class woman with two children resorted 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 national 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 Urudu Hallan Egyptian women are in a position to say Urudu 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.

Nadia Sonneveld is a Ph.D. candidate at ISIM, doing research on the implementation of the Egyptian “khul’ law” of 2000 in the courts and in daily life.
Email: n.sonneveld@isim.nl
Interview Dick Douwes
Resisting Uniformity

Martijn: There, you found out that this man, as most of the inhabitants, was an Ismaili whose grandparents had migrated from the coastal mountains to the inland plains in the late nineteenth and early twentieth centuries.

Dick: Yes, he was not a religious man and was often dressed like the Arab nomads with whom he traded spare car parts. As an M.A. student I was primarily interested in the migration to and re-cultivation of the areas adjacent to the Syrian steppes. In the process I happened to stumble on the curious history of the recognition of the Bombay-based Aga Khan by a part of the Syrian Ismaili community at the end of the nineteenth century. The problems ensuing from that recognition, including the trial for treason of their religious shaykh, caught my attention.

My later Ph.D. research aimed at examining the non-mainstream Muslim communities in the closing decades of Ottoman Syria, but during my research in the Syrian National Archives I discovered unique material on the rural crisis of the late eighteenth and early nineteenth centuries and decided then to elaborate on that topic.

Martijn: Coincidence may have played its part in your career but the Ismailis (and later the Alawis), Lebanon, and Syria remain important themes in your research interests. Why direct your gaze at the marginal?

Dick: I am concerned with the—so to speak—"multicultural drama" accompanying the demise of the Ottoman Commonwealth; how ethnic, linguistic, and religious plurality became increasingly tested by forces of colonialism and post-colonialism, by the market, and, most of all, by various brands of nationalism. Differences in ways of life, religious convictions appeared to have been less problematic in the early modern era, certainly when compared to more recent conditions in the successor national states. What interests me is the process in which traditions and ways of interaction between people become problematized and politicized through the discourses of colonialism, nationalism and, more recently, Islamism. As a consequence some people feel less at home than they used to. In some way this is related to what we witness now globally, in debates about identity, conduct, and visibility of minority communities. It is not at all restricted to the Middle East but one can find it in Europe, and in particular, in the Netherlands. It is the majority that critically evaluates the conduct of others with their own principles and ideals—and not necessarily their actual behaviour—as is the case in the Netherlands, the result is that for an individual Muslim it is difficult to feel at ease and to express oneself freely.

Martijn: Your work is mostly historical. Do we need the historical perspective in order to understand current developments?

Dick: It is useful to reconsider earlier experiences as well as uses of the past. For instance, when one works with a historical perspective one immediately sees the rapid changes in the public debate; in the Netherlands, the initial positive approach of multiculturalism was faded out by severe criticism within the span of only a few years. A historical perspective is, in my opinion, also important for ISIM to keep in mind, because every group acts and develops action based on historical experiences, at the least generational but often spanning longer cycles. Moreover, the use of the past offers rich avenues for research. Within religion it is often habitual to refer to historic characters and personnel; the Qu’ran and Hadith (traditional law) and many others. These have advanced arguments to support their actual behaviour—as is the case in the Netherlands, the result is that for an individual Muslim it is difficult to feel at ease and to express oneself freely.

Martijn: Apart from your involvement with organizational matters, your main contribution to the ISIM enterprise was as editor of the ISIM Newsletter/Review. What shaped the ISIM Newsletter?

Dick: The first ISIM Newsletter was the combined effort of a very small team that had to deliver a product in only three months to accompany the formal opening of the Institute. The opening was in October 1998 but I was actually involved, with others, in the bringing about of the institute from 1996 onwards. The ISIM Newsletter has continued to rely on the exceptional skills and commitment of people like Gabrielle Constant in the early days and later on also Noel Lambert, Linda Herrera and, of course, Dennis Janssen. ISIM and the ISIM Newsletter were always meant as a platform to stimulate a more diverse scientific discourse on research in social, political, and religious processes. First of all we wanted to demonstrate through the articles in the Newsletter that a religious life is actually a very normal life; when looking at religion, religious movements, religious conduct, one al-