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# Gender and Migration: The case of Egypt

*Abdeen Kandiel*

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**CARIM Analytic and Synthetic Notes 2011/14**

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**Gender and Migration Series**  
*Legal Module*





**CARIM**  
**Consortium for Applied Research on International Migration**

**Analytic and Synthetic Notes – Gender and Migration Series**  
**Legal Module**

**CARIM-AS 2011/14**

**Gender and Migration: The case of Egypt**

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This publication is part of a series of papers on Gender and Migration written in the framework of the CARIM project and presented at a meeting organised in Florence: “Gender and migration in Southern and Eastern Mediterranean and Sub-Sahara African countries” (18-19 October 2010).

These papers will be discussed in two meetings between Policy Makers and Experts on the same topic in winter 2011. The results of these discussions will also be published.

The entire set of papers on Gender and Migration are available at <http://www.carim.org/ql/GenderAndMigration>

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Within this framework, CARIM aims, in an academic perspective, to observe, analyse, and forecast migration in Southern & Eastern Mediterranean and Sub-Saharan Countries (hereafter Region).

CARIM is composed of a coordinating unit established at the Robert Schuman Centre for Advanced Studies (RSCAS) of the European University Institute (EUI, Florence), and a network of scientific correspondents based in the 17 countries observed by CARIM: Algeria, Chad, Egypt, Israel, Jordan, Lebanon, Libya, Mali, Mauritania, Morocco, Niger, Palestine, Senegal, Sudan, Syria, Tunisia, and Turkey.

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## **Abstract**

Egypt is a hosting and sending state for migrant women. This paper will examine the laws governing the personal status of women in Egypt, and explore the problems that Egyptian migrant women face as a result of these laws. It will also examine Egyptian nationality law and how it creates difficulties in the integration of immigrant women into Egyptian society.

## **Résumé**

L'Égypte est un pays d'accueil et un pays d'envoi de femmes migrantes. Ce papier examine les lois régissant le statut personnel des femmes en Égypte et étudie les problèmes auxquels sont confrontées les femmes migrantes égyptiennes du fait de ces lois. Il examine également la loi sur la nationalité égyptienne et les difficultés qu'elle crée pour l'intégration des femmes immigrées dans la société égyptienne.

## Introduction

Studying the different aspects (political, economic and legal) of the relationship between migration and gender in different parts of the world has acquired increasing importance in recent years. Owing to the multiplicity and the complexity of the legal issues, and the impossibility of dealing with all Egyptian migration issues in a short paper, it was thought best to concentrate on the effect of personal status and nationality on migration in that country. More particularly, we will try and answer the following question: does Egyptian legislation hinder or encourage migration.

Therefore, the paper will examine the laws governing the personal status of women in Egypt. It will try to demonstrate that these laws have developed the last decade. However, they have been developed in a fragmented way, and as a result, there is a lack of an overall perspective, taking into account Egypt's social and political setting.

The second part of the paper will look at Egyptian legislation related to nationality and migration. We will see that the amendment in the Nationality Law in 2004, in particular that one granting the Egyptian mother the right to transfer her nationality to her child, has been a positive development, but that it has remained theoretical. On the other hand, the discretion given to the Ministry of Interior both over acquiring and losing Egyptian nationality is wide. Moreover, there is a need to review the whole nationality law, to make it consistent with new developments internationally.

## 1. Personal Status of Egyptian Women

Contemporary Egyptian Personal status law has a 'broad conception of personal status that covers questions of marriage, divorce, paternity, inheritance'<sup>1</sup>. Egypt does not have a unified personal status code that applies to citizens of all faiths. The personal status law governs the Muslim majority, while most other faiths apply their own community's religious standards to family matters; provided that all parties in a dispute belong to the same faith<sup>2</sup>. The main characteristic of the personal status law in Egypt is its close relationship with public policy (*al-nizam al-amm wa al-adab*). This means the rules governing matters of personal relations aim at protecting public interest. The principles of public policy in Egypt are from Islamic law, because this is the prevailing law, that is the law of the majority.

Because of its religious character, personal status law in Egypt, like personal status law in other Arab and Muslim countries, differs from the Western legal system in the relation between law and religion. The differences, not to say conflicts, could be seen in matters like: the concept of marriage, polygamy, *Mahr* (Dowry), divorce, adoption of a child and the rights of contacts of parents and their

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<sup>1</sup> Bernard –Maugiron and Dupret, "From Jihan to Susanne. Twenty Years of Personal Status law in Egypt", *Recht van de Islam*, Leiden, 2002, pp. 1-2. Jasmine Moussa, "The Reform of Sharia's – derived divorce Legislation in Egypt: International Standards and the Culture Debate", <http://www.nottingham.ac.uk/hrlc/documents/publications/hrlcommentary2005/divorcelegislationegypt.pdf> p.8. El Bishri Alshourbagi, "Problems of Mixed Marriage and the methods of overcoming it legally" (en Arabic) <http://www.eastlaw.com>.

<sup>2</sup> Egypt recognizes one Muslim, two Jewish and twelve Christian communities, with a total of eight Status laws: Muslim, Jewish, Coptic-Orthodox, Greek-Orthodox, Syrian-orthodox, and Armenian-Orthodox, Catholic, and Protestant. Because some communities share the same law, the total number of laws is less than the communities. The most recent draft of a personal status for non-Muslims was submitted to the Ministry of Justice in 1998, but it is still awaiting review.

See: Alshri Alshourbagi, op.cit, p. 9 ss., M.Berger and Nadia Sonneveld, "Sharia and National Law in Egypt", in Jan Michiel Otto, Ed, *Sharia Incorporated. A Comparative Overview of the Legal Systems of Twelve Muslims Countries in Past and Present*, Leiden University Press , 2010, pp. 74 ss.

And see in positive and negative gender implications of the Islamic Jurisprudence to non-Muslims in Egypt:

Mariz Tadros, " The Non-Muslim 'Other': Gender and Contestations of Hierarchy of Rights", *Journal of Women of the Middle East and the Islamic World*, 2009 , pp. 111-143

children<sup>3</sup>. We can say that the most usual conflict between rules governing personal status in Egypt and the regulations of other countries, Western or non-Western, is related to custody of a child born in the context of mixed marriage.

Judges frequently deny child custody to Christian women married to Muslim men because, they claim, they need to protect the Muslim faith of the children.

In June 2009, however, the Court of Cassation overturned a decision by the Alexandria Appeals Court and awarded the custody of twin boys to a Christian mother who had divorced her Muslim husband, creating a precedent for considering the best interest of the child in custody decisions.

Egypt is not a party to the Convention on the Civil Aspects of International Child Abduction of 1980 (known as the Hague Convention) and it is unlikely that it will become a party in the foreseeable future. The fact that Egypt is not a party to the Hague Convention does not mean, however, that the country has given up its obligations under international law. Putting aside the internal laws for promoting children's rights and welfare issued since 1988<sup>4</sup>, Egypt signed the Convention on Rights of the Child and was one of the first states to become party to it. On 8 February 2000, the Minister of Justice issued a Ministerial Decree establishing a governmental committee responsible for international co-operation relating to disputes over the custody of children in mixed marriages. The committee sits at the Ministry of Justice and is composed of a number of officials representing the judiciary, the public prosecution authority, the state Religious Opinion Department, the Ministry of Foreign Affairs and the Ministry of Interior. Its mandate is to examine any dispute on custody issues of children born in mixed marriages in order to reach amicable solutions to them, by applying national law and those international treaties to which Egypt is bound. Egypt has also participated in the judicial conferences, held in the context of the Malta process since 2004<sup>5</sup>.

Furthermore, Egypt concluded bilateral agreements with some Hague member states and a Memorandum of Understanding with the US on Parental Access in October 2003<sup>6</sup>. One example is the Franco-Egyptian Convention on Judicial Co-operation in civil, social, commercial and administrative matters, signed on 15 March 1982. This agreement, which took inspiration from the Hague Convention 1980, aimed to set up a system of close co-operation during the period of custody. The notion of custody does not have the same definition in Egyptian law as in French Law. It is

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<sup>3</sup> It is conceivable that these conflicts may find their solution through transplanting legal terms and concepts into Western states. See: Pascale Fournier, "The Reception of Muslim Family Law in Western Liberal States", Canadian Council of Muslim Women, Sharia/Muslim Law Project, <http://www.ccmw.com/documents/Pascalepaper.pdf>

<sup>4</sup> We mean laws establishing the National Council for Childhood and Motherhood (January 1988) Presidential Decree No. 54/1988, Law No.12 of 29March 1996 (known as the Child Law).

<sup>5</sup> The Malta process refers to that process started by the Permanent Bureau of the Hague Conference, in co-operation with the Government of Malta and with the support of other Member States, (in the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention, in order to keep the development of the bilateral agreements between some Western countries and Egypt, Tunisia, Algeria etc, under review). It has led to a series of Judicial conferences. Judges and other experts from countries south, east and north of the Mediterranean have convened in Malta to discuss how to secure better protection for cross-frontier rights of contact between parents and their children and the problems posed by international abduction between the States concerned.

The first judicial conference, in March 2004 brought together judges from Egypt and several countries, like France, Germany, Italy, Malta etc. see: [www.hcch.net](http://www.hcch.net), < welcome> Child Abduction Section . "Judicial Seminars on the International Protection of Children-The Malta process"

The second judicial conference, held in Malta in 2006, was attended by judges from the same countries, in addition to a wider circle of countries. See, *idem*, Second Judicial Conference on Cross-Frontier Family Law Issues

The Third Malta judicial conference took place in Malta 2009. See. *Idem*, Third Judicial Conference on Cross-Frontier Family Law Issues.

Hans Van Loon, " The Accommodation of Religious Laws in Cross-Border Situations: The Contribution of the Hague Conference on Private International Law", *Cuaernos de Derecho Transnacional*, Vol.2, No.1, March 2010, pp. 261-267

<sup>6</sup> State Department Report: Egypt and Child Abduction.

<http://www.international-divorce.com/State-Department-Report:-Egypt-and-Child-Abduction>



specifically stated that the Convention only applies in Egypt ‘during the period of maternal custody (Hadanah) or at the end of this period (Dam)’. The Convention provides for Central Authorities<sup>7</sup> and also protection of access rights through judicial proceedings (Articles 35 -37).

In addition to Central Authorities, the Convention also provides for a working group charged with facilitating the practical operation of the Convention and with reinforcing judicial co-operation between the two parties. With regard to the enforcement in matters of custody, the Convention provides for an indirect and special rule of jurisdiction<sup>8</sup>. Finally, the Convention established a procedure for the legal return of the child, which has a conservative character. Its aim is ‘the restitution of the situation existing before the illicit removal and the return of the child (Article 37). However, this procedure only sanctions the violation of custody rights, which have been attributed by a court. To appreciate the importance of this recognition of the awards issued by foreign courts, we must take into consideration that in Egypt, Muslim fathers have ultimate custody of their children, though the right of custody with the mother is lawful during the child’s age of dependence. In the case of mixed marriages (Egyptian or Muslims in general, husband and foreign woman) the children of said marriage are considered Muslim and in their father’s custody, even if the children also have citizenship of another country. Egypt requires the children to be raised as Muslims, even when the couple divorces and Egyptian courts typically refuse custody to the woman’s children if the court believes that she may not raise her children as Muslim.

On the other hand, Egypt has also concluded Consular Agreements on Co-operation on family matters with the Government of Canada Regarding Cooperation on Consular Elements of Family Matters, on 10 November 1997<sup>9</sup>, and with the Government of Australia Regarding Cooperation on Protecting the Welfare of Children, signed on 22 October 2000<sup>10</sup>. These agreements were looked at as a measure for monitoring the child’s personal relations with both parents on a regular basis. In other words, they are of an administrative, facultative nature and none of them, in fact, is meant to affect the rights and obligations arising from other treaties, like the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations. Each of the two agreements is meant to complement, rather than displace, other means of communication and consideration of cases between its parties<sup>11</sup>.

Moreover, Egypt has taken steps to improve negotiation processes by prohibiting Egyptian fathers from kidnapping their children who live abroad with their Non-Muslim mothers and allowing the mother and children to leave Egypt.

### **Recent Reforms in Family Law**

Islamic personal status law, including marriage and divorce, has only been partially codified in Laws No.25/1920, Law No .56 of 1923 and No. 25/1929, the last two amended by laws No 100/1985.

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<sup>7</sup> The Central Authorities are the respective Ministries of Justice of the two states. They have the following functions: they search for and determine the whereabouts of the displaced child, provide information on the physical and emotional needs of the child and on any measures of protection taken concerning the child, they work also to encourage voluntary return of the child and must co-operate with a view to organizing rights of access for the non-guardian parent. They imitate or facilitate the opening of emergency legal proceedings to obtain the return of the child. They can direct requests for the recognition or enforcement of custody decisions.

<sup>8</sup> According to article 26, paragraph 8, the authorities of the original State which rendered the custody decision are considered internationally competent by the enforcement judge if this was the court of the residence of the parent with whom the child or children were residing, or the family residence, unless the decision was by default.

<sup>9</sup> <http://consul/web/consular-e/Legal/Treaties/Egypt/Childabd/accord.htm>

<sup>10</sup> <http://www.austlii.edu.au/other/draft/nia/2000/2000019n.html>.

<sup>11</sup> For example the agreement between Egypt and Canada establishes consultative commission comprising official Figures representing the two parties. This commission is an additional channel of communication and consideration between the contracting parties in consular elements of cases pertaining to family matters.

Egyptian Family laws have changed during the last decade. The first amendment came on January 26, 2000, when the Egyptian Parliament passed Law No. 1, 2000<sup>12</sup>. This law addresses the problems of backlogs of cases and insufficient legal procedures, challenges which were mostly confronted by women since they tended to be the majority of claimants in family law cases. Law No.1 also introduced two significant articles for women: Article 20 which gives women the right to file no fault divorce (known as *Khul*) in exchange for forfeiting their financial rights and Article 17 that gives women in unregistered marriage (known as *Urfi* marriage) the right to file for divorce.

The second reform came in 2004, when the Egyptian Parliament passed two new laws: Law No. 10 which introduced new family courts with the aim of establishing a legal system that is non- adversarial, attentive to the best interests of the family, accessible and affordable .Law No. 11, set up a government- Run Family Fund, called the Nasser Bank, to facilitate the implementation of court orders for alimony, and child maintenance<sup>13</sup>.

Lastly, law No. 4 was enacted in 2005, amending article 20 of Law N. 25 of 1929, which dealt with alimony, and certain provisions relating to family matters, and was amended, in turn, by law No.100 of 1985. The new amendment gives divorced women the right to keep custody of children until they reach age 15, and even after this age the child will have the choice to remain with the mother, until the girl gets married or until the boy reaches 21<sup>14</sup>.

There is no question that the recent reforms in family law in Egypt, though their procedural character, have had positive effects on Egyptian women. They no longer need authorization to travel. It is true that the freedom of movement had been confirmed by the Supreme court, but the controversy about women's freedom to travel and the right of her husband or her family (if she is unmarried) to prevent her has not ended. The recent reforms helped to resolve this issue. Any dispute about travel, now, is a family dispute, and, as such, the Judge has the authority to resolve it.

However, these reforms, created some problems for migrant women. On the one hand, the implementation of Article 20 of the personal status law (*Khula*) means that stalling tactics allow men to delay rulings for years. On the other hand, *Urfi* marriage has its problems. Migrant men can marry women in their origin countries, and since this is not documented, they can marry foreign women in host countries which prohibit polygamy. Furthermore, if an *Urfi* husband destroys the informal marriage document, the wife can neither petition for divorce nor remarry for fear of being accused of bigamy. In addition, paternity suits often arise regarding the children from such marriage when the father refuses to acknowledge the *Urfi* marriage and hides the marital document.

### **Mixed marriage**

Although there is no agreed definition for the term 'mixed marriage', we use it to refer to a marriage between a man and a woman having different nationalities, or different religions. Each of these has its own rules in Egypt.

1. Marriage between a man and a woman of different nationality.

This marriage might occur between: I) an Egyptian man and a foreign woman; II) an Egyptian woman and a foreign man; or III) two foreign nationals.

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<sup>12</sup> Arabi (Oussama), "The Dawning of the Third Millennium on Shari' a: Egypt's Law No.1 of 2000 or Women may divorce at Will", *Arab Law Quarterly*, 2001, pp.2-21.

<sup>13</sup> El-Alam (Dawoud S.), "Establishment of Islamic Courts in Egypt", *Yearbook of Islamic and Middle Eastern Law*, 2004-2005, pp. 229-237.

<sup>14</sup> We can refer also to Law No. 2 of 2006 amending Law No.25 of 1925. The amended provisions have dealt with the situation in which a person is missing. As noted above the concept of personal status law in Egypt is so wide that it encompasses missing persons.

Egyptian law applies to marriage in the first two cases: (1) Law 68/1947, Law No.103 /1976 amending some provisions of law 68/1947. As for the third case, marriage is governed, as a rule, by the nationality law of the husband or the nationality of both of the spouses. Egyptian law applies to it if the contract marriage has been concluded in Egypt, or if the applicable rules violate the public policy and morals of Egypt.(Article 28 of the civil code).

There are special rules applying to women in mixed marriage in Egypt. Women in the first two cases should present :i) a certificate of non objection on her marriage from the Embassy of her country; ii) if she is Muslim, she has to acknowledge her social status; iii) a certificate from El-Azhar if she has converted to Islam; iv) she has to present a certificate of her divorce if she is a divorced; whereas v) a widow must present a certificate of her husband's death.

In addition to these formal requirements, there are some other requirements, the most important of which is the prohibition of marriage between a Muslim woman and a non-Muslim. This marriage constitutes a violation of public policy.

## 2. Mixed marriage between a man and a woman of different religions

The difference of religions between the spouses requires Islamic law to be applied to this marriage. This means that the rules governing marriage, polygamy, divorce, etc apply to it. According to these rules, no Muslim woman may marry a non-Muslim man.

### **The Notion of Marriage of Convenience**

A 'marriage of convenience' is contracted for reasons other than reasons of family or love. Instead, this kind of marriage is orchestrated for personal gain (money, getting some rights like residence in another country etc). There are different types of conjugal arrangements available in Arab societies. Some of them are similar to conventional marriage in that they fulfill the formalities required, religiously, for marriage consent and acceptance, public notarization and dowry and other such issues. Yet they are incompatible with the rationale of the institution of marriage as a bond characterized by mutual affection and compassion and intended to serve as the foundation for the creation of a sound family. One of these types is marriages of convenience, which takes several names in Arab countries (its common name is *Misyar*). A wife, in this marriage, is contracted to a man in exchange for the payment of a dowry but without his commitment to house or support her permanently. This phenomenon has spread in poorer areas in Arab Countries; in effect this marriage is a tragic form of legitimized female enslavement, that is why the Egyptian legislature is attempting to fight it. There are some reports about marriages between Egyptians and foreign women, especially tourists, as a first step to getting residence in their countries. This marriage is closely related to another type, called (*Urfi*) marriage, in the sense indicated above.

## **2. Nationality Law and Gender**

### **Right of Egyptian mother to pass her nationality on**

An Egyptian woman can pass on her nationality to her children, irrespective of the nationality of their father or the place of birth. This right is enshrined in article 1 of Law No.154/2004, amending nationality law No. 26/1975, which states: 'The Egyptians are the following: 1) whoever is born of an Egyptian father or an Egyptian mother'. Article 2 of the old law, which stipulated that a child born to an Egyptian woman out of wedlock or to a stateless or unknown father could not be an Egyptian citizen at birth unless he was born in Egypt has been cancelled. Then, finally, there is Article (3) of law No 145(2004) which sets out the procedures for granting citizenship to those born before and after

the effective date of the present law, and entitles the minister of Interior to issue a decree for that purpose<sup>15</sup>. The Minister of Interior issued this decree on 25 July 2004 ( No. 12025 of 2004).

In fact, entitling Egyptian women to pass on their nationality to their child can be viewed as a positive development, not only because it asserts equality between Egyptian mother and father in this regard, but also because it helps remove the difficulties Egyptian women living in Egypt with their children encountered.

Neither law No145/2004 and the decree of the Minister of the Interior contained any limitations concerning the nationality of foreign husbands of Egyptian women. However, the practice proved that Egyptian Women married to Palestinian men<sup>16</sup> still face difficulties<sup>17</sup>, owing to a decision of the Arab League that the Palestinian diaspora should not be given citizenship in other Arab Countries, as a way of preserving their identity and their political cause. And, in fact, few children born to a Palestinian father and Egyptian mother have been granted citizenship.

However, Egyptian women married to foreign men are still unable to pass their nationality on to their husbands. The latter must follow the normal procedures of naturalization provided in the law of nationality.

### Loss of Nationality

Egyptian women might lose their Egyptian nationality by acquiring a foreign nationality. This could occur in two situations. The first is the acquisition by an Egyptian husband of a foreign nationality, after obtaining a permission by means of a decree of the Minister of Interior. Although this permission shall not result, automatically in his wife forfeiting her Egyptian nationality, it could lead to this if his wife declares her wish to acquire the nationality of her husband and then obtains it by virtue of the law governing it. However, permission to acquire foreign nationality may also comprise permission for him and his wife to retain Egyptian nationality, if he declares his wish to benefit thereby within a period not exceeding one year (article 10). His wife may also retain her nationality according to the same conditions. This means that the Egyptian legislator opens the door on dual nationality.

The second situation is the marriage of an Egyptian woman to a foreign man. Marriage shall not result in losing nationality unless the following requirements are met: 1) the Egyptian woman declares her wish to acquire the nationality of her husband upon marriage or during her marriage, 2) she is entitled to acquire her husband's nationality by force of the law governing it, 3) her marriage is evinced by an official document to be issued by the competent quarters.

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<sup>15</sup> The full text of that article is:

'A person born to an Egyptian mother and non-Egyptian father before the effective date of the present law may announce to the Minister of Interior his wish to enjoy Egyptian nationality. Such a person shall be considered Egyptian by virtue of a decree to be issued by the minister, or with the lapse of one year from the date of such announcement without the issue of a substantiated refusal decree from the minister'.

Enjoying the Egyptian nationality, according to the provision of the previous clause shall result in enjoying it by the minor children .Enjoying this nationality by the major children shall be through the previous procedures.

If a person born to an Egyptian mother and a non-Egyptian father dies before the effective date of the present law; his children shall have the right to enjoy the Egyptian nationality according to the provisions of the two previous clauses.

In all cases, the wish to enjoy the Egyptian nationality with the regard to a minor child shall be announced by his legal proxy, his mother, or the person in charge of bringing him up in case neither one exists.

<sup>16</sup> It is estimated that one-third of all Egyptian women who are married to non-nationals are married to Palestinians. See: El-Abed (Oroub), "The Palestinians in Egypt: Identity, Basic Rights and Host State Policies", *Refugee Survey Quarterly*, Vol. 28, Nos.2&3, 2010, pp. 531-449, at.p.543.

<sup>17</sup> Some Palestinians who applied to the Ministry of the Interior in 2004 , after the law was issued, have still to receive a response.

In addition to losing Egyptian nationality, voluntarily, it is possible also to lose Egyptian nationality involuntarily by having it withdrawn. The conditions and procedures for withdrawal, in this regard, have been summarized in articles (15). Although the formulation of this article suggests that it applies to men only, nothing prevents them applying to women as well.

Finally, Egyptian (man or woman) might lose her nationality as a sanction imposed by the executive authority if he and/or she violates his/her duties against their country<sup>18</sup>.

Egyptian Women can reintegrate their Egyptian nationality by applying to regain it. The application must be addressed to the Minister of the Interior, according to the procedures defined in article 20. She recovers her nationality if the Minister approves. Egyptian woman can also recover her nationality if their marriage is terminated, and if she has been a resident of Egypt or if she has returned to reside in it, and declared her wish to recover her Egyptian nationality. Recovering nationality in both cases depends on her wish, and the approval of the Minister of Interior in the first instance.

In addition to recovering nationality, as shown above, Article (18) states that the Minister of the Interior has the authority to restore Egyptian nationality to those who had it revoked during the first five years following their acquisition of Egyptian citizenship. The President of the Republic, on the other hand, can order the restoration of citizenship at any time before the five-year period lapses<sup>19</sup>.

### **Integration of Women into Society**

In order to know whether it is easier for migrant women to integrate into Egyptian society through nationality than men, we have to look at the rules on naturalization in the Egyptian law of Nationality. Reviewing these rules suggests that it is difficult, if not impossible, for refugees and their children to acquire Egyptian nationality, unless they are married to an Egyptian citizen or have a parent who is an Egyptian citizen. They are not qualified for naturalization as Egyptian regardless of the length of their residence in Egypt (as we saw in case of Palestinians).

As for other foreign nationals, it should be noted, first, that the Egyptian law of nationality allows naturalization for those who have resided in Egypt for ten consecutive years, at least, before they

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- 1) He obtained another citizenship by a means other than the one stipulated in Article 10.
- 2) He enrolled in a foreign State's Military without receiving a permit from the [Egyptian] Minister of Defense.
- 3) He was a regular resident of a foreign State and was sentenced for committing a crime against the security of the [Egyptian] State while abroad
- 4) He accepted, while he was abroad, employment with a foreign government or a foreign or international agency, and continued to work for it despite the Council of Ministers' issuance of a justified order for him to resign from the position if continuing to work in this position jeopardizing the higher interests of the State. The citizen is given a period of 6 months to leave his position from the day he is informed of the order.
- 5) His place of regular residence is abroad and he joins a foreign agency whose role is to work on the destruction of the social and economic structure of Egypt by force or by any other illegal means.
- 6) He worked for a State or foreign government at war with Egypt, or with whom diplomatic ties have been severed, and his work could negatively affect the State's military, diplomatic, or economic position or jeopardize any other national interest.
- 7) He was described as a Zionist at any time.

<sup>19</sup> Bradawl ( Tarek) and Khalil ( A.), "Right of Foreigners and Access to Citizenship" in *Africa Citizenship and Discrimination Audit* , Open Society Justice Initiative , Report by the Center for Migration and Refugee Studies ,CMRS , The American University in Cairo, According to them:  
 'Research demonstrates that the majority of cases of citizenship withdrawal took place because the person violated Articles 10 and 16(1) of the Law on Nationality. It is reported that between 1998 and 2003, 26 individuals lost their citizenship because they obtained foreign nationalities without the consent of the Egyptian government. Moreover, between 1986 and 2004, 7196 individuals lost their citizenship after being allowed to obtain foreign nationalities and abandon the Egyptian one. On the other hand, it is reported that between 1986 and 2005, 819 persons had their citizenships restored following a decision/decreed issued by the Minister of Interior in accordance with Article 18 of the Nationality Law. Since the Minister's decree is of an administrative nature, it is possible for a person to appeal the decision at the Council of State'.

submit their application for Egyptian nationality, and who are in full age, in addition to fulfilling the conditions (article 4 fifth of Nationality law 1975). It also allows the naturalization of foreign women who get married to Egyptian men acquiring Egyptian nationality two years following their application for naturalization. The application can be made at the moment the marriage contract is notarized, irrespective of the time the couple spent living together prior to the application for naturalization, providing the Minister of Interior does not have any objections (article 7). However Egyptian nationality law does not grant foreign men who got married to Egyptian women the same ease of citizenship. Finally, article five of Egyptian nationality law authorizes the President of the Republic to grant Egyptian nationality to foreign nationals who makes a special contribution to the country for that reason, part of the Egyptian authorities considers this treatment a discrimination against foreign men married to Egyptian women, as they are not eligible for expedited naturalization.

On the other hand, Egyptian nationality law allows naturalization on the basis of Egyptian origin and residence in Egypt, for the following persons:

- 1) Those born in Egypt of a father of Egyptian origin, provided that he or she applies for the Egyptian nationality after having made his ordinary residence in Egypt, and has come of age at the time they applied for the nationality.
- 2) Those that are of Egyptian origin, if they apply for Egyptian nationality after five years of ordinary residence in Egypt, and he or she has already come of age when they submitted their application.
- 3) Those born in Egypt of a father who also was born there, provided that this alien belongs to the majority of inhabitants in the country and speaks Arabic and is Muslim, and he or she applies for nationality within one year of coming of age.
- 4) Those born in Egypt, with their residence there, on coming of age, if they fulfill many requirements, such as: being mentally sane and not suffering from disability, being of good conduct and reputation, and having no criminal penalty or penalty restricting their freedom passed against them in a crime against honor, knowing Arabic, and having a legal means of earning their living.

It is clear, therefore, that the rules contained in the Egyptian nationality law apply to men and women, though they give advantages to Arab countries, and foreign women married to Egyptian men. On the other hand, foreign nationals who acquire Egyptian nationality, whether they are men or women, are not entitled to exercise their political rights before five years have passed from the date of acquiring nationality and they cannot be elected or appointed to the judiciary before ten years have gone by. The President of the Republic has the right to make exemptions.

## Conclusion

The paper tried to shed some light on the effect of recent developments both in Egyptian family law and Nationality law on female migration. It demonstrated that the developments of family law during the last decade, despite its procedural character, might be seen as encouraging female migration. This conclusion could be based on the fact that these new laws have removed some legal and factual challenges faced by women, through the establishment of family courts, entitling women to file no fault divorce (*Khul*). It is based also on the various efforts taken by the Egyptian Government to cooperate in solving the problems arising from the abduction of children. Although it is still premature to give a definitive opinion about the implementation of these new laws, the increasing number of cases referred to these courts and the long time needed to adjudicate on them, suggest that they would face the same administrative problems. Moreover, the problem of mixed marriage has become collective in the last year, and might need to be addressed.

On the other hand, the recent developments in the Egyptian Nationality Law in 2004 are significant steps, and might also be seen as encouraging female migration and their family's integration in Egyptian society. But there are some problems in implementing this amendment. These problems relate to the long time needed to apply for Egyptian nationality and to the discretion of the Ministry of the Interior in this regard.

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