

Immigration and Refugee Board of Canada

[Home](#)

> [Research Program](#)

> Responses to Information Requests

Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment, please email the [Knowledge and Information Management Unit](#).

23 December 2013

EGY104705.FE

Egypt: Process for applying for divorce for women who were married in the Muslim community, including laws, difficulties and obstacles (2004-December 2013)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Law

In Egypt, the *Personal Status Law*, which addresses divorce, is generally administered according to an individual's religion (US 19 Apr. 2013, 26; Freedom House 2010, 7). Freedom House states that the law that governs personal status issues for Muslims is Law No. 25 of 1925, which was amended in 1979, 1985, 2000 and 2004 (2010, 7).

In the report *Divorced from Justice: Women's Unequal Access to Divorce in Egypt*, published by Human Rights Watch in December 2004, it is stated that, according to the *Personal Status Law*, a man has a "unilateral and unconditional" right to divorce his wife by telling her three times that they are divorced and then registering the divorce with a religious notary (Human Rights Watch Dec. 2004, 19; Freedom House 2010, 9). This type of divorce is called a *talaq* (ibid.; Human Rights Watch Dec. 2004, 19). Women can only request a divorce through court action (Freedom House 2010, 9; Human Rights Watch Dec. 2004, 20). According to Human Rights Watch, this judicial process is referred to as *tatliq* (ibid.). Muslim women in Egypt who want a divorce have two options: the "fault-based divorce" and the "no-fault divorce" (ibid.; Freedom House 2010, 9), referred to as *khula* (ibid.) or *khul* (Human Rights Watch Dec. 2004, 23) in Arabic.

In correspondence with the Research Directorate, an assistant professor with the Department of Arabic and Islamic Civilizations with the American University in Cairo stated that, although the [political] situation is still "very fluid," the situation of women who file for divorce is still "roughly" the same as that discussed in Human Rights Watch's December 2004 report *Divorced from Justice: Women's Unequal Access to Divorce in Egypt* (15 Dec. 2013).

The *Personal Status Law* is perceived as a major source of discrimination against women (Freedom House 2010, 3; Human Rights Watch Dec. 2004, 10). The co-founder of Egyptian Women for Change, a women's political network developed in 2010 that promotes political, economic and social change (*Ahram Online* 27 Oct. 2010), points out that, although some people argue that women "now receive all their rights," this is false (ibid. 2 Apr. 2012). The co-founder of Egyptian Women for Change stated that it will still take a number of major amendments to the law before women acquire their rights (ibid.).

2. Types of Divorce

2.1 Fault-based Divorce

The fault-based divorce is allowed only when the wife proves that the husband has exhibited one of the following four faults: "(1) illness, including mental illness, venereal disease, and impotence; (2) non-provision of maintenance or financial support; (3) absence or imprisonment; and (4) harmful behaviour, such as mental or physical abuse"" (Freedom House 2010, 9; Human Rights Watch Dec. 2004, 21).

The *Personal Status Laws in Egypt* report published in March 2010 by the Development Research Institute (Institut de recherche pour le développement, IRD), an organization founded in 1937 with the objective of understanding the evolution of society (IRD n.d.), lists the various grounds for divorce (IRD March 2010, 20).

If a woman wants to divorce on the grounds of "defect," her husband must be suffering from a "serious or incurable" defect (ibid.). It must be "impossible" for the wife to continue living with her husband without suffering (ibid.). The husband must have been suffering from this defect before the marriage and without his wife's knowledge (ibid.). If the defect appears after they are married and the wife "implicitly or explicitly" accepted her husband's defect after having knowledge of it, she cannot then file for divorce on the grounds of "defect" (ibid.).

If a woman wants a divorce on the grounds of "absence" or "imprisonment," her husband must have been absent for more than a year without a valid reason, or sentenced to more than three years in prison (ibid.). The wife must, however, wait one year after the imprisonment of her husband to apply for divorce (ibid.).

The grounds of "injury" implies that the continuation of matrimonial life is "impossible" (ibid.). According to Human Rights Watch, polygyny is also considered grounds for "injury" (Dec. 2004, 21). Human Rights Watch adds that divorce on the grounds of the husband's polygamous remarriage is not, in and of itself, sufficient grounds for divorce (Dec. 2004, 21). The IRD report also states that the spouse who wants a divorce must "prove" that her husband's new marriage has caused her moral or material harm and made the continuation of matrimonial life "difficult" (IRD March 2010, 20). The IRD also states that the wife must request a divorce within one year of being informed of her husband's new marriage, unless she has "explicitly or implicitly" agreed to it (ibid.).

2.2 No-fault Divorce

Law No. 1 came into effect in 2000 (UN 5 Feb. 2010, 12, para. 49; Human Rights Watch Dec. 2004, 23). Article 20 of Law No. 1 codifies no-fault divorce (Freedom House 2010, 9; US 28 Feb. 2005). Women who request this type of divorce can only obtain it if they forgo their dowry, alimony and any other financial compensation (Freedom House 2010, 9; US 19 April 2013, 26).

In an article published on 2 April 2012 by *Ahram Online*, an English-language current events news website launched in 2010 (*Ahram Online* .d.), quotes the Chairwoman of the Egyptian Center for Women's Rights (ECWR), an organization founded in 1996 that offers legal services to women in particular (ECWR n.d.); she states that the divorce rate for no-fault divorce represents three percent of all divorces (*Ahram Online* Apr. 2012). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2.3 Divorce in the Context of an Urfi Marriage

Urfi marriages are celebrated with two witnesses in attendance but are not "registered" (Freedom House 2010, 8; IRD Mar. 2010, 17). According to Freedom House, this type of marriage is an "informal civil contract" and is not "registered" as a "traditional" marriage contract (2010, 8). The IRD states that these marriages are not officiated by a representative of the state (Mar. 2010, 17). *Urfi* marriages are popular in Egypt (Human Rights Watch Dec. 2004, 23; Freedom House 2010, 8). Sources report that approximately three million *urfi* marriages have been documented by notaries in Egypt, but that the actual number of these marriages is thought to be much higher (ibid.; *The Telegraph* 7 Apr. 2008). Freedom House states that women are "severely disadvantaged" in these marriages (2010, 8). Within the context of this type of marriage, if the husband keeps the informal civil contract, the wife is considered to still be married and cannot remarry (Freedom House 2010, 8; IRD Mar. 2010, 18). According to the IRD report, as of 2000, a wife can petition for a judicial dissolution of her marriage using "any written document" to prove the existence of their *urfi* marriage (ibid.). The IRD adds that only fault-based divorces are authorized in this case (ibid.). The IRD report adds that if both spouses agree, the husband can repudiate his wife and the *urfi* marriage is therefore "terminated" (ibid.).

3. Process and Obstacles

3.1 Compulsory Mediation

Human Rights Watch states that women who seek a divorce (fault-based or no-fault) must first submit to court-ordered mediation (Dec. 2004, 26). The Law of 2000 imposes these compulsory mediation sessions (IRD Mar. 2010, 9; Human Rights Watch Dec. 2004, 26). The IRD states that mediation sessions are held before any personal status case, including divorce, is heard by the family court (IRD March 2010, 15). The IRD points out that the goal of these mediation sessions is to try and reconcile the two parties in order to avoid having these cases-particularly divorce cases-end up in family court (ibid.). The IRD adds that these mediation sessions are administered by three mediation specialists: "one trained in law, one trained in social work, and the third in psychology" (ibid.). A lawyer who is a member of the National Council for Women (NCW), a government organization established in 2000 by presidential decree to propose public policy matters on the development and empowerment of women (Egypt, 29 Mar. 2012), and which participated in the legislative reform on personal status in 2000, stated that, in the case of a no-fault divorce application, the role of mediators is to check whether a woman "deserves to be divorced" (*Al-Ahram Weekly*, 7-13 Mar. 2002).

According to the IRD, mediation sessions slow down the process, without necessarily succeeding in attempts at reconciliation (Mar. 2010, 9).

3.1.1 Compulsory Mediation Specific to No-fault Divorce

The *Divorced from Justice* report, published by Human Rights Watch in December 2004, states that a separate mediation process is used for no-fault divorces (Human Rights Watch Dec. 2004, 27). Again according to Human Rights Watch, mediators spend a maximum of three months trying to reconcile a couple when the wife wants a divorce; however, if the couple has children, they undergo two attempts at reconciliation with a 30-day waiting period between attempts (ibid.). The Human Rights Watch report adds that, if the reconciliation attempts fail, the court names two arbitrators, one from each side of the family (ibid.). These arbitration sessions must not take more than two months (ibid.). If, in spite of the mediation, the wife does not want to return to her husband, the divorce application should continue and not be postponed (*Al-Ahram Weekly* 7-13 Mar. 2002).

3.2 Family Courts

The coming into force of Law 10 established the "family court system" (IRD Mar. 2010, 4; Human Rights Watch Dec. 2004, 21). Family courts are responsible for hearing all family disputes, including divorce (IRD Mar. 2010, 15; Human Rights Watch Dec. 2004, 3). Since 2004, advisory opinions from public prosecutors are mandatory for divorce cases before the family courts (Human Rights Watch Dec. 2004, 20,21). According to the IRD, these courts are run by a panel of three judges (Mar. 2010, 15).

Human Rights Watch notes that men often appeal the family court decisions in fault-based divorces (Dec. 2004, 25). As for no-fault divorces, the Human Rights Watch report states that men cannot appeal the decision to a superior court (Dec. 2004, 23).

3.2.1 Obstacles and Difficulties Encountered in Family Courts

The judicial process is slow, and it can take years before a court renders a decision (IRD Mar. 2010, 9; Human Rights Watch Dec. 2004, 24). According to the IRD, family courts suffer from a lack of specialization of judges, lengthy procedures and the lack of implementation mechanisms (IRD Mar. 2010, 15).

The *Country Reports on Human Rights Practices for 2012*, published by the United States (US) Department of State, states that, in divorce cases, a woman's testimony must be judged "credible" to be admissible (US 19 Apr. 2013, 26). This usually means that the woman's testimony is "conveyed" through an adult male relative or a "representative" (ibid.). A man's testimony is considered "credible" unless proven otherwise (ibid.). The *Personal Status Laws in Egypt* report also states that a woman's testimony cannot be used as evidence of a crime (IRD Mar. 2010, 10). Furthermore, in divorce cases, a woman's testimony is worth half of a man's testimony (Human Rights Watch Dec. 2004, 22; US 19 April 2013, 26).

All family court judges were men prior to 2007 (IRD Mar. 2010, 9). According to the Global Justice Center, quoted in the US Department of State report, there are few female judges compared to the number of male judges in the courts hearing personal status cases (US 19 April 2013, 26).

Human Rights Watch states that many members of the legal system share the "prevailing" societal view of women as being "inherently irrational and child-like" (Dec. 2004, 27-28).

3.3 Particular Issues with Fault-based Divorces in the Family Courts

According to Human Rights Watch, the onus is on the woman to provide evidence of her husband's fault in a fault-based divorce (Dec. 2004, 22). In an application for divorce on the grounds of physical violence, the

woman must provide the court with a medical certificate from a government hospital outlining her condition (IRD March 2010, 19; Human Rights Watch Dec. 2004, 22). The IRD adds that the wife must also go to the police station to file a police report (IRD Mar. 2010, 19). Human Rights Watch explains that a woman who wants a divorce on the grounds of physical violence must present the testimony of two men, or four women, or one man and two women who witnessed the acts of physical violence (Dec. 2004, 22).

Human Rights Watch states that, in the event that an application for divorce is rejected and a woman decides to file a second application for divorce, which is also rejected for lack of evidence, a judge is required to appoint two arbitrators to try and reconcile the couple (Dec. 2004, 26). If the arbitrators fail, they must present a report to the court outlining who they believe is at fault in the relationship (Human Rights Watch Dec. 2004, 26). When granting the divorce, the court will use this report to determine the compensation to be paid to the other party by the party deemed to be at fault (*ibid.*).

3.3.1 Obstacles and Difficulties Encountered in Family Courts for Fault-based Divorces

According to the IRD, it can be difficult to obtain a police report regarding an incident of domestic violence since some police officers might accuse the woman of trying to get her husband in trouble (IRD Mar. 2010, 19). The IRD notes that some women try to "drag" their husband into the street so that neighbours can witness the violence (*ibid.*). In an interview with Human Rights Watch, a lawyer for the Egyptian Organization for Women's Rights stated that "most cases fail because of the lack of witnesses" (Dec. 2004, 22).

According to Human Rights Watch, there is no definition of the degree of harm that must be inflicted on a woman in order to warrant granting her a divorce on the grounds of physical or psychological violence (Human Rights Watch Dec. 2004, 21). Human Rights Watch adds that this gives judges considerable discretion in interpreting the law (*ibid.*).

On the Amnesty International (AI) blog, there is a report by an AI researcher on Egypt about a woman who was beaten by her husband who did not support her or their son (AI 6 June 2013). This woman finally decided to abandon her application for a fault-based divorce (*ibid.*). The wife stated that every time that she went to court, the hearing was postponed and she had to spend "a lot of money" on lawyers (*ibid.*). In January 2013, the wife filed an application for a no-fault divorce (*ibid.*).

Human Rights Watch also states that judges tend to require a higher threshold of harm for poor or illiterate women from rural areas, taking for granted that physical abuse, for example, is a "natural" part of their existence and might not necessarily justify divorce (Human Rights Watch Dec. 2004, 29).

In an article published in April 2012, the co-founder of Egyptian Women for Change argues that women have been suffering for years as a result of divorce issues before the family courts (*Ahram Online* Apr. 2012).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

References

Ahram Online. 2 April 2012. Sarah Mourad. "Changes in Egypt's Family Law: A Step Backwards?" <<http://english.ahram.org.eg/NewsContent/1/64/38053/Egypt/Politics-/Changes-in-Egypt-s-family-law-A-step-backwards.aspx>> [Accessed 15 Dec. 2013]

_____. 27 October 2010. "Egyptian Women for Change (Mesreyat Maa Al Tagheer)." <<http://english.ahram.org.eg/NewsContent/24/0/40/Elections/Egyptian-Women-for-Change-Mesreyat-Maa-Al-Tagheer.aspx>> [Accessed 15 Dec. 2013]

_____. N.d. "About *Ahram Online*." <<http://english.ahram.org.eg/UI/Front/Aboutus.aspx>> [Accessed 15 Dec. 2013]

Al-Ahram Weekly. 7-13 March 2002. Mariz Tadros. "What Price Freedom?" <<http://weekly.ahram.org.eg/2002/576/fe1.htm>> [Accessed 15 Dec. 2013]

Amnesty International (AI). 6 June 2013. Diana Eltahawy. "Egypt: Time to Address Violence Against Women in All Its Forms." <<http://livewire.amnesty.org/2013/06/06/egypt-time-to-address-violence-againstwomen-in-all-its-forms/>> [Accessed 15 Dec. 2013]

Assistant Professor, the American University in Cairo, Egypt. 15 December 2013. Correspondence sent to the Research Directorate.

- Egypt. 29 March 2012. National Council for Women (NCW). "Presidential Decree." <<http://www.ncwegypt.com/index.php/en/about-ncw/presidential-decree>> [Accessed 15 Dec. 2013]
- Egyptian Center for Women's Rights (ECWR). N.d. "About." <<http://ecwronline.org/about-2/>> [Accessed 12 Dec. 2013]
- Freedom House. 2010. "Egypt," by Mariz Tadros, in *Women's Rights in the Middle East and North Africa*. <http://www.freedomhouse.org/sites/default/files/inline_images/Egypt.pdf> [Accessed 11 Dec. 2013]
- Human Rights Watch. December 2004. *Divorced from Justice: Women's Unequal Access to Divorce in Egypt. Human Rights Watch*. Vol. 16, No. 8(E). <<http://www.hrw.org/reports/2004/egypt1204/egypt1204.pdf>> [Accessed 11 Dec. 2013]
- Institut de recherche pour le développement (IRD). March 2010. Nathalie Bernard-Maugiron. "Promotion of Women's Rights (Egypt): Personal Status Laws in Egypt. FAQ." <<http://www2.gtz.de/dokumente/bib-2010/gtz2010-0139en-faq-personal-status-law-egypt.pdf>> [Accessed 11 Dec. 2013]
- _____. N.d. "The IRD at a glance." <<https://en.ird.fr/ird.fr/the-ird/presentation>> [Accessed 13 Dec. 2013]
- Sigrid Rausing Trust. N.d. "Center for Egyptian Women's Legal Assistance." <<http://www.sigrid-rausing-trust.org/Grantees/Center-for-Egyptian-Womens-Legal-Assistance>> [Accessed 15 Dec. 2013]
- The Telegraph*. 27 April 2008. Caroline Wheeler. "Egypt Cracks Down on the £5 'Licence to Live in Sin'." <<http://www.telegraph.co.uk/news/worldnews/africaandindianocean/egypt/1904329/Egypt-cracks-down-on-the-5-licence-to-live-in-sin.html>> [Accessed 13 Dec. 2013]
- United Nations (UN). 5 February 2010. Committee on the Elimination of Discrimination Against Women. *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Egypt*. (CEDAW/C/EGY/CO/7) <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/242/57/PDF/N1024257.pdf?OpenElement>> [Accessed 11 Dec. 2013]
- United States (US). 19 April 2013. Department of State. "Egypt." *Country Reports on Human Rights Practices for 2012*. <<http://www.state.gov/documents/organization/204569.pdf>> [Accessed 11 Dec. 2013]
- _____. (US). 28 February 2005. Department of State. "Egypt." *Country Reports on Human Rights Practices for 2004*. <<http://www.state.gov/j/drl/rls/hrrpt/2004/41720.htm>> [Accessed 11 Dec. 2013]

Additional Sources Consulted

Oral sources: Attempts to contact representatives of the following organizations were unsuccessful: Center for Egyptian Women's Legal Assistance; International Islamic Committee for Woman and Child.

Representatives of the following organizations were unable to provide information within the time constraints of this Response: Associate Professor of Religious Studies (University of California, Santa Barbara); Association for Women and Development; Association for Women and Society; CARE Egypt; Center for Women's Rights; Egyptian Center for Women's Rights; Egyptian Organization for Human Rights; Institut de recherche pour le développement; Institute of Development Studies (University of Sussex); National Council of Women; New Women Research Center; Professor of Islamic Studies, (Emory University, Atlanta).

Internet sites, including: All Africa; ecoi.net; Factiva; Fédération internationale des ligues des droits de l'homme; International Crisis Group; *Jeune Afrique*; National Council for Women; United Nations – Integrated Regional Information Networks, UN Women, United Nations Development Programme, Refworld, UNICEF, United States – Overseas Security Advisory Council; Women Living Under Muslim Laws.

[Tips on how to use this search engine.](#)

[Top of Page](#)

Date modified: 2016-01-05