If only there was khul’...

In Undu 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. 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 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. 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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 sadag (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 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 rule 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’ rashid (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’. 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 wives’ 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.

Problem of women's disobedience is 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.
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.
Interview Dick Douwes
Resisting Uniformity

Martijn de Koning

Back in his student days, the young Douwes worked his summer holidays in a factory in order to finance his travel to the Middle East. On one of his journeys in Syria, while travelling from Aleppo to Abu Kamal, he met on the bus a dealer in used car parts who invited him to his house in Salamiyya, a rural town to the southeast of Hama.

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 Shaykhs, 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 precedent. This is also true for Islam. For example, a century ago the paradigm of the prophet Muhammad evolved primarily around ritual and pious behaviour, aspects that have remained of great concern for practising Muslims. However, within that century he has assumed an ever more political role and his quality as a man of state has gained considerable strength.

From Newsletter to Review

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 and 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-