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The Survival of Sharia Islamic Divorce Law in the Syrian and Egyptian Personal Status Laws

The family law was not codified in both Syria and Egypt until 1917 when the Ottomans issued the Ottoman Family Rights Law, which applied to Muslims, Christians, and Jews each according to its provisions. This Ottoman Family Rights Law and the book of the Egyptian scholar Muhammad Qadri Pasha ('Legal Ruling on Personal Status') formed the first core of personal status laws in both Egypt and Syria, which explains the survival of Islamic law to this day in personal status laws, in contrast to other branches of law. This paper presents a comparative study between the Egyptian Personal Status Law No. 25 of 1920, and the Syrian Personal Status Law No. 59 of 1953, regarding divorce provisions.

Keywords: *Sharia, divorce law, Ottoman Family Law, Egyptian Personal Status Law, Syrian Personal Status Law, revocable divorce, minor irrevocable divorce, major final divorce*

1. Introduction

It is well known that the man-made laws in Islamic countries today do not agree in many of their provisions with the provisions of the Islamic Sharia. For instance, according to the Holy Qur'an the Islamic Sharia stipulates cutting off the hand of the thief unless the theft is due to hunger, war, famine, or from the money of alms, unlike, the Syrian Penal Code 148 of 1949) amended by Legislative Decree 1 of 2011 which regulates the crime of theft in Articles 621 to 634 did not include cutting off the hand of the thief or any corporal punishment, but rather an imprisonment for a certain period according to the circumstances of each case. In addition to fines¹, similarly, the Egyptian Penal Code No. 58 of 1937, amended by Law No. 95 of 2003, amended by Law 189 of 2020 regulated the crime of theft in Articles 311 to 324. It did not include any corporal punishment such as cutting off the hand of the thief but rather stipulated that the thief be imprisoned for a certain period that varies according to the criminal act, either a felony or misdemeanor, in addition to judicial fines.² Unlike other branches of law, the impact of Islamic law is evident in family laws or so-called personal statuses such as divorce and marriage, marital alimony, child custody, etc.

¹ Syrian Penal code

<https://learningpartnership.org/sites/default/files/resources/pdfs/Syria-Penal-Cade-1949-Arabic.pdf>

² Egyptian Penal Code <https://manshurat.org/node/14677>.

Personal status issues in Arab countries remained without codification until 1917 when the Ottoman Empire issued a law on marriage and divorce for Muslims, Christians, and Jews, each according to their laws and traditions, which is called the Family Rights Law. Later, each country had its personal status law, it can be said that the laws are similar, being derived from Islamic law, and the differences are due to the difference of the Islamic school that the state adopted mainly in its law.³ The term personal status appeared for the first time through Italian jurists in the 12th century.⁴ The first person to use this term in Arab and Islamic jurisprudence at the beginning of the 20th century is the Egyptian scholar *Muhammad Qadri Pasha* when he wrote his book '*Legal Rulings in Personal Status*', a book that he classified in legal articles amounting to 647 articles, all of which he took from the most correct saying in the doctrine of *Imam Abu Hanifa*. Without others, to meet the needs of the Islamic legal judiciary in Egypt, which adopts this doctrine in its rulings on the Muslim Egyptians, then this book became popular and spread in most Arab and Islamic countries, including the Syrian Arab region, and was approved by judges in their districts even if no binding law was issued in it, as this term was common among jurists.⁵

For Egypt, the law that regulates the personal status of the family on basis of these historical sources is the Personal Status Law No. 25 of 1920, amended by Law 25 of 1929, amended by Law 100 of 1985,⁶ and for Syria the Personal Status Law No. 59 of 1953, amended by Law No. 4 of 2019.⁷ The Syrian draft of the preparatory committee, led by *Judge Sheikh Ali Al-Tantawi* in turns derived from the Family Rights Law promulgated in the late Ottoman era in 1917, the Egyptian Personal Status Law No. 20 of 1920, the Sharia provisions in the personal status of the scholar *Muhammad Qadri Pasha*, and that the preparatory committee decided to adopt other than the *Hanafi* school of thought. It is mentioned that Article 305 stipulates that whatever is not provided for in this law, it is necessary to refer to the most likely saying in the *Hanafi* school of thought.⁸

2. The dissolution of the marital bond in the laws derived from Islamic law

Divorce in Islam is of three types: the revocable divorce, the minor irrevocable divorce, and the major final divorce. A revocable divorce shall not terminate a marriage and the husband may take back his divorced wife during the period of waiting by word or deed, a right which shall not be abrogated. The revocable divorce allows the husband to return to his wife during her subsequent three-month waiting period (*Idda*) without a new contract. The resumed marriage is registered with the court in the same way as the divorce. The minor irrevocable divorce allows the husband to

³ DARWISH, Legal Highlights on the New Syrian Personal Status Act
<https://digitalcommons.bau.edu.lb/ljournal/vol2018/iss2018/8/>.

⁴ AL-SHAMMARI, The Meaning of the Term Personal Status and Its Most Important Topics
<https://law.uokerbala.edu.iq/wp/blog/2015/01/11/drheader/>.

⁵ HUSSAIN, History of the Syrian Personal Status Law - Problems - Solutions

<http://www.syrianlegalforum.net/publications/view/14#:~:text=2%20صدر قانون,والعدة>

⁶ It must be noted that a new personal status law is currently being worked on in Egypt by *Al-Azhar* and the Egyptian Parliament. SIBAI, Explanation of Personal Status Law

<https://www.neelwafurat.com/itempage.aspx?id=lbb77200-37677&search=books>.

⁷ SIBAI, Explanation of Personal Status Law

<https://www.neelwafurat.com/itempage.aspx?id=lbb77200-37677&search=books>.

⁸ HUSSAIN, History of the Syrian Personal Status Law - Problems - Solutions

<http://www.syrianlegalforum.net/publications/view/14#:~:text=2%20صدر قانون,والعدة>

marry the woman he divorced with a new contract, and this is due to the end of her waiting period. The major (final) divorce forbids the husband from marrying the woman he repudiated on three occasions and whose waiting period following the third repudiation has ended⁹. The waiting period (*Idda*) for a woman in Islamic Sharia is that a woman refrains from marriage for a certain period, either because of the death of her husband, divorce, or the annulment of the marriage contract. The duration of a woman's waiting period varies according to her condition. It is three menstrual cycles for a woman who menstruates, three months for a woman who does not menstruate, and a pregnant woman until she gives birth.¹⁰

While the dissolution of marriage in Islam takes place in one of the three ways: divorce by the unilateral will of the husband, *khula'* divorce, and the separation between spouses by judicial order. The Egyptian and Syrian personal status laws are consistent with what is stated in Islamic law as they are derived from it, with some slight differences between the two laws that will be listed in this paper.

2.1. Divorce by the unilateral will of the husband

The Syrian Personal Status Law does not define divorce by the unilateral will of the husband, unlike Islamic law, which defines it as *'terminating the marriage contract with a specific wording, or with every word indicating it'*.¹¹ However, the aforementioned law stipulated that for the husband to consider divorce unilaterally acceptable in legal terms, that the husband has reached eighteen years of age and enjoys his legal capacity, concerning the possibility of divorce from the husband who has not yet reached the age of eighteen if the judge authorized that and there is an interest for the husband of divorce, and it must be noted that the aforementioned law has granted the wife the right to divorce herself voluntarily if she explicitly stipulates that in the marriage contract itself.¹²

Likewise, the Egyptian Personal Status Law did not set a specific definition for divorce by the unilateral will of the husband, nor did it stipulate that the husband must have exceeded eighteen years of age for the divorce to be valid and legally considered, bearing in mind that the law stipulated that there is no legal value to divorce from a drunk spouse or impeller.¹³

The Syrian Personal Status Law stipulates that if the husband submits a divorce request to the court, the judge is obliged to postpone the request for a full month, hoping for reconciliation between the spouses, and the judge must choose from the family of the two spouses whom he deems appropriate to help reconcile and bring points of view if this is not possible. Then, specialists from family reform centres are appointed to perform this task. After the deadline has passed, the

⁹ AL-ZALMI, *The Provisions of Marriage and Divorce in Comparative Islamic Jurisprudence, a Comparative Study of the Law*

<https://ia601508.us.archive.org/4/items/fiqh01001/fiqh01994.pdf>.

¹⁰ AL-ZALMI, *The Provisions of Marriage and Divorce in Comparative Islamic Jurisprudence, a Comparative Study of the Law*

<https://ia601508.us.archive.org/4/items/fiqh01001/fiqh01994.pdf>.

¹¹ AHMAD, *Divorce in Sharia and Law* 5–8.

¹² SIBAI, *Explanation of Personal Status Law*

<https://www.neelwafurat.com/itempage.aspx?id=lbb77200-37677&search=books>.

¹³ MARMON, *The Problematic Legalization of the Husband's Will in Divorce between Originality and Modernity*
<http://revue.umc.edu.dz/index.php/h/article/view/3323>.

husband insists on the divorce, the judge should call the two parties, listen to their dispute, and seek to eliminate the dispute and preserve the marital life. If these efforts failed, the judge allowed the registration of the divorce, and the divorce shall be deemed effective from the date it took place. Provided that the divorce request is cancelled with the lapse of three months from the date of the request if neither party has reviewed it.¹⁴

In the Egyptian Personal Status Law the divorced husband must register his divorce with the competent notary within 30 days of the divorce, knowing that, the wife is considered aware of the divorce by attending to document it. If she does not attend, the notary must announce the divorce to her through an official notification report, according to the procedures issued by the Minister of Justice. And the effects of divorce are arranged from the date of its occurrence unless the husband concealed it from the wife, and its effects in terms of inheritance are only consequential from the date of the wife's knowledge of the divorce.

Here, we notice the difference between the Syrian and Egyptian law regarding divorce by the husband's individual will, as the Syrian legislator has sought to reform the family bond, by granting a one-month deadline for reconciliation in addition to the obligation to appoint social workers by the court to fix the relationship between the spouses before the divorce, and this is what the Egyptian legislator did not do it, as we explained previously.¹⁵

2.2. The concept of *khula'* divorce

Khula' in Arabic means removal. As for the divorce of *khula'* in Islam, it means the husband's separation from his wife with a return that he takes from her or another, with specific words, and its benefit is to rid her of the husband in a way that is irreversible on her except with her consent. *khula'* is also valid without any compensation. It is known that the husband in Islam pays the wife a dowry at the time of marriage, so if the wife wants to divorce herself without reason, she can ask for the *khula'* in return, she must return the dowry, or agree with the husband to divorce, whether with or without compensation.¹⁶ As for the concept of the dowry in Islam, it is an amount of money paid to the woman, and it is intended to be obligatory in the sense of what God Almighty has imposed on the woman and made it her right. It is a recognition by the husband of his wife's independence, as she receives her dowry upon her marriage, so the dowry is not the bride's price, because marriage in Islam is not a sale of a bride to her husband.¹⁷

The Syrian Personal Status Law recognized the *khula'* divorce and considered it an annulment of the marriage contract. It also considered it valid, whether with compensation or without, provided that if the *khula'* was in exchange for money other than the dowry, it must be paid, and the husband is discharged from spousal maintenance. The Syrian law also dealt with the

¹⁴ MUSA, Personal Status Law in Syria, <http://library.fes.de/pdf-files/bueros/beirut/14968.pdf>.

¹⁵ MOUSA, Egyptian Personal Status Laws and the Latest Updates and Amendments <https://www.mohamah.net/law/الأحوال-الشخصية-المص/>.

¹⁶ AL-ABRI, A Woman's Right to *Khulaa* Divorce: A Comparative Study between Omani Personal Status Law and Islamic Jurisprudence http://studentrepo.iium.edu.my/bitstream/123456789/9383/1/t00011281365MohammedSAlabri_24.pdf.

¹⁷ GHAFAR, Dowry in Islam <https://media.neliti.com/media/publications/223651-.pdf>.

situation in which if the *khula*' stipulated that the husband be exempt from the fee for breastfeeding the infant or the maintenance on him, and after that, she married or left the child, in this case, the husband has the right to demand the wife for the maintenance of the child for the remaining period.¹⁸

According to the Egyptian Personal Status Law, the spouses can agree to a *khula*' divorce. If they do not reach a consensual solution, then the wife can file a divorce lawsuit, on the condition that she waives all her legal financial rights and returns the dowry that was given to her. The court must issue a judgment of divorce.¹⁹ The court does not rule on divorce by *khula*' except after trying to reconcile the spouses and delegating two judgments to carry out reconciliation efforts between the spouses, within a period not exceeding three months, and after the wife explicitly decides that she hates living with her husband and that there is no way for the continuation of marital life between them, and it is not correct to be in exchange for *khula*' is forfeiting the custody of children, their maintenance, or any of their rights. The divorce takes place in all cases, a definite divorce, and the judgment – in all cases – is not subject to appeal.²⁰

Returning to the Egyptian and Syrian Personal Status Law, this paper finds that both laws recognized *khula*' as a means of ending the marital bond between spouses, but they differed on several points. The Syrian law considered *khula*' as an abolition of the marriage contract, while the Egyptian law considered it an ordinary divorce and termination of the marriage contract. On the other hand, the Syrian law assumed that the spouses agreed to *khula*' before going to court for judgment, while the Egyptian legislator expanded on *khula*' cases and allowed the wife to request it, whether there is an agreement with the husband or not, and the reason for the difference between the two laws, as we will see later, is that according to Syrian law, if the wife files a divorce case, the judge has no choice but to divorce her, but in Egyptian law, the judge has the right to reject her request if he finds it unjustified.

2.3. The separation between spouses by judicial order

The Egyptian and Syrian personal status laws allowed the wife to file a lawsuit requesting the competent court to rule on separation from her husband, bearing in mind that the separation must be based on one of the reasons specified exclusively in the two aforementioned laws. It is worth noting that the separation based on a judicial order in addition to the compelling reasons was derived from the provisions of Islamic Sharia as well. As for the cases in which the wife can file a separation suit, they are: separation due to the ills, separation due to the husband's absence, separation due to lack of maintenance for the wife, and separation due to discord between spouses.

¹⁸ SIBAI, Explanation of Personal Status Law

<https://www.neelwafurat.com/itempage.aspx?id=lbb77200-37677&search=books>.

¹⁹ AL-AYAL, *Khula*' in Egyptian Law 1/2000: An Analytical Comparative Original Study <https://search.mandumah.com/Record/884522>.

²⁰ AL-AYAL, *Khula*' in Egyptian Law 1/2000: An Analytical Comparative Original Study <https://search.mandumah.com/Record/884522>.

2.3.1. Separation due to the ills

According to the Syrian Statues Law, each of the spouses may request the annulment of the marriage contract if there is in the other one of the reasons preventing marriage, or one of the permanent repulsive diseases, in addition to frightening or contagious damages, no matter whether they existed before the contract and accepted it or occurred after it. The right to separate due to impotence does not fall under any circumstances. Separation of ills considered as an annulment of the contract not ending of the marriage contract, according to the Syrian legislator. Knowing that the wife's right to the dowry loses if the ill or defect is in the wife before or after the contract and she conceals it from the husband.²¹

As for the Egyptian Personal Status Law, the wife has the right to file a divorce claim if she finds in her husband an entrenched defect that cannot be cleared or can be absolved after a long time, such as insanity or libel, whether that defect was in the husband before the contract and she did not know about it or it happened after the contract and she is not satisfied with it, if she married him and she knows about his defect or the defect occurred after the marriage and she accepted it explicitly or implicitly, then separation is not permissible.²²

On the contrary of Syrian law, the Egyptian law considered that the separation due to ills as an end to the marriage contract, not an annulment of it.

In addition to the difference between the two laws in terms of the legal adaptation of this case, we find that the Syrian law has allowed both spouses to file a divorce claim based on this case, while the Egyptian law has restricted this right to the wife.

2.3.2. Separation due to the husband's absence

It is permissible for the wife, if her husband is absent for more than a year, to file a divorce lawsuit, and she can justify that by harming his absence, even if the husband has money from which she can spend.

As for the other case stipulated in the Syrian Personal Status Law, if the husband is sentenced to imprisonment for a period exceeding three years, his wife may, after six months of imprisonment, request the judge to separate, because she is harmed by his absence from her, even if the husband has money from which she can spend. This separation is a revocable divorce. If the absentee returns or the prisoner is released, and the woman in the waiting period has the right to return it if she agrees.²³

In the Egyptian Personal Status Law the wife can file a lawsuit asking the judge to separate if the husband is absent for a year or more and this absence causes harm to the wife, even if the husband left money for the wife's maintenance. If the court can deliver the letters to the absent husband, the judge must give him time to divorce his wife. If the letters could not reach the absent,

²¹ SIBAI, Explanation of Personal Status Law

<https://www.neelwafurat.com/itempage.aspx?id=lbb77200-37677&search=books>.

²² MOUSA, Egyptian Personal Status Laws and the Latest Updates and Amendments

<https://www.mohamah.net/law/نصوص-و-مواد-قانون-الأحوال-الشخصية-المص/>.

²³ EL-BAGHA, Personal Status Law

https://pedia.svuonline.org/pluginfile.php/1345/mod_resource/content/32/قانون-الأحوال-الشخصية-نهائي.pdf.

the judge divorced them. Moreover, the wife has the right, if her husband is sentenced to imprisonment for three years or more, to request a divorce after a year has passed since his imprisonment, even if the husband has money from which she can spend.²⁴

It is noticed that the Egyptian and Syrian laws differed in the legal adaptation of divorce here, as the Syrian law considered that the divorce is retroactive, meaning that the husband can return to his wife if she agrees without the need for a new contract and dowry, as long as she is in the period of several divorces, while the Egyptian law considered that the divorce is final in this case. Therefore, if the husband wants to return to his wife, he must make a new contract and dowry. The other difference is evident in the period required by both legislators for the wife to be allowed to file for divorce because her husband is imprisoned, since the minimum is six months or more in Egyptian law, while in Syrian law a year or more.

2.3.3. Separation due to lack of maintenance for the wife

Islamic law obliges the husband to spend on spousal maintenance. As a result, refraining from alimony is considered one of the reasons for divorce.

The Syrian Personal Status Law stipulates that the wife may request a separation if the husband refuses to spend on his wife and does not have financial assets to cover the spousal maintenance.²⁵ If the husband proves that he is incapable to cover his spousal maintenance or is absent, the judge shall give him an appropriate period not exceeding three months, otherwise, the judge shall divorce them. Divorce here is considered a revocable divorce, meaning that the husband can return to his wife during the waiting period, if he proves his financial ability and undertakes the spousal maintenance.²⁶

The Egyptian Personal Status Law stipulated that if the husband refuses to spend on his wife, and he has financial assets, the judgment on alimony shall be executed from his money, and if he does not have financial assets and he does not declare his financial situation, but he insists on not spending, the judge immediately divorces him. If he claims that he is financially deficient, he must prove that, and if he does not prove it, he will be divorced immediately, and if it is proven, the judge shall grant him a period not exceeding a month. If he does not spend, the judge shall issue his judgment of divorce.²⁷ As for the other case, if the husband is absent and has financial assets, the judgment shall be enforced against him for alimony from his financial assets. If he does not have financial assets, the judge will excuse him and set a time limit for him. If he does not send money to his wife or does not attend, the judge will divorce the wife after the deadline has passed. If the place is unknown, or the husband is missing and has no financial assets so that the wife can spend from it, the judge must divorce the wife, in addition to the above, the provisions of this

²⁴ ZAHIR, Separation Lawsuit Due to Absence - a Legal Jurisprudence Study
https://scholar.najah.edu/sites/default/files/Ammar_Thaher_0.pdf.

²⁵ SIBAI, Explanation of Personal Status Law
<https://www.neelwafurat.com/itempage.aspx?id=lbb77200-37677&search=books>.

²⁶ AL-YOUSSEF, Judicial Dissolution for Non-Spending A Comparative Study
<http://damascusuniversity.edu.sy/mag/law/images/stories/1-2012/a/651-680.pdf>.

²⁷ MOUSA, Egyptian Personal Status Laws and the Latest Updates and Amendments
<https://www.mohamah.net/law/مواد-قانون-الأحوال-الشخصية-المص>.

Article shall apply to the prisoner who is unable to spend on spousal maintenance.²⁸ Divorce in this case according to Egyptian law is considered retroactive, meaning that the husband can return to his wife if he proves his ability and readiness to spend on spousal maintenance before the waiting period has passed.

By reviewing both the Syrian and Egyptian laws, the two laws are very similar regarding this case, the only difference is in the time limit that the judge can grant to the husband to cover spousal maintenance, it is a maximum month in the Egyptian Personal Status Law, while in the Syrian Personal Status Law it is three months. The Egyptian legislator wants to restrict the husband regarding spousal maintenance.

2.3.4. Separation due to discord between spouses

It is the most common case in practice before the courts, and it was stipulated and organized by both the Egyptian and Syrian personal status laws, derived from Islamic law.

The Syrian Personal Status Law has regulated the issue of separation due to discord between the two spouses in Articles 112 to 115, in which it states that if one of the spouses claims to be harming the other in a way that he is not able to with him for ten years, he may request the judge to separate.²⁹ If the harm is proven and the judge is unable to reconcile, a difference is made between them, and this divorce is considered a dormant shot. If the harm is not proven, the judge shall postpone the trial for not less than a month, hoping for reconciliation. If the plaintiff insists on the complaint and the reconciliation has not been completed, the judge appointed two arbiters from the family of the spouses or from whom the judge deems in him the ability to reconcile between them. The two judgments must know the causes of discord between the spouses and bring them together in a council under the supervision of the judge that only the spouses will attend. The failure of one of the spouses to attend this council after being notified does not affect the arbitration. The two judgments exert their efforts to reconcile the spouses, and if they are unable to do so and the abuse or most of it is from the husband, they decide to separate with a final shot, but if the abuse or most of it is from the wife or is common to them, they decide to separate the spouses on the full amount of the dowry or part of it commensurate with the extent of the abuse.³⁰ Finally, two judgments must submit their report to the judge, and it should not be justified, and the judge may rule accordingly or reject the report and appoint in this case, for the last time, two other judgments.

The Egyptian Personal Status Law has regulated the issue of separation due to discord between spouses in Articles 6 to 11 AD Law No. 100 of 1985, which stipulated the wife's right to file a divorce lawsuit if there is harm to her so that she cannot continue with the husband. If harm occurred and reconciliation between the spouses was not possible, the judge would divorce her,

²⁸ SAEED, Termination of the Marital Union at the Request of the Wife A Comparative Study between Islamic Jurisprudence, Algerian Family Law and Some Arab Personal Status Legislation
<https://translate.google.com/?o&sl=ar&tl=en&text=العلوم السياسية&op=translate>.

²⁹ SIBAI, Explanation of Personal Status Law
<https://www.neelwafurat.com/itempage.aspx?id=lbb77200-37677&search=books>.

³⁰ EL-BAGHA, Personal Status Law
https://pedia.svuonline.org/pluginfile.php/1345/mod_resource/content/32/قانون الأحوال الشخصية نهائي.pdf.

but if the judge rejected the request, then the complaint was repeated and the harm was not proven, the judge would send two judgments from the family of the spouses if possible, otherwise, it is from others who have experience in her condition and the ability to reconcile between them.³¹ If the two rulings are unable to reform and the abuse is entirely on the part of the husband, the two rulings suggest divorce without prejudice to any of the wife's rights arising from marriage and divorce. But if the offense is entirely on the part of the wife, the two rulings suggest divorce, provided that the wife pays compensation to the husband, usually equivalent to his payment of a dowry or less. If the offense was on the part of the two parties, they proposed divorce without financial compensation or compensation commensurate with the proportion of the offense. The two judgments must submit their report to the court, including the reasons on which it is based, and if the court finds it impossible to reconcile the two spouses and the wife insists on the divorce, the court decides to divorce them with a dormant divorce, but dropping all or some of the wife's financial rights and obligating her to pay compensation if this is necessary.

By reviewing both the Egyptian and Syrian laws, it can be said that there are many differences regarding this type of divorce, as the Syrian law has granted this right to both spouses, while the Egyptian law has restricted this right to the wife only and it was successful in that because the husband can simply divorce his wife, By his own will, so for this method not to be a means for the husband to evade his financial obligations, the Egyptian legislator has restricted this right to the wife. As for the other difference between the two laws, the Egyptian legislator gave the judge the discretionary power to accept or reject the wife's request for separation due to the discord, while the Syrian legislator was more conciliatory than the Egyptian legislator by limiting the judge's authority to just attempting reform between the spouses. If that is not possible, then he can only divorce her, provided that he estimates the proportion of compensation due to her based on the amount of offense from each of them, for example, if the proportion of offense of the wife is estimated at the half, then she is entitled to half of the dowry.³²

3. Conclusion

The family laws in general, or the so-called personal status law in both Egypt and Syria, are mostly derived from Islamic law, as they were without coding, and the judge in each case referred to the Qur'an, the Sunnah and the most correct form of jurisprudence, until the year 1917. When the Ottomans issued the Ottoman Family Rights Law, which later formed the first core of personal status laws in the Arab countries, in addition to the book of the Egyptian scholar *Muhammad Qadri Pasha*, which came in the form of 647 articles covering all aspects of personal status.

The provisions of divorce in the Syrian personal status law are very similar to the provisions of divorce in the Egyptian personal status law, it is of three types (revocable divorce, minor irrevocable divorce, and major final divorce). In both the Syrian and the Egyptian personal status

³¹ MOUSA, Egyptian Personal Status Laws and the Latest Updates and Amendments <https://www.mohamah.net/law/نصوص-و-مواد-قانون-الأحوال-الشخصية-المص>.

³² MOUSA, Egyptian Personal Status Laws and the Latest Updates and Amendments <https://www.mohamah.net/law/نصوص-و-مواد-قانون-الأحوال-الشخصية-المص>.

law divorce could happen in three ways (divorce by the unilateral will of the husband, *kbula'* divorce, and separation based on a judicial order).

This similarity does not mean congruence, there are many differences. Regarding divorce by the husband's individual will the Syrian legislator grants a one-month deadline for reconciliation in addition to the obligation to appoint social workers by the court to fix the relationship between the spouses before the divorce, and this is what the Egyptian legislator did not do it. As for *kbula'* divorce the Syrian Personal Status law considered *kbula'* as an abolition of the marriage contract, while the Egyptian Personal Status law considered it an ordinary divorce and termination of the marriage contract, on the other hand, the Syrian law assumed that the spouses agreed to *kbula'* before going to court for judgment, while the Egyptian legislator expanded on *kbula'* cases and allowed the wife to request it, whether there is an agreement with the husband or not. Another major difference between the two laws is in the case of judicial separation due to discord, while the Egyptian legislator gave the judge the discretionary power to accept or reject the wife's request for separation due to the discord, the Syrian legislator was more conciliatory than the Egyptian legislator by limiting the judge's authority to just attempting reform between the spouses. Regarding the case of divorce by the husband's unilateral will, the paper recommends abolishing this case as it gives the husband the right to divorce his wife directly, and the court only has the power to confirm this divorce, while the wife does not have such a right, which is considered a violation of the principle of gender equality in rights and duties. Regarding judicial differentiation due to discord, according to the Egyptian Personal Status Law, the judge has broad powers to accept or reject the wife's request for divorce which unfair to the wife if we know that in practice, the wife may wait for years to obtain a divorce or may not obtain it. Therefore, the paper recommends what was adopted by the Syrian legislator, where the role of the judge is limited to reform between spouses and determine the percentage of abuse between both spouses, based on which the amount of the dowry that the husband will pay to the wife.

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