



Egypt's Family Laws: Between Discrimination and Mending the Family Rift

By Counsel Omnia Hany Hussein

Allah the Almighty says: "And of His signs is that He created for you from yourselves mates that you may find tranquillity in them; and He placed between you affection and mercy." (Qur'an 30:21)

The family is the nucleus of society. Divine religions and laws alike have urged that this value be upheld, that the family remain stable, and that relations among its members stay balanced.

Yet family life is not free of frictions, which may at times escalate into discord and entrenched estrangement that inevitably lead to separation or divorce.

Such relationships may produce children who grow up in abnormal circumstances following the spouses' separation, together with the litigation that may flow from it.

Here the State and the law step in to regulate these relationships as a whole, with precision: those preceding the marriage contract, those following it, and those arising after separation. State legislation thus acts as a neutral intermediary in these disputes and safeguards the rights of all parties — husband, wife and children.

Since these relationships rest on religious legislation, in compliance with the commands of the Lord of the Worlds, the regulating legislation must be consistent with those religious rules, particularly under a Constitution whose principal source is Islamic Shari'a, so that the law neither wrongs nor exceeds any Shari'a rule, and without prejudice to the legislator's right to regulate within the limits of Shari'a.

The Egyptian Law's Position on Spouses and Children

Family regulation in Egypt rests on a clear constitutional footing. Article 2 of the Constitution makes the principles of Islamic Shari'a the principal source of





legislation. Article 10 makes the family the basis of society, founded on religion, morality and patriotism, and obliges the State to preserve its cohesion and stability. The legislative framework itself, however, is not codified in a single statute; it has accumulated over more than a century in scattered texts. Where there is no text, courts apply the most preponderant opinion of the Hanafi school, pursuant to Article 280 of the Regulation on the Organisation of Shari'a Courts.

The principal past, current and pending instruments are as follows:

Instrument	Subject matter	Status
Law No. 25 of 1920	Maintenance (nafaqa) and certain personal status matters	In force, as amended
Law No. 25 of 1929	Divorce, judicial dissolution (tatliq), waiting period ('idda), filiation and custody	In force, as amended
Law No. 44 of 1979	Wide-ranging amendments to the 1929 Law	Held unconstitutional by the Supreme Constitutional Court in 1985 on procedural grounds
Law No. 100 of 1985	Re-enactment of most amendments in sound form: notification of divorce, harm from polygamy, consolatory gift (mut'a), custody housing	In force
Law No. 119 of 1952	Guardianship over property	In force
Law No. 1 of 2000	Personal status procedure; khul' (Article 20)	In force





Instrument	Subject matter	Status
Law No. 10 of 2004	Establishment of Family Courts	In force
Law No. 11 of 2004	Family Insurance System Fund	In force
Law No. 4 of 2005	Custody age raised to 15, with the child's choice thereafter	In force
Draft Family Law of 2026	Unification of Muslim family provisions, substantive and procedural, in one statute	Before the House of Representatives; not yet enacted

On this footing, the law treats the three parties as follows: the wife is protected by provisions on maintenance, housing and judicial dissolution; the husband holds the power of divorce and bears the burden of financial support; and the children hold an independent right to filiation, maintenance and care that neither parent may waive.

The Wife's Rights under the Law

- **Dower and marital maintenance:** The wife is entitled to dower (sadaq) and to maintenance covering food, clothing, housing and medical care; maintenance lapses on unjustified disobedience (nushuz).
- **Knowledge of divorce:** Article 5 bis of Law No. 25 of 1929 (added by Law No. 100 of 1985) requires the divorce to be documented and the wife notified of it; its financial effects as against her run only from the date she learns of it.
- **Consolatory gift and 'idda maintenance:** A divorced wife whose marriage was consummated is entitled to a mut'a of no less than two years' maintenance (Article 18 bis), in addition to 'idda maintenance.
- **Judicial dissolution:** The wife may petition for dissolution on grounds of harm (Article 6), the husband's failure to maintain her, his absence or imprisonment, or a defect in him.





- **Harm from polygamy:** A wife whose husband marries another may seek dissolution if she suffers material or moral harm, within one year of learning of the new marriage (Article 11 bis).
- **Khul':** Article 20 of Law No. 1 of 2000 allows a wife to obtain khul' where the spouses do not agree on it, on condition that she waives her Shari'a financial rights and returns the dower; it results in an irrevocable (ba'in) divorce, and the Supreme Constitutional Court has upheld the article's constitutionality.
- **Enforcement guarantees:** Imprisonment of a person who fails to pay maintenance adjudged against him, and the Family Insurance System Fund established by Law No. 11 of 2004 to pay maintenance where enforcement against the judgment debtor proves impossible.

The Husband's Rights under the Law

- **Divorce:** The husband may pronounce divorce by his unilateral will, though the law conditions it on documentation and notification of the wife; he holds the right of revocation (raj'a) during the 'idda in a revocable divorce.
- **Guardianship (qiwama) and lawful obedience:** The law recognises, by reference to Shari'a, the husband's qiwama, and attaches to nushuz the loss of the wife's maintenance.
- **Recovery of dower in khul':** He recovers the dower he gave his wife if she opts for khul'.
- **Polygamy:** The law does not prohibit a further marriage; it merely grants the first wife a right to seek dissolution if harm is proven.
- **Guardianship:** The father holds guardianship over the child's person, and over the child's property under Law No. 119 of 1952, and retains the right to visit his children where they are in another's custody.





The Law's Position on Children

- **Filiation:** A child's filiation is established and neither parent may extinguish it.
- **Maintenance:** It is the father's obligation and continues for a son until fifteen if he is capable of earning, and beyond if he is incapacitated or pursuing education; for a daughter, until she marries or earns enough to support herself.
- **Custody (hadana):** The mother holds custody until the child reaches fifteen, after which the child chooses between staying with the custodian or joining the father, under Law No. 4 of 2005. The father ranks after a number of female relatives in the order of custodians, which is among the most contested points.
- **Custody housing:** The father must provide suitable housing for his children and their custodian; failing that, the custodian remains in the marital home.
- **Visitation:** A right of both parents and grandparents, regulated by the court; judicial practice has generally settled on three hours a week.
- **Best interests of the child:** Protected by the Constitution (Article 80) and the Child Law No. 126 of 2008, and a yardstick the judge applies in custody and visitation.

Does the Law Give the Wife or the Husband More Rights?

The answer does not tip to one side. The law allocates rights and burdens on a Shari'a conception under which guardianship is the counterpart of financial support. The wife enjoys wide financial and procedural protection: maintenance, mut'a and housing; exemption from court fees in maintenance claims; imprisonment to enforce them; and khul' without the husband's consent. The husband, for his part, may divorce by unilateral will, and alone bears the burden of maintenance, housing and child support.

In matters of children the balance appears, on its face, to favour the mother in custody, which fathers perceive as unfair, while mothers complain of delays in collecting maintenance and enforcing judgments. In sum, each side has a grievance it





regards as real, and much of the imbalance stems from application and slow enforcement rather than from any particular text.

The Real Problems the Law Raises

- **Fragmented texts:** Statutes issued between 1920 and 2005, divided between substance and procedure, with successive amendments some of which were struck down, and with recourse, where there is no text, to a particular school of jurisprudence — so rulings differ from one circuit to another.
- **Slow procedure and enforcement:** Mothers complain over maintenance and fathers over enforcement of visitation judgments; neither has an effective enforcement mechanism.
- **Undocumented divorce:** Most divorces occur outside the courts, and a husband may decline to document a divorce, leaving the wife suspended between marriage and separation without her rights.
- **The price of khul':** The wife bears the waiver of all her financial rights in exchange for exiting a relationship she cannot sustain.
- **Custody as a weapon in disputes:** The child sometimes becomes an instrument of spite between parents; Dar al-Ifta has cautioned that custody is no arena for spite at the expense of children's interests.
- **Visitation and hosting:** Many regard the current form of visitation in public places and clubs as inadequate to build a real bond between a father and his children.

Is the Law Discriminatory or Not?

By discrimination we mean here unequal treatment between the two parties to the family relationship, not discrimination in the racial sense commonly understood.





As a rule the law does not intend discrimination: the apparent differences in the spouses' positions rest on reciprocal Shari'a duties rather than on preferring one sex over the other, and they do not conflict with the Constitution, which equates women and men in rights while affirming Shari'a as its reference. But stopping at that reading is not enough, since one can identify points at which each party feels unequal treatment:

- **On the wife's side:** the husband's unilateral power of divorce, the requirement to prove harm when petitioning for dissolution, and the cost of khul'.
- **On the husband's side:** his late rank in custody, the weak enforcement of his visitation judgments, and his sole burden of maintenance and housing.

It is therefore more accurate to say that the current law is not founded on intentional discrimination, yet in application it produces a sense of discrimination in both parties — a sense that feeds discord and keeps the family from reconciliation.

Does the Law or Its Procedures Effectively Help Mend the Family Rift?

Law No. 10 of 2004 achieved an important step by unifying jurisdiction in the Family Courts. It requires, as a first step, recourse to family dispute settlement offices, which endeavour to reconcile within a short period with the help of social, psychological and legal specialists; it exempted maintenance claims and the like from fees; and Law No. 1 of 2000 offered simpler procedures for personal status claims.

This system has nonetheless not fully achieved its purpose. In practice, claims between the same parties are split before different bodies, adjudication is slow, and judgments on maintenance and visitation are hard to enforce. The President of the Cairo Court of Appeal has previously called for merging Laws No. 1 of 2000 and No. 10 of 2004 into one statute and for a dedicated enforcement police for personal status courts. The law supplies the framework; its success depends on speed of adjudication and effective enforcement.





Divorce Statistics and Other Related Figures for Egypt

According to the annual marriage and divorce bulletin of the Central Agency for Public Mobilization and Statistics (CAPMAS), published on 2025/11/30 for the year 2024:

Indicator	2023	2024
Total divorces	265,606	273,892 (up 3.1%)
Divorces in urban areas	150,488	158,201 (57.8% of total)
Divorces in rural areas	115,118	115,691 (42.2% of total)
Crude divorce rate (per 1,000 population)	2.5	2.6 (3.5 urban; 1.9 rural)

- **Final divorce judgments:** 13,586 in urban areas and 609 in rural areas in 2024 — about 14,200 judgments, or roughly 5.2% of all cases (our own calculation from the bulletin's figures), meaning the overwhelming majority of divorces are effected by notarised declaration outside the courts.
- **Marriage contracts:** They fell by 2.5% in 2024 compared with 2023.
- **Trend over the years:** Divorces stood at 269,834 in 2022; in 2023 they fell by 1.6%, then rose again in 2024.
- **Early concentration:** The chair of the draft-law drafting committee stated in 2022 that the highest divorce rates fall in the first three years of marriage, and that the 18–20 age group accounts for about 32% of cases.

It should be noted that figures circulating in the media, such as "a divorce every two minutes", do not reflect the true divorce ratio relative to the number of marriages. The National Council for Women has cautioned against the inaccuracy of many circulating figures, noting that Egypt's divorce rate remains among the lowest in the world and the Arab region measured against the number of marriage contracts.





Consequences of Enforcing the Provisions of This Law

- **For the wife:** She obtains financial protection through maintenance, mut'a and housing, but delayed enforcement may hollow out these rights.
- **For the husband:** Enforcement of maintenance judgments carries a heavy financial burden and may lead to imprisonment on default, while he finds no effective means of enforcing his own right to see his children.
- **For the children:** They are the most harmed by the length of litigation, by being made a party to the dispute, and by one parent's absence from their lives.
- **For society and the State:** The State bears the burden of the Family Insurance Fund, family cases swell before the courts, and the effects of family breakdown on education, behaviour and social stability worsen.

Has the Legislator Addressed This Crisis and Its Resulting Cases?

The legislator has tried across successive milestones: 1920 and 1929, then 1985, then 2000, 2004 and 2005. Each milestone closed a gap and conferred a right, but the result remains a scattered system that has not addressed the roots of the problem.

The Government is now putting forward a comprehensive draft. The Cabinet approved the Family Law Draft on 2026/4/29, it was referred to the House of Representatives in May 2026, and it comprises about 355 substantive articles in addition to the promulgation articles; consideration is expected to begin in the new legislative session starting in October 2026. Its salient features, as reported, include:

- **Unifying provisions:** Substantive and procedural matters in one statute, bringing each family's disputes before one court, and permitting remote litigation.
- **Engagement:** Treated as a promise of marriage that does not carry the effects of the contract, with no compensation for withdrawal unless accompanied by an independent fault causing harm.





- **Age of marriage:** Unified at eighteen for both spouses.
- **Marriage-contract annex:** Recording agreement on maintenance, mut'a, marital housing, delegation of the wife to divorce herself, and a condition that the husband not take another wife or that he may, with the annex acquiring the force of an enforceable instrument (Article 32), together with a marriage insurance policy in the wife's favour.
- **Documentation of divorce:** An obligation to document within fifteen days, with divorce having no effect until documented and the wife notified.
- **Early divorce restrictions:** As reported, no divorce in the first three years of marriage except after a reconciliation attempt under the judge's supervision, with new controls on khul'.
- **Custody:** Order of custodians: mother, then father, then female relatives (Article 115); custody ends at fifteen (Article 118); the child may choose residence thereafter (Article 119), with the court empowered to depart from the order in the child's interest.
- **Visitation:** A separate chapter on "istizara" (taking the child out of the custodian's home for a set period), an electronic visitation mechanism, and educational guardianship for the custodian.
- **Family Support Fund:** A separate draft law proceeds alongside the Family Law.

But the draft has not yet been enacted. It remains open to amendment, deletion or addition within Parliament; what counts is the final text officially published. Disputes have arisen around it, notably over the father's rank in custody and fears that it would pressure the mother, the istizara regime, polygamy, documentation of divorce, and the absence of consultation with Al-Azhar in its preparation, according to what Al-Azhar announced, though statements differ on this point. The Government has also referred in parallel a draft personal status law for Egyptian Christians.





Our Vision and Message to the Legislator for Preserving Family Cohesion

The end the legislator should pursue is to mend the rift, not widen it, and to realise the child's best interests ahead of the interests of either parent. We summarise our vision as follows:

1. **Broad societal dialogue** before the draft is approved, bringing together Shari'a scholars, jurists, judges and specialists in sociology and psychology, with the formal opinion of Al-Azhar obtained, so that the provisions conform to Shari'a limits.
2. **One integrated statute** combining substance and procedure and reducing divergent rulings, with express provisions limiting recourse to a particular school of jurisprudence on matters not addressed.
3. **Prevention before cure:** mandatory preparation programmes for those about to marry before the contract is documented, since the largest share of divorce falls in the early years.
4. **Genuine, not formal, reconciliation:** strengthening family dispute settlement offices with qualified staff and sufficient time for reconciliation, and making what is achieved there produce its legal effects.
5. **Prompt enforcement of judgments:** a specialised enforcement body for family judgments, payment of adjudged maintenance through the Fund without waiting for enforcement proceedings to run their course, and deterrent measures against anyone who obstructs or evades a visitation judgment, whether father or mother.
6. **Real balance between the parents in raising the child:** broadening the father's right of visitation and participation in the child's major decisions in return for his strict obligation of maintenance, without prejudice to the custodial mother's stability.





7. Documentation of divorce and ensuring the wife's knowledge of it to end suspension, while preserving the right to prove it judicially.
8. Speed of adjudication: fixed time limits for family cases, specialised judges, and remote litigation with safeguards.
9. Transparency of data: periodic publication of divorce causes, ages and durations of marriage, so that legislation is built on facts rather than circulating figures.

The family is the nucleus of society, and its soundness depends on the soundness of its legislation and its capacity to combine justice among its parties with mercy toward its children — which we hope the legislator will achieve in the final form of the law.

