

Empowering Women or Dislodging Sectarianism?: Civil Marriage in Lebanon

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In this article, I reflect on the proposed Lebanese civil marriage law, which initiated a political crisis in Lebanon in March of 1998 and was followed by an indefinite shelving of that proposed law. Many Westerners assume that women in today's Middle East passively submit to extreme male chauvinism and glaring legal inequalities. In fact, Middle Eastern women have been actively engaged in a quest for empowerment and equity through legal, educational, political, and workplace reforms for many decades, and through publication of their writings in some countries for over a century. Although women's rights were at stake in the proposed law, it is curious that many failed to perceive the connection between legal reform and women's empowerment. Those who understand this linkage only too well are the most frequent opponents of such legal reform, arguing that it will destroy the very fabric of society and its existing religious and social divisions.

First, I will provide some information on the history of sectarianism (known as *ta'ifiyya* in Arabic) in Lebanon. The drama surrounding the proposed bill's debut will be followed by information on women's politically and socially transitional status in the country. I relate women's status to their inability to lobby effectively for such a reform. I will allude to similar or related regional reforms in the area of personal status in order to challenge the idea of Lebanon's exceptionalism. I then explore the politicized nature of the

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various specific confessional reactions (Muslim, Christian, and popular) to the failed campaign and its aftermath. Finally, I address the process of women's empowerment and suggest an interpretation of the reform's failure.

I. BACKGROUND

Lebanon, a country of 3,562,699 persons, according to 1999 estimates, lost five percent of its population between 1975 and 1990 in its disastrous civil war, to which Lebanese euphemistically refer as *al-hawadith* (the events). Lebanon is a small country with ski slopes, glorious beaches, mountains and valleys ranging from verdant to bone-dry, and possesses eighteen recognized religious groups, often termed "confessional" groupings or religious sects.¹ The larger sects are the Maronite Christians, Greek Orthodox, Greek Catholics, Sunni Muslims, Shi'a Muslims and the Druze, a group that broke away and developed from Ismai'li Shi'ism. Under the rule of the former Ottoman Empire, Lebanon was an area of historic Syria and was managed legally through a dual system of state and religious courts, and sociopolitically through the *millet* system. Each of the larger religious communities was considered a particular *millah* (in Arabic, or *millet* in Turkish). The religious communities were semi-autonomous, and their leaders were expected to maintain order for the Ottoman rulers. Matters of personal status, including marriage, divorce, and inheritance, were the province of special religious courts for Muslims. Jews and Christians were governed by the rulings of their own leaders, although the Christian religious courts did not attain special powers like those of the Muslim religious courts until the Law of the 2nd of April, 1951 was passed after Lebanon's independence. Both Muslim and Christian clerics strongly supported the introduction of the 1951 law, while secular members of the Order of Lawyers threatened a six-month strike.²

Sectarianism in Lebanon has produced debates over the state's boundaries, natural affiliations, history, culture, political leadership, and violence, which was limited in the past, but became wretchedly severe during the recent civil war. In 1860, when sectarian violence broke out in Damascus and in areas of contemporary Lebanon, Western troops arrived to defend the sovereignty of the Christian-dominated areas of Mount Lebanon. Thereafter, through particular

1. Some sources indicate only fifteen or sixteen legally recognized groups.

2. Nadia El Cheikh, *The 1998 Proposed Civil Marriage Law in Lebanon: The Reaction of the Muslim Communities*, in 1998-99 YEARBOOK OF ISLAMIC AND MIDDLE EASTERN LAW 148 (Eugene Cotron ed., 1998-99). Dr. El Cheikh was extremely generous in sharing her article with me in its pre-published form, as were friends in Beirut who kindly invited me to a public debate on the issue. Building on El Cheikh's account and that of other sources, including articles not specifically cited below, in Lebanese publications such as LE LIBAN CITOYEN, AL-NAHAR, AL-HAYAT, L'ORIENT LE JOUR, and THE DAILY STAR, as well as scholarly literature on Middle Eastern women, I have extended the context of this dispute, moving from the Muslim responses to the national, regional, and international levels.

commercial and diplomatic means, a special relationship developed between France and the Maronite community, and the principle of a “mountain refuge” for minorities, specifically the Christians, was established.³

The French assumed political oversight of Lebanon and Syria following World War I, and under their governance the Maronites, other Christian sects, and Muslim sects were all included in a governing structure and vision of the country. The vision was far from unitary, however, and could not resolve the fissures between an imagined Phoenician and Arab Lebanon, or a modern state inclined toward Europe (specifically, France), and a nation leaning in brotherhood toward the Arab world and the causes of Arab socialism and unity that became popular by mid-century.

The Shi'a lower classes of Lebanon (and rural lower classes of the far north) have been the most deprived elements of the country. Each sect possessed several politically powerful families. Key to the country's power structure is the dominance of these *zu'ama* (literally chiefs, or bosses) over their local peasantry or urban constituencies. In the prevailing popular discourse of the 1960s and early 1970s, this was described as a neo-feudal system.

New political power-sharing arrangements were created under the French mandate. Based on the population figures of the 1932 census, the country's legislative body allocated representatives to each confessional group. The allocations favored the Christian sects on the basis of a 6:5 general ratio. This principle was included in a gradually developed, unwritten agreement referred to as the *mithaq al-watani* (the National Pact), which also incorporated the understanding that the President of the Republic should henceforth be a Maronite, the Prime Minister a Sunni Muslim, and the Speaker of Parliament a Shi'a Muslim. Even before the lengthy civil war that raged from 1975 to about 1990, youthful and liberal segments of society criticized the system of proportional representation and the negative effects of sectarianism.

Over the course of the twentieth century, partly due to migration patterns and the war, the proportion of Maronite Christians in the country decreased, while that of the Shi'a Muslims increased (it now stands at approximately thirty percent and is the largest of the various sects). No subsequent census has taken place because sectarianism has obstructed such civil activities. In addition to the relationship of religion and politics embodied in the political system, the lengthy civil war—with its casualties, kidnappings, disappearances, and wreckage of life and property—heightened enmities and intensified sectarianism.

Most experts agree that the Lebanese civil war stemmed from a combination of (1) sectarian tensions, (2) internal political divisions not

3. KAMAL SALIBI, *A HOUSE OF MANY MANSIONS: THE HISTORY OF LEBANON RECONSIDERED* 130-40 (1988).

necessarily derived confessional identity and complicated by the large presence of Palestinian refugees engaged in a Resistance Movement, and (3) the breakdown of the central state and its institutions once the cycles of violence were underway. Many scholars would concur with Peter Gran's characterization of Lebanon as a "tribal-ethnic" state in which kinship and blood-based institutions take primacy, despite the state's incorporation into the modern capitalist system.⁴ Once the civil war had begun, this basic tendency heightened the breakdown of civility.

The Ta'if accords laid the foundation for the cessation of hostilities by calling for a decrease in sectarianism in Lebanese society and politics. However, since the end of the war, the prevailing political system has remained in place, based on the *mithaq al-watani*, and in power sharing on the basis of sectarianism. The war caused a cantonization process when certain religious groups fled their villages or urban neighborhoods, tending to relocate where others of their own group resided. Some sects will not sell property to members of other sects. Minimizing these features of sectarianism has been one aim in the serious discussions of planned redevelopment and decentralization.

After the war, which left a heavy residue of unresolved physical and psychological trauma and loss, the influence of religious leaders remained, as did their particular role in the area of personal status law. Any issue that jeopardizes the separations between the religious sects appears to be highly threatening to certain religious leaders. Similarly such an issue threatens the political establishment (despite its participation in the discussions on diminishing sectarianism) for two reasons: the potential for further public disturbances and the prospect of re-proportionment, or the forging of new power sharing arrangements altogether.

Clearly, there is an interrelationship between the various forces maintaining sectarianism. But its future is so insecure that the proposed personal status law allowing for civil marriage was not perceived by anyone but liberals, progressives, and feminists as a necessary step toward the empowerment of women. The law was instead construed as a strike at *ta'ifiyya*. The twin demons of *ta'ifiyya* and political opportunism then promptly reared their heads and crippled this legal initiative with its promises for women.

4. Peter Gran, *Organization of Culture and the Construction of the Family in the Modern Middle East*, in *WOMEN, THE FAMILY, AND DIVORCE LAWS IN ISLAMIC HISTORY*, 70 (Amira Sonbol ed., 1996) [hereinafter *WOMEN, THE FAMILY, AND DIVORCE LAWS*].

II. A CHANGE IN THE STATUS QUO

Within the Lebanese sects, women and men possess different rights and responsibilities in matters of personal status, according to their own religious code. Women are disadvantaged compared to men in many areas of religious law and social custom. For example, Muslim women's inheritable shares of a family estate are set at half those of men. Legally, women of certain Christian sects should be able to inherit equally with male siblings, but cultural practice often dictated that brothers assumed or took sister's shares. Shi'a men who have no sons may leave shares directly to their daughters, but Sunni women with no brothers often see themselves passed over in favor of another male relative

Divorce for Muslims is granted on different grounds to men and women. It is generally more difficult for Muslim women to obtain than for Muslim men, and for Christian women of certain sects. Indeed, Muslim men have sometimes divorced their wives without even notifying them, although religious codes call for attempted mediation and staging in the divorce, in order to encourage reconciliation. In the religiously sanctioned practice of polygyny (or polygamy, as it is more commonly known), Muslim men have the right to marry more than one woman, and as many as four. Shi'a men may contract additional marriages, through *mut'a*, (a category of temporary marriage). Inter-marriage is very difficult or impossible under this system. As in religious marriages, Muslim women are forbidden from marrying non-Muslim men, and the Druze, who do not allow conversion, are allowed to marry only other Druze.

Differences in family law also affect rights of parenthood. The Muslim mother's rights of custody of her children extend only to certain ages, traditionally seven for boys and nine for girls, and may be challenged if she works or remarries. Adoption is another problem. It is not possible for Muslims to adopt legally, or be adopted by non-Muslims, although social custom allows for an extralegal parallel to adoption.⁵

All of the above issues fall into legally defined areas of personal status law, but the principles therein extend as well to cultural aspects of patriarchy. Different valuations of women's testimony and social worth extend to their

5. It is quite important to understand the particular national and historical context for Islamic law, and there are several good general sources. See generally WOMEN IN MUSLIM FAMILY LAW (John Esposito & Natana De Long Bas eds., 2001); DAWOUD SUDQI EL ALAMI & DOREEN HINCHECLIFFE, ISLAMIC MARRIAGE AND DIVORCE LAWS OF THE ARAB WORLD (1996); ISLAMIC FAMILY LAW (Chibli Mallat & Jane Connors eds., 1993); JAMAL NASIR, THE ISLAMIC LAW OF PERSONAL STATUS (1990). Specific concerns with inequities in the law or novel questions revealed by new or different use of sources may be found in certain chapters of WOMEN, THE FAMILY, AND DIVORCE LAWS IN ISLAMIC HISTORY. Sonbol, *supra* note 4. See also KHALED ABOU IL FADL, SPEAKING IN GOD'S NAME: ISLAMIC LAW, AUTHORITY AND WOMEN (2001); FEMINISM AND ISLAM: LEGAL AND LITERARY PERSPECTIVES (Mai Yamani ed., 1996).

very lives. For example, the cultural practice of “honor killings” was legally sanctioned under certain conditions, and a woman’s murderer (particularly if he fit this category) was punished far less severely than he would be for the murder of a man.

III. THE DRAFT BILL AS A MILESTONE FOR WOMEN

The nineteen-page draft bill of an optional law of personal status that President Hrawi submitted to his Cabinet included a provision for civil marriage. Given the fact that the proposed law dealt with several areas of personal status, it was actually far more ambitious than it was portrayed in many journalistic accounts of the campaign, which focused solely on intermarriage, or cross-confessional marriage. The creation of a civil law for all Lebanese would have wrested the authority over definitions of marriage and divorce away from the religious authorities and their courts. Although the draft did not address all other areas of personal status, it could have led to future reforms of matters such as inheritance and custody. In the post-Islamization and post-Taif (the agreement of 1989 which formally ended the Lebanese Civil War in 1990) environment, in which sectarianism was the most potent political force in the country, the draft bill was doomed. Both religious authorities and political officials unfortunately have come to manipulate sectarianism for their own purposes, with the clerics regarding themselves as the most legitimate voice for their religious constituencies and as guardians of particular traditions which intertwine the religio-legal with the cultural. As I consider the reasons for the bill’s defeat, I suggest that if a series of incremental legal changes instead had been proposed and carefully lobbied for, the desired changes may have been implemented or partially implemented, whereas efforts at sweeping reform faltered.

Lebanon is not the only Middle Eastern state lacking a civil law of marriage—a particular marker of a nation-state’s control over families and family law. In Egypt, the civil laws of marriage are based on the *shari’ah*. The Ottoman rulers of Egypt were part of the Hanafi *madhhab* (school of jurisprudence) stricter than the Maliki *madhhab*, to which many Egyptians belong. In accordance with the Hanafi jurisprudence, the Ottomans passed imperial edicts allowing women to sue for divorce but with very limited grounds in 1915 and codifying the Ottoman Law of Family Rights in 1917, which also pertained to Lebanon. Further reforms took place in Egypt in 1920 and 1927, whereby the grounds for divorce were broadened by allowing principles to be adopted from the Maliki *madhhab*. Additional reforms failed in the 1940s, were granted in the 1970s, then rolled back in the 1980s, to be

followed by a definitive set of reforms in 2000, discussed more fully below.⁶ As in Lebanon, various political and religious factions entered the debates over personal status reform. Because the Coptic Christians of Egypt do not benefit from the reformed laws of personal status, one may not point to a fully universal or “civil” law of personal status. Copts sometimes converted to Islam or resorted to shari’ah courts in order to gain divorces. Mixed marriages and Church-imposed obstacles to annulments have created problems that, as in Lebanon, might be best solved with a truly civil law of marriage—or so Coptic secularists believe. The objections of political and religious leaders, including Pope Shenoudah, have substantially impaired progress toward a truly civil law of personal status in Egypt.⁷

In Israel, where Orthodox Judaism is the primary source of personal status law, individuals are identified as Jewish, Muslim, or Christian and may not be married in a civil ceremony. The natural consequences of such prohibitions are to restrict marriages between those of different religious backgrounds and to enhance the power of the respective religious establishments, despite the presence of citizens who support a secular society.

The shelved draft bill in Lebanon would have equalized certain aspects of women’s and men’s rights.⁸ The discussion below will further clarify this claim, but in brief, divorce by mutual consent would have enhanced the ease of divorce for women, and the banning of polygamy would have further equalized men’s and women’s rights within marriages. Both of these innovations also would have equalized the status of women of certain religious groups (for example, Sunni or Shi’a women with certain limitations to divorce, or women of certain Christian sects for whom divorce is extremely difficult) with those of other sects (for example, Protestant women). More controversial was wording that implicitly would have allowed Muslim women to marry outside their own religion.

The draft law would not have completely equalized male and female rights, however—first, because it was only optional, and second, because various segments of the bill followed general principles derived from *shari’ah*, such as those pertaining to custody and guardianship. Various other aspects of inequality between husbands and wives fall outside the law of personal status,

6. WOMEN IN MUSLIM FAMILY LAW, *supra* note 5, at 53-55; Sherifa Zuhur, *Freeing Egyptian Wives*, WOMEN’S INT’L NET MAG. (Mar. 2000) [hereinafter Zuhur, *Freeing Egyptian Wives*]; Sherifa Zuhur, *The Mixed Impact of Feminist Struggles in Egypt During the 1990s*, 5 MIDDLE E. REV. INT’L AFF. 84 (Mar. 2001) [hereinafter Zuhur, *Mixed Impact*].

7. Mohamed Afifi, *Reflections on the Personal Laws of Egyptian Copts*, in WOMEN, THE FAMILY, AND DIVORCE LAWS, *supra* note 4, at 209-15.

8. An important source on legal inequalities affecting Lebanese women is LAURE MUGHAYZIL, *AL-MAR’A FI AL-TASHRI’ AL-LUBNANI* (1985). The late Mughayzil was a feminist activist who emphasized the need for legal reforms in a variety of areas and served as an inspiration to the current generation of women activists.

and are located in other areas of the law, despite the equality granted to women under the Lebanese Constitution.

Incomplete as it was, however, the proposed civil law of personal status would have leveled the field significantly, allowing all citizens, whatever their religious background, to follow the same procedures. Consequently, those pursuing women's empowerment argued for the law. They also saw a need for further reforms that would protect women from family violence and honor killings. For example, they targeted Article 562 of the penal code—dealing with “crimes of honor” whereby women may be killed for extramarital sexual activities—which was partially reformed in 1999, and they advocated laws that address discrimination in criminal and commercial contexts as well as in the definitions of citizenship.⁹

In the context of this quest, waged by legal reformers, activists, academics, and others, the defeat of the proposed civil marriage law was a genuine setback. The failure to enact the law demonstrates that local and particular circumstances must be thoroughly understood in order to implement successfully reforms based on universalist concepts such as human rights. Such reforms require political commitment and a repertoire of tactical resources that exceeded those exhibited by the President and the other political proponents of the law. In the post-Islamization and post-Taif setting, this ambitious legal reform was destined to fail. If a series of incremental rather than sweeping legal changes had been proposed and carefully lobbied for, the desired changes may have been implemented to some degree.

IV. MINI-DRAMA OF A LEGAL INITIATIVE

Maronite President Elias Hrawi first announced his intent to legalize civil marriage in Lebanon on November 22, 1996.¹⁰ This declaration, issued on Lebanon's Independence Day, attested to Hrawi's perception of the issue's importance to the Lebanese state as a whole, and his willingness to commit to an ambitious cause. Under existing laws, couples must be married by religious officials or in a religious contract. When members of a couple are of different

9. Penal code sections 487-489, 503-506, 513, 515, 522, 627, and 753 (as well as 562) of the Lebanese Penal Law “still obviously discriminate against women and constitute a clear violation to CEDAW” according to the Human Rights Committee, Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Lebanon, (June 6, 1996); Second periodic reports of States parties due in 1988: Lebanon, (Nov. 11, 1996). CCPR/C/42/Add.14. (State Party Report); A Brief Review of the Current State of Violations of Women's Rights in Lebanon, at <http://www.lnf.org.lb/windex/brief1.html>; Suad Joseph, *Civic Myths, Citizenship and Gender in Lebanon*, in GENDER AND CITIZENSHIP IN THE MIDDLE EAST (Suad Joseph ed., 2000).

10. The President later said that he had first supported such a measure in 1972, and spoke of his position on television in 1988. *Hrawi Wants Referendum on Civil Marriage*, SHUFIMAFI NEWS, available at <http://www.cin.org/archives/al-bushra/199802/0190> (Feb. 20, 1998).

religious backgrounds, one may convert so that they may marry.¹¹ Those who eschew a religious marriage travel out of the country, often to Cyprus or Greece, to be married.

Hrawi was later quoted as saying that eighty percent of the Lebanese public supported the proposal for voluntary or optional civil marriage.¹² He also stated that twenty-two percent of Lebanese marriages were being enacted abroad,¹³ and that these numbers, along with the legal difficulties that arose when couples divorced, illustrated a lack of national sovereignty.¹⁴ He lobbied for his proposal for a year and a half, saying in February 1998 that he would request a constitutional amendment that would entitle him to call for a public referendum. The bill was actually presented to the cabinet on February 2, 1998 and put to a vote on March 18, 1998, although some sources claimed it had not been on the body's agenda. Controversy arose when the Prime Minister Rafiq Hariri refused to sign the measure despite a majority of twenty-two ministers in its favor. Hariri argued that the council had only approved the principle of the bill, but that each segment required further careful consideration, and that the matter would distract the country from the pressure it sought to exert on the Israelis (who at that time remained in Southern Lebanon) through the United Nations.¹⁵ Because the bill could not proceed to parliament for review without Hariri's signature, a crisis ensued.

The Sunni religious establishment had swiftly and loudly opposed the proposal as soon as it became clear that Hrawi was seriously pursuing it. Significant Saudi-based objections bolstered these leaders,¹⁶ and other religious officials then joined in. Protests through the month of March, 1998 shook the politicians. The Higher Shar'i Council denounced the cabinet's vote, and some attributed the whole mess to the jockeying of the three powerful politicians—Hariri, Hrawi, and Nabih Berri (the Shi'i Speaker of Parliament and leader of the Amal party)—sarcastically termed the Troika by the Lebanese.¹⁷ Hariri responded to the calls for *jihad* and to demonstrations encouraged by the Sunni religious leaders by asking the government to postpone action on the bill.

11. However, Muslim women cannot convert, as they would then be apostates. Apostasy is punishable by death.

12. *Hrawi Wants Referendum on Civil Marriage*, *supra* note 10.

13. *Hrawi Reiterates Refusal for any Extension or Renewal of his Term*, NEWS FROM BEIRUT, available at <http://www.lebanon.com/news/local/1998/3/24.htm> (Mar. 24, 1998).

14. Marlin Dick, *Hrawi Presents Proposed Civil Marriage Code: President Says Law Would Promote Individual Freedom*, DAILY STAR, available at <http://www.dailystar.com.lb> (Feb. 6, 1998).

15. El Cheikh, *supra* note 2, at 153-54.

16. Statement by the Higher Shar'i Muslim Council, Statement Concerning the Optional Personal Status Law—Civil Marriage, (Mar. 24, 1998); Press Release, Kingdom of Saudi Arabia, Ifta Ruling on Civil Marriage, available at http://www.saudiembassy.net/press_release/archive/98_news4.html (July 17, 1998).

17. El Cheikh, *supra* note 2, at 153; Sam Daher, *Civil Marriage Debate Inflames Lebanese Groups*, MIDDLE EAST TIMES, at <http://metimes.com> (May 4, 1998).

The political waters were muddied, however. The president stopped speaking to the prime minister, and the president of the council of ministers boycotted Hrawi. It was reported that Hrawi did not attend Easter services, presumably in reaction to the Maronite patriarch's statements (discussed below), nor did he extend official 'Id al-Adha greetings to Lebanon's Muslims.¹⁸ Eventually, Syrian president Hafiz al-Assad, who had supported both Hrawi and Hariri and initially this proposal for civil marriage, met with the three Lebanese officials. Assad sided with Prime Minister Hariri and with the religious opponents of the bill, and called for the matter to be deferred. The proposal was referred to the Ministry of the Interior for further study—or, as one observer wrote, it was “put on ice”¹⁹—where it currently languishes.

The Sunni Muslim religious officials' response to the proposal was the swiftest and most negative. Sunni Muslim politicians followed their lead. The Sunni Mufti's marshaling of external support demonstrates the extra-Lebanese dimension of the controversy, due to the strong influence of Saudi Arabia and Syria. The milder responses of the other Muslim groups are discussed below.

Christian clerics also opposed the law. They seemed to realize that any reduction in the power of the Sunni *'ulama* (religious scholars) could be mirrored in their diminished influence over their own communities. Earlier in the century, the proponents of modernity certainly expected a decline of power among all groups of religious authorities. However, it appears that the Christian leaders benefited as an indirect result of the Sunni *'ulama*'s tenacity.

One observer suggested that the contrast between the mild Shi'a response to the “optional” law and the decided Christian opposition was due to shared Christian and Sunni concern. These groups worry that if political confessionalism—meaning politically appointed parliamentary seats allocated on the basis of religion—is abolished, “then the principle of democracy as the rule of the majority would apply. In this scenario, it is the Shi'ite Muslims who would benefit most from the change.”²⁰ Sectarianism today pits group against group and clerics against modernizing politicians of various religious backgrounds.

V. WOMEN IN THE POLITICAL SPHERE

Why is it that Lebanon's supposedly emancipated women could not muster more support for the civil marriage proposal? Although Lebanon granted women the right to vote in 1953, and despite their relatively early entry into various public careers, their education, and their support of the nationalist

18. Edward Alan Yeranian, *Civil "I Do's" May Stay A "Don't" in Lebanon*, CHRISTIAN SCI. MONITOR, May 6, 1998, at 7.

19. Jerome Chahine, *The Lebanese Law on Civil Marriage: Balance of Fear*, 10 MIDDLE EAST COUNCIL OF CHURCHES NEW REPORT 2 (Summer/Autumn, 1998).

20. *Id.*

movement against the French, women have not played a prominent role in politics. Women's political activism in the 1950s featured women of different class backgrounds who mixed and acted with considerable risk of offending the establishment. Today's feminist movement appears far more elitist, or at least it seems that feminist values and reforms are not the concern of the lower classes, whose focus is basic survival. Feminists and activists have devoted some energy to understanding the paradox between Lebanon's image of freedom and modernity and the reality of relatively limited gains in power for women.²¹

Considering the political realm first, it seems that as in South Asia²² and the United States,²³ women first attained political office as widows or relatives of major male political figures. Save for Mirna al-Bustany, elected in 1963 to serve the remainder of her father's term, women were absent from the Lebanese Parliament until 1991. In that year, Nayla Moawad, widow of the assassinated President René Moawad acquired a seat, and three other women managed to win elections over the next decade. Ten women ran for office in 1996.²⁴ In the report of the Lebanese national committee for the Beijing conference, it was noted that there has never been a woman provincial governor (*muhafaz*) and that only 4.16% of those who are heads of the *caza* (a smaller geographic/administrative unit) are women. Only three of 390 heads of municipalities were women, as were just two of 1,800 mayors.²⁵ The public seemingly has not considered women candidates as independent voices, but rather as representatives of "their men"—that is, their family and their sect. This public response stems from the sectarian system, which guides the political process.

In few countries has the conference's goal of women occupying thirty percent of parliamentary seats been achieved (the long-term goal is fifty percent). In a poster created by Women's Leadership Partnership (a non-governmental organization) portraying the world's leaders, among the sea of suits peppered with a few individuals in national dress, only seven are women. We also know that women political leaders have lobbied effectively across party lines to urge reforms to aid or empower women in the West and in the Middle East, and on occasion to fight against conservative attacks on women.

21. See generally Jean Said Makdisi, *The Mythology of Modernity: Women and Democracy in Lebanon*, in FEMINISM AND ISLAM, *supra* note 5, at 231.

22. See generally KUMARI JAYAWARDENA, FEMINISM AND NATIONALISM IN THE THIRD WORLD (1988). This work provides outlines of women's entry into public life and nationalist movements in Egypt, Iran, Turkey, India, Sri Lanka, Vietnam, and China, showing many interesting similarities in the transitions experienced by women of Asia and the Middle East.

23. See generally Linda Witt et al., *Running as a Woman* (1993).

24. Marguerite Helou, *Lebanese Women and Politics: A Comparison Between Two Field Studies*, 18 AL-RAIDA 92 (Winter 2001).

25. Naila Nauphal, *Post-War Lebanon: Women and Other War-Affected Groups*, ILO Action Programme on Skills and Entrepreneurship Training for Countries Emerging from Armed Conflict, Sec. 3.3.1 (1997).

Some Lebanese women, political figures among them, now support the introduction of a quota system for women politicians. Others do not believe that quotas will shake the sectarian basis of politics.²⁶ A fixed quota of parliamentary seats reserved for women was first introduced to the region in Sudan, prior to its current Islamization, and the idea was adopted by President Anwar Sadat of Egypt. The practice of reserving seats for women ceased in Egypt, since many argued that Sadat's 1979 legal reforms benefiting women which included this "quota" had been introduced extra-legally (during a parliamentary recess). Politicians, political experts, and feminists then underwent a lengthy process to restore these reforms. The idea of a guaranteed proportion of parliamentary seats has most recently been adopted in Morocco, where great excitement was generated by the preparations of women candidates for parliamentary elections.

Traditional masculinizing and patriarchal features of Lebanese politics have impeded the progress of women in public life. When women were considered to be independent figures, not simply female proxies for male figures of power, they lacked appeal and public support. Women's recent and quite modest political gains have been achieved primarily through identification with the sectarian system.²⁷ Therefore, outside of the relatively small feminist community, women's increasing political participation and knowledge of their political weaknesses did not aid the campaign for the civil marriage.

The civil war temporarily expanded certain sex role definitions. This has been true in other societies where war or cataclysm require that women assume new productive roles, mobilize for specific purposes, and deal with emergencies. Permanent reordering of gender roles did not occur, at least not to the extent necessary for deepening and broadening women's political power. In pre-war Lebanon, family-arranged marriages were common. It was estimated in 1987 that nearly all younger women were married, and that at most ten percent of the population remained unmarried after age forty. Divorces were less common during the first part of the war, perhaps because of the costs involved.²⁸

The war left thousands of displaced women and families and more female-headed households as a result of deaths and migration, but women did not attain more or better jobs. Instead, with the war's end, the social and legal

26. Nayla Mouawad, *On Politics in Lebanon: An interview with Myriam Sfeir*, 18 AL-RAIDA 47 (Winter, 2001); Myriam Sfeir, *Women's Role in Politics: The Quota System*, 18 AL-RAIDA 29-32 (Winter 2001); Tiare Rath, *If Lebanon Is an Oasis of Freedom, Why Don't Women Succeed in Politics?*, THE DAILY STAR (Feb. 1, 2002), at <http://www.ihf.com>.

27. See generally Helou, *supra* note 24, at 33-40.

28. Federal Research Division, Library of Congress, *Impact of War on the Family*, in *LEBANON: COUNTRY STUDY* (Thomas Collelo ed., 1987).

orders appeared to reinstate themselves with relatively few changes for women.²⁹

VI. WOMEN'S CHANGING PROFILE

One could retort that although women's political gains are slight the world over, we should consider the increase in female education and employment in Lebanon. Why have these not bolstered the numbers of women ready to support the reforms, or the resolve of politicians to back them?

First, the reforms were not put to a popular vote in a referendum, as President Hrawi wished. Instead, the all-male Cabinet had to contend with a Prime Minister's filibuster of the bill. Secondly, it is not clear whether enhanced female education and employment has led to general support for women's empowerment, to increased power of women to affect male voters or, more importantly, to increased power to affect their male political representatives. The general feminist proposition that an increase in women's earning power leads to heightened female independence or power within the family needs to be examined, as does the connection between the attainment of further years of education and increased support for feminist values.

Women's average educational level has risen in Lebanon, as have the numbers of working women. Problems of discrimination in the workplace remain, problems that go beyond the double shift and the glass ceiling, along with certain special factors that privilege women's domestic responsibilities.³⁰ The numbers of single working women and women as a proportion of employees have increased steadily, but the married women's share of employment is still quite low overall (11.4 % in 1997)³¹ and marriage is both the norm and the ideal. Women made up 34.8% of employees, according to the National Employment Office in 1999.³² More recently, women's organizations

29. LAMIA RUSTUM SHEHADEH, *WOMEN AND WAR IN LEBANON* 149-60 (1999). In her introduction to this volume, and her survey of women and politics, Shehadeh makes it clear that women have not advanced in this area as had been hoped. In her chapter, "Women in the Lebanese Militias," she describes the nature of women's involvement in militarization. *Id.* at 145. See also Jean Said Makdisi, *The Mythology of Modernity: Women and Democracy in Lebanon*, in *FEMINISM AND ISLAM*, *supra* note 5.

30. Mona Chemali Khalaf, *Employment, Breadwinning and Women's Status: The Case of Lebanon*, Paper presented to at the Women and Gender in the Middle East Conference, Bellagio, Italy, (Aug. 27-31, 2001); *WOMEN AND GENDER IN THE MIDDLE EAST: NEW RESEARCH, NEW DIRECTIONS* (Sherifa Zuhur ed., forthcoming) (manuscript on file with the author). This paper, based on a larger recent study, explores the tension between the negative social labeling of women's work alongside their definite earning power. The introduction of women's work in the region as a natural outgrowth of the capitalist conception of a "family wage" has been contrasted to a "woman's wage." See, e.g., Susan Joeke, *Working for Lipstick? Male and Female Labor in the Clothing Industry in Morocco*, *WOMEN, WORK AND IDEOLOGY IN THE THIRD WORLD* (Haleh Afshar ed., 1985). Khalaf's study reveals such attitudes attached to "women's work" of both higher status (career employment) and lower status (blue-collar work).

31. Khalaf, *supra* note 30, at 11.

32. *Id.*

cited this figure as 37.5%.³³ A statistic from external sources gave the labor force participation of females fifteen and older as twenty-seven percent in 1995.³⁴

It must be understood that the female share of labor force participation has been low traditionally in the Middle East—the lowest in the developing world—with pre-war Lebanon, Israel, Turkey, Egypt, and Morocco demonstrating higher rates for the region. Nadia Hijab's general study of the problems of Arab women and employment examines the three key conditions of need, opportunity, and ability in various cases in the Arab world. She explained many of the reasons for the slow progress of social and economic change in the region, not the least of which was the "group identity" enhanced through the family system³⁵ (and heightened in Lebanon through confessionalism). Suad Joseph and other scholars have emphasized the presence of social connectivity and the positive aspects of familial relationships in Lebanon³⁶ which, as a communitarian approach to development, should not be seen as a completely negative factor. In other words, "family ties" both aid and impede women's progress in the working world.

A 1998 study in Lebanon showed that working women span a broad spectrum of the population—however, the study also indicated that one could draw a profile of an average woman who is aged twenty-five to twenty-nine (19.7% of the sample of 2,122, and the largest percentile grouping). Fifty-two percent of the women in the sample were single, and thirty-five percent had a secondary school education. The most significant number (25.1%) were middle level employees while only 8.8% were high-level directors. Women's influence in the higher-paid echelons of the business world remains miniscule, as the study reflected.³⁷ These trends are also reflected in statistics that illustrate single and married women's status from 1970 to 1997. Khalaf shows us that although economic need has affected women in the post-war period, the number of married employed women is still less than forty percent of the number of single employed women.³⁸

33. Nayla Assef, *Progress Still Needed for Women's Rights*, DAILY STAR, August 3, 2001, archived at <http://www.dailystar.com.lb>.

34. POPULATION REFERENCE BUREAU, WOMEN OF OUR WORLD (1998) [hereinafter WOMEN OF OUR WORLD].

35. NADIA HIJAB, WOMANPOWER: THE ARAB DEBATE ON WOMEN AT WORK 73-74, 75-77, 164-65 (1988).

36. See generally INTIMATE SELVING IN ARAB FAMILIES: GENDER, SELF, AND IDENTITY (Suad Joseph ed., 1999); Joseph, GENDER AND CITIZENSHIP IN THE MIDDLE EAST, *supra* note 9; Suad Joseph, *Feminization, Familism, Self, and Politics: Research as a Mughtaribi*, in ARAB WOMEN IN THE FIELD: STUDYING YOUR OWN SOCIETY (Soraya Altorki & Camillia Fawzi El-Solh eds., 1988).

37. INSTITUTE FOR WOMEN'S STUDIES IN THE ARAB WORLD (IWSAW), LEBANESE AMERICAN UNIVERSITY, FEMALE LABOR FORCE IN LEBANON (1998) (giving statistics from a 1996 field survey conducted using a random sample of 2,122 women).

38. Khalaf *supra* note 30, at 11 (citing statistics from COMITE NATIONAL DE LA FEMME, LA FEMME LIBANAISE 1996-1997: CHIFFRES ET SENS (1998)).

This sample included women from various occupations. The largest percentile grouping included women in the garment, equipment manufacturing, publishing, agriculture, public administration, education, health, and social work industries who received salaries from 300,000 to 500,000 Lebanese lira (this is quite low). Most women in the study alluded to social constraints at work based on their gender. They felt that work did not necessarily affect their participation in decision making at home. Nevertheless, many responded that society regarded positively the fact that they were working women. These attitudes were measured according to their region of origin, indicating more conservative and constrained views in the Biqa and South Lebanon—areas that are considered “underdeveloped” and with heavy Shi’a populations.³⁹ Women in Khalaf’s study show very ambivalent attitudes about employment because of the emphasis placed on marital and domestic duties. Two-job families are common, but she found that many women of different backgrounds saw their work as an “extra” or had begun working as a pastime. Many women said they would be willing to quit if their husbands asked them to. These women included sixty-seven percent of those studied who worked in the banking sector,⁴⁰ an area where women had completed secondary or university education.

Other information is relevant to the post-war period. Many of the war casualties were men, and thousands of men still remain unaccounted for. Displacement and total destruction of the infrastructure made for a loss of productivity and advancement on many fronts. The Ministry of Agriculture estimated the number of female-headed households at 14.2% in 1996 without including those in which the male head of household had migrated.⁴¹ Women obviously needed to work, but their primary roles as mothers and wives were strongly reasserted after the war, and difficult economic conditions also impeded gains from the informal economy.

Despite the availability of work for women, the unemployment rate is high at eighteen percent. At present, Lebanese explain some of the difficulties by pointing to Syrian and other migrant workers who take jobs for lower wages. Meanwhile, young people experience strong social pressures to marry. Many cannot afford to do so, since the apartment and furnishings considered to be prerequisites are often beyond their means. Thus, marriage, which often deters and slows women’s career advances, is actually held at bay for some years now, not because of transformations in the social expectations of gender but because of the economy.

Elite and working women have attained higher levels of education than in the past. The overall literacy rate measured in 1995 was at 92.4%: 94.7% for

39. IWSAW, *supra* note 37.

40. Khalaf, *supra* note at 30, at 20.

41. Nauphal, *supra* note 25, at § 4.2.4.

men and 90.3% for women. This rate compares favorably with Egypt. According to one study, by 1984 girls were entering high school at double or more the pre-war rate.⁴² Statistics showed a high rate of secondary school enrollment for girls in 1995.⁴³ Women's numbers decrease at the university level, although these are much higher than in the past. As in other countries, women tend to study liberal arts or humanities rather than technical or scientific fields, as Bahia Hariri, Lebanese MP and member of the Lebanese Parliamentary Committee on Education, has pointed out.⁴⁴ Women have entered professions such as medicine, teaching, and engineering, but they frequently occupy the lowest-paid ranks in each of these fields.

It has been postulated that women with more education tend to have fewer children and to plan their families more carefully. This appears to be true in Lebanon, where in 1996 the average number of children born to illiterate women aged forty-five to forty-nine was more than twice the average number of children born to women of the same age who had gone to college. At the same time, we see that higher education has become an additional requirement for higher-status marriages in Lebanon (as elsewhere in the region).⁴⁵

However, a direct correlation between education and better jobs has not been witnessed, and this is a regional concern. Employers continue to prefer male employees. Young, unmarried women, the largest proportion of women who work, all too often work in unskilled and lower-paying jobs or with limited career mobility.

The overall situation has not easily translated into increased political power for women or encouraged substantial changes in public perceptions about working women. One reason, suggested by Mona Khalaf, is that Lebanese in general continue to conceive of men as "breadwinners."⁴⁶ Meanwhile, social perceptions of women's domestic and familial responsibilities have not shifted. Educational materials and informal learning through communities and families continue to socialize women to envision themselves as mothers, or in roles that emulate domestic space, such as teachers or health-care givers. Women are

42. Muhammad Faour, Conditions of Lebanese Women after 10 Years of War, Paper presented to conference on the Role of Women in National Development, International Labor Organization, Institute of the Study of Women in the Arab World and the Cyprus Statistics and Research Department, Nicosia (April 6-22, 1985), *cited in* HIJAB, *supra* note 35, at 75-76.

43. The figure is 109%, according to WOMEN OF OUR WORLD, *supra* note 34 (describing a trend in many countries in which more girls are enrolled than boys, which must be compared with figures for matriculation).

44. See Bahia Hariri, *Women and Education in Lebanon* (1997), at <http://crm.hct.ac.ae/006hariri.html>.

45. Scholars who have observed this phenomenon from Jordan to Lebanon to Egypt have tried to answer the question of whether or not women's higher education is altering the gendered social system as part of a response to Willy Jansen. Willy Jansen, Research on Gender and Education in the Middle East: An Overview, Paper presented at Women and Gender in the Middle East: A Multidisciplinary Assessment of the State of Theory and Research, Bellagio, Italy (Aug. 27-31, 2001), in WOMEN AND GENDER IN THE MIDDLE EAST: NEW RESEARCH, NEW DIRECTIONS, *supra* note 30.

46. Khalaf, *supra* note 30, at 16.

taught to distrust women leaders and to presume that they lack the independence and wisdom necessary for creative leadership, since women are most visible in employee or lower management positions. Moreover, there are remarkably few women leaders available as new models for emulation. Hence a definite increase in women voters, levels of education, and access to employment has not resulted in a strong foundation for a more visible or feminist female political leadership.

It would be hard to say whether women in general, outside of the informed feminist community, support reforms of personal status law any more strongly than their male counterparts. But we can see that even if this were so, women lack two key instruments to aid them in promoting legal reforms benefiting women: positions of political leadership and the sense that the gender order *is* truly changing and can be further transformed.

VII. OTHER EFFORTS TO REFORM THE LAWS OF PERSONAL STATUS

The legitimacy of laws or legal reforms promulgated by a unified state is weakened by the power of religious officials to adjudicate personal status law. The existence of separately codified laws of personal status has also caused most of the Middle Eastern states to register reservations to, or claim exemptions from international laws addressing human rights such as the CEDAW (Convention on the Elimination of Discrimination Against Women).

Efforts to reform the laws in Lebanon and are part of a transregional movement to amplify local reform efforts, create support for women's leadership, and establish relationships among like-minded activists. These efforts go beyond the traditional philanthropic activities of many active women's associations. Small but active NGOs, such as the Arab Women's Court, the Nayla Mouawwad Foundation, or the Machrek-Maghreb Gender Linking Information Project, exemplify this important work.⁴⁷

The attitude of such groups differs from what is generally defined as "state feminism"—where agents of the nation-state aim to incorporate women as productive partners and participants in the institutions of new nation-states. The classic example is Ataturk (Mustafa Kemal) nationalist hero and President of post-WW I Turkey. He recognized the conflict between centralized national power and autonomy of religious leadership and chose to resolve it by destroying both the secondary legal structure and, more importantly, the clerics' authority over the educational system (and the *sufi* orders). While he supported changes in women's lives, Ataturk's secular model is currently both misunderstood and rejected by many citizens of the Arab states where

47. Lebanon has not felt the influence of U.S.A.I.D. activities targeting literacy, and economic activities for women (as Egypt and Morocco have). The agency has not been able to initiate projects in Lebanon, because of U.S. regulations regarding countries included on the so-called "terrorist list."

contemporary NGOs operate, so the NGOs must develop their tactical approaches accordingly.

Disagreement and conflict over the regulation and reform of personal status laws have a lengthy history in Lebanon as in other states. Nadia El Cheikh notes that in 1936 the French Mandatory officials granted the civil courts jurisdiction over personal status litigation with the exception of marriage. Amidst violent opposition, the French High Commissioner postponed this transfer of jurisdiction.⁴⁸ Lawyers subsequently protested the extension of personal status law to Christian religious courts with a six-month strike, and the discussion of a civil personal status law continued at certain points during the 1960s and the 1970s. Serious proposals were made in 1971, and again in 1997, so Hrawi's proposition was not without background or precedent.

Other states in the region have witnessed dissent over the introduction of civil marriage and other serious reforms to marriage laws.⁴⁹ In Turkey, civil marriages must precede *shari'ah* marriages, which are optional;⁵⁰ in Lebanon and in Israel, religious marriage is the only form of marriage sanctioned by the state. In Syria, where confessional identity is also a significant political factor, civil marriage is not voluntary—it is required.⁵¹ Apparently, Syria requires the registration of marriages primarily in order to obtain accurate population statistics. There is a thirty-day waiting period for all civil marriages, justified as a form of protection for young couples who wish to choose their own partners, for those couples who have eloped, or for those who are marrying out of their sect. Usually, however, the waiting period works to the advantage of a family opposed to a match, allowing the family members to flex their muscles, employ mediation, or otherwise interfere with the couple's marriage plans. Only secondarily, does the requirement of a civil marriage foster inter-religious marriages, although the basic Ba'thist philosophy of secularism, freedom, and socialism would also support this principle.

In Egypt, the concept of a "civil" or non-*shari'ah* religious marriage has also been recently debated prior to the acceptance of '*urfi* (meaning customary, referring to customary or tribal law) marriage as a licit form of marital union. '*Urfi*, which does not require the expensive wedding party and outlay for a

48. El Cheikh, *supra* note 2, at 148.

49. John Esposito provides an overview of the legal methodology of such reforms in Egypt and Pakistan through the 1970s, and is critical of the patchwork or haphazard approach to such reforms because of other legal results. WOMEN IN MUSLIM FAMILY LAW, *supra* note 5, at 49-101; Mervat Hatem, *The Pitfalls of Nationalist Discourses on Citizenship in Egypt*, in GENDER AND CITIZENSHIP IN THE MIDDLE EAST, *supra* note 9; Aziza al-Hibri, *A Critical Research Project for Personal Status Codes in Selected Arab Countries, ESCWA (United Nations Economic and Social Commission for Western Asia) Expert Group Meeting on the Arab Family in a Changing Society: A New Concept for Partnership* (Dec. 10-14, 1994); Zuhur, *Freeing Egyptian Wives*, *supra* note 6.

50. Yesim Arat, *Gender and Citizenship in Turkey in Gender and Citizenship*, in GENDER AND CITIZENSHIP IN THE MIDDLE EAST, *supra* note 9, at 277.

51. Communication from the Central Court in Damascus, 1993 (when the author was required to obtain a civil marriage certificate for her own marriage, having first obtained the *shari'a* contract).

residence, furniture, gifts or the high bride price required for the “normal” religious category of marriage (*nikah*), has been acknowledged by the state as a form of Islamic marriage.⁵² ‘*Urfi* has been rejected by fundamentalist journalists and traditionalists. These journalists and religious leaders had up until the year 2000 characterized ‘*urfi* as a manifestation of youthful deviance,⁵³ rather than a civil ceremony.⁵⁴

Recognition of *urfi* marriages was included in the new “*khul* law” signed by President Mubarak in January, 2000. This law was named for the broadened ability of women to obtain “*khul*”—a form of divorce in which they need not prove abandonment, lack of financial support, or other previously required grounds for divorce. Rather, they must relinquish their share of the bride price and any gifts involved in the marital exchange. The law also created family courts to oversee and enforce maintenance and insurance payments, thus transferring more responsibility to the bureaucratic or “civil” realm, away from the auspices of religious officials. The success of the new *khul* law and related reforms is best understood as the culmination of many reform efforts dating back over a century.⁵⁵ As with earlier reforms or their amendments in 1985, the Coptic Church does not recognize the applicability of civil laws of divorce to its members, holding that civil law, or “reformed personal status law,” essentially pertains only to Muslims.⁵⁶ While in one sense this is a failure to create a truly civil law, it also means that the legal task of reform has been simplified, narrowing the legal impact of civil marriage to only Muslim citizens.

Those who supported women’s empowerment in Egypt (including other Arab women activists in the region) applauded the 2000 reform and promised to work for further improvements in the law. These other, more successful efforts demonstrate that legal reform is not a structural impossibility in the region, despite what the Lebanese failure may suggest.

VIII. INTERMARRIAGE AND SWEEPING REFORM

In the Lebanese post-Taif context, authorities rejected civil marriage as an encroachment on the remaining power of religious institutions. Such a legal

52. Zuhur, *Freeing Egyptian Wives*, *supra* note 6; Zuhur, *Mixed Impact*, *supra* note 6.

53. Mona Abaza, *Circuiting or Transgression?: Perceptions of Urfi Marriage and Changing Sexual Norms in Egyptian Press*, in *WOMEN AND GENDER IN THE MIDDLE EAST: NEW RESEARCH, NEW DIRECTIONS*, *supra* note 30. ‘*Urfi* is also mentioned in AMIRA SONBOL, *THE NEW MAMLUKS: EGYPTIAN SOCIETY AND MODERN FEUDALISM* 186 (2000).

54. ‘*Urfi* has no provisions for cross-confessional marriages, but it has secular meaning. This explains the importance of “re-defining” ‘*urfi* as a legitimate (i.e., Islamic) form of marriage.

55. Zuhur, *Freeing Egyptian Wives*, *supra* note 6. *See generally* Zuhur, *Mixed Impact*, *supra* note 6, at 78-89.

56. GHALI SHUKRI, *AL-’AQBAT FI WATAN MUTAGHAYIR* (1991); MONA ZULFICAR, *AL-MAR’A AL-MISRIYYA FI-L-’ALAM MUTAGHAYIR* (N.D.); Hatem, *supra* note 49, at 54-56; Zuhur, *Mixed Impact*, *supra* note 6.

reform, especially when accompanied by large protests, sit-ins and demonstrations could be destabilizing to the fragile political consensus favoring the co-existence of various religious communities. However, religious groups for this specific reason—civil marriage would be a means of enabling intermarriage—cross-confessional marriages. This was because the proposed law did not specify the religion of the parties to marry, nor contain a prohibition against the marriage of Muslim women to non-Muslim men. Muslim women are essentially not allowed to benefit from legal secularization or from the various principles of equity contained in this specific legal proposal in Lebanon. This objection proved to be the most politically effective means of galvanizing community opposition to the measure.

Personal status law is the most difficult problem in the application of the CEDAW and the universal concepts of human rights to Muslim women in Lebanon, although inequalities also exist in the nationality law, penal law (for example, the responses to domestic violence), labor law, and the terrestrial trade law.⁵⁷ Through an analysis of the politics surrounding personal status laws, we can see how religious authorities with political backing can impede reforms that would aid in the application of CEDAW.

There were additional objections because the law does not actually propose an end to religious courts, but Article 9 states that “it is illegal to contract a marriage between two persons, if one of them is already bound by an existing marriage” (thus prohibiting polygamy). Given the Islamization process in both the Sunni and Shi’a communities in Lebanon, and sensitivities to Western attacks on polygamy, this prohibition was important. Polygamy appears to be on the rise in the region, along with more informal forms of marriage like *urfi*, *mut’a* (called *sigheh* in Iran) and other ambulatory and temporary forms of marriage like *mizyag* (employed by Saudis while abroad, in Egypt, for example). This trend is difficult to document as polygamy has always been underreported, and its significance discounted by apologists. Specific increases have been documented in particular areas, for example, among the Bedouin of the Negev, where polygamy’s negative effects on women and children have been studied.⁵⁸

Article 25 of the proposal allows for equal ability of women and men to initiate a divorce. At present, both Sunni and Shi’a personal status courts limit a woman’s ability to obtain a divorce to specified grounds which vary, but are always more stringent or limited for women than for men. Those seeking to uphold principles grounded in *shari’ah* also criticize the lack of a provision excluding the marriage of partners related through suckling, or milk-mothers,

57. Human Rights Committee, *supra* note 9.

58. Alean Al-Krenawi, *The Psychosocial Impact of Polygynous Marriages on Bedouin Women of the Negev*, Paper presented to the Middle East Studies Association meetings, Orlando, Fla. (Nov. 17, 2000).

and through the recognition of legal adoption. The press coverage of the optional civil marriage law generally mentioned only the problem of intermarriage for Muslim women, although a new law that limited polygamy would itself have been a dramatic and highly controversial proposal, even if it were “optional.”

Those in favor of the law argued that by providing a unified national law, its adoption would represent the lessening of sectarianism. They argued that the current practice of Lebanese breaking the law by traveling to Cyprus to marry was undermining the sovereignty of Lebanese law. For example, Cypriot divorce procedures and regulations apply to Lebanese who divorce after a Cypriot marriage. The rules of other countries apply to those who marry elsewhere. In addition to the inconvenience and legal restrictions caused by so many Lebanese marrying outside of the country, Hrawi felt this subordination of citizenry to foreign laws illustrated the weakness of Lebanon’s own laws. The civil war had demonstrated the fragility of many national structures, such as the military. He argued that it was as important to craft new laws as new institutions that demonstrate a unified national civil consciousness. Finally, proponents of the law argued that it was consistent with the liberal and progressive traditions that had been manifested in many other areas of Lebanese culture and politics following the literary renaissance of the late nineteenth century. However, when faced with the Muslims who were galvanized to demonstrate and hold sit-ins, these arguments did not persuade the authorities.

Perspectives on the proposal varied by religious community and by the degree of attachment to the status quo. The phrasing of those who objected to the law revealed their attachment to the status quo and wariness of arguments for social and political transformation. The proposed law, they charged, “must await a suitable climate”; it “will pave the way to another civil war,” and “threaten the ‘smooth’ relations between Lebanon and Syria”; “we should protect ethical standards and the family against this germ”; “it is an assault against God and the sanctity of marriage.”⁵⁹

Some opposed or failed to support the reform precisely because Hrawi had expressed his view that the law was a blow against sectarianism. Other politicians hastened to distinguish sectarianism from the issue of civil marriage—but the linkage between the two prevailed in the political sphere. Hence both political supporters and detractors tended to subordinate the dimension of women’s and citizens’ rights to other concerns. Many (but not all) religious leaders, especially Sunni and Maronite leaders, opposed the reform because it would decrease clerics’ power over personal status and

59. Rima Nouredinne, *Civil Marriage: Between Fiction and Reality*, AL-RAIDA, 50-52 (Winter/Spring 1998).

“would facilitate intermarriages between people of different religious sects.”⁶⁰ Certain Shi’a, Greek Catholic, and Orthodox clerics were not so firmly opposed to the reform due to its “optional status,” but suggested that any binding reform of personal status had to take place within their own respective clerical groupings⁶¹ rather than at the government level.

Activists for women’s rights supported the proposed law in the interest of increasing women’s civil rights. They were already aware of the subordination of women’s rights in the political and religious sphere. It has been noted in the literature on gender and citizenship that religious communities have policed the intermarriage involving the women of their communities more strictly than those involving men. This stems from the assumption that women will follow the religion of their husbands and thus determine the religion of their children.

Certain Christian sects limit women’s personal status options, notably the option to divorce. But women face further disadvantages under Muslim personal status law in Lebanon (and elsewhere) with regard to polygamy, abandonment, violence, and loss of custody of their children. These disadvantages may be mitigated or offset by *madhhab*, court, and individual circumstances. Many familial disputes are mediated by senior family members and never proceed to court. The prevailing popular understanding of religious law is often the basis of such mediations.

Advocates for women’s empowerment are concerned that without a civil law of marriage to set a particular standard for society, even one that is optional, women lack sufficient support from civil society (and the state) to regulate and remediate the sources of inequality found in Muslim personal status law and in the patriarchal family structure. These advocates (whether or not they use the term “feminist”) seek to pass the law in the name of increasing democracy. Linda Matar, President of the Council for Lebanese Women’s Organizations, a coalition of major Lebanese women’s groups, said that traveling out of Lebanon to marry “hurts our government and our laws.” “Incorporating personal code laws into civil law is essential in order to be honest to ourselves when we speak of freedom and democracy,” she explained.⁶²

Do ordinary women seek to challenge inequality and change laws? My research has shown that in Lebanon, ordinary women of the Shi’a community are more likely to express ambivalence toward legal reforms because of their history of mediocre treatment by the state. They recognize inequalities in their

60. Ghada Khouri, *Caught in the Middle: Women in Lebanon*, WOMEN’S INT’L NET (September 1998), available at www.geocities.com/wellesley/3321/win13b.htm.

61. Clerics’ statements in the public presentation on the defeated civil marriage proposal and its aftermath and implications, Masrah Beirut, (March 2000) (author’s notes).

62. Ghada Khouri, *Caught in the Middle: Women in Lebanon*, WOMEN’S INT’L NET 13 (September 1998), available at <http://www.geocities.com/Wellesley/3321/win13b.htm>.

lives and choose strategies of manipulation, rather than paths of overt resistance to counter these inequalities.⁶³

IX. GROUP VS. INDIVIDUAL

Local, transnational, and international feminists are not in agreement on how to proceed in matters of legal reforms. Those outside the region would likely see this as an issue of two competing “tolerances,” as Michael Walzer has expressed it—one for all individuals including women and the other for the minority community which claims rights to cultural reproduction and sovereignty over its subordinate (female) members.⁶⁴ In Lebanon, the notion that the dominant, formerly Francophone and Christian culture must demonstrate tolerance toward the Muslim community by allowing it to subject women to polygamy and prevent their marriage to non-believers would constitute one form of tolerance. The other, competing tolerance would be to recognize the rights of these women as individual citizens. Should this be the tolerance that becomes dominant, Walzer predicts “fundamentalist reactions” while these minority communities are “learn[ing] tolerance.”⁶⁵

In contrast, Abdullahi an-Naim, a Sudanese legal scholar, and one of a group of scholars who responded to Susan Okin’s polemical essay “Is Multiculturalism Bad for Women?” would prioritize group rights. He argues that group rights are human rights, and need to be defined broadly, maintained, and “clarified and mediated in relation to other rights and concerns.”⁶⁶ In Lebanon, this is demonstrated by the fact that inroads made against clerical jurisdiction of personal status have been interpreted as inroads against Muslim “group rights.”

Muslims do not agree on the relationship between religious law, society, and patriarchy. The Syrian author Bouthaina Shaaban conducted detailed interviews with ordinary and extraordinary Lebanese citizens that demonstrate this diversity of opinion within the population of Lebanese women. One woman argued that some sects had unfair legislation but that on the whole, the Qur’an was “fair to women.” She felt that social attitudes must change, allowing women freedom and independence of character, but that she did not

63. Sherifa Zuhur, *Islamized or Ambivalent?: Women and the Shi’i Community in Postwar Lebanon*, Paper presented to the Middle East Studies Association, Orlando Florida (Nov. 2000); Sherifa Zuhur, *Reflections on Islamization on the Margins: Women and the Shi’i Community in Postwar Lebanon*, Paper presented to the Rockefeller Bellagio Conference, Women and Gender in the Middle East: A Multidisciplinary Assessment of the State of Theory and Research on Women and Gender in the Middle East (Aug. 28, 2001) [hereinafter *Reflections*]; and *in* WOMEN AND GENDER IN THE MIDDLE EAST, *supra* note 30.

64. MICHAEL WALZER, *ON TOLERATION* 65 (1997).

65. *Id.*

66. Abdullahi an-Naim, *Promises We Should All Keep in Common Cause*, *in* IS MULTICULTURALISM BAD FOR WOMEN? 63 (Susan Moller Okin ed., 1999).

wish to “lose her family” as Western women have done. Another respondent suggested that the fear of “losing the family” should be borne by Arab men who invented the stereotype of the sexually free European woman, and apply a double standard to Arab women. Yet another argued that the Lebanese women must press the state to change its attitude.⁶⁷ In other studies, some women have characterized their adherence to the values and stricter religious observances of their sect as a form of activism, which to some degree has resulted from the politicization of the Shi’a community during the civil war period. Other women in the same group regarded legal inequalities as unfair, but unavoidable.⁶⁸

Some women interviewed more recently on the specific question of civil marriage believe their group rights eclipse their rights as gendered individuals. For instance Zena Jisr, a Muslim who married a non-practicing Christian in a civil ceremony outside the country, commented, “I think in the Muslim way, women really don’t have any rights in marriage.”⁶⁹

X. UNDERSTANDING EMPOWERMENT

What, then, do the obstacles to legal reform on behalf of women mean to the discourses of feminism, development, and civil society? First, multiple discourses of feminism operate in Lebanon, but in each, the key issues seem to be equity and empowerment. Empowerment, like the term “liberation,” is a complex and relative notion that implies a scale of power and a linear progression from one end of that scale to another. The term empowerment is used *ad nauseum* in the “development” sector and governmental documents referring to women, often without explanation, but vaguely referring to an improvement in status. The scholarly literature on “state feminisms” and the “patriarchal bargain” struck between elite or urbanized middle class women and state structures⁷⁰ has implied that empowerment requires grassroots movement toward equity and equality in place of this patriarchal bargain.

The other dimension of empowerment—self-empowerment—has remained more a concern of scholars, feminists, and members of local NGOs than of external agencies. Asma Asfaruddin, citing identity empowerment theory, focuses on women’s negotiation of public space as the most significant aspect

67. BOUTHAINA SHAABAN, ARAB WOMEN TALK ABOUT THEIR LIVES, 80-131, 108-9, 112-3, 128 (1991).

68. Maria Holt, *Lebanese Shi’i Women and Islamism: A Response to War*, in WOMEN AND WAR IN LEBANON (Lamia R. Shehadeh ed., 1999). This is borne out in the views of some, but not all of my respondents. Zuhur, *Reflections*, *supra* note 63.

69. Anne Sengés & Jessie Deeter, *Marriage Lebanese Style*, LEBANON TODAY, available at <http://journalism.berkeley.edu/projects/lebanon/marriage.html> (last visited Apr. 2, 2002).

70. Ayesha Jalal, *The Convenience of Subservience*, in WOMEN, ISLAM AND THE STATE, 77 (Deniz Kandiyotti ed., 1991).

of self-empowerment.⁷¹ She also suggests a continuum from traditional, and segregated, private and public worlds to a state of coexistence of the two (which may be prompted by the mediation of education or wealth).⁷²

Universalist feminists define empowerment as a condition in which women hold, or are in the process of obtaining, educational, legal and political rights. They seek rights that are equal, or nearly equal, to those of male citizens. These are the rights required for women to work and advance as far as men do in careers that they select, to own and dispose of property on the same terms as men, to pay the same price as men for, and to secure bodily rights currently denied to women. Empowerment may also include legal rights that accord women certain affirmative advantages such as hiring, educational, or political preferences in areas where women have historically lacked access, differential rights such as paid maternity leaves, and the cooperation of the state and criminal justice system in enforcing laws that protect women. Proponents of this view would probably argue that the proposed law in Lebanon should be mandatory rather than optional and that secularization is a prerequisite to the empowerment they seek. Currently in Lebanon it is clear that while a great deal of change has taken place in the direction of this type of empowerment, women have yet to achieve or realize many of its required components. It can be described as a process rather than an end-point.⁷³

To contextualize the apparent lack of empowerment evidenced by the failure of this legal reform in Lebanon, and by women's continuing lack of political power, we have to refer to the universal condition of women's lack of employment. Everywhere in the world, women lack political power compared to men. This is clear in the realm of employment. Women comprise the majority of the poor, and are frequently exploited by low wages.⁷⁴ Universalists have proposed that these gender inequities need to be dealt with simultaneously across multiple spheres of operation. In Lebanon, this is borne out: in the social, political and economic factors that contribute to the persistence of inequity and sectarianism.

Legal "rights" encompass both the private sphere which they govern, and the public sphere where they are debated or enacted. Because this debate traverses the religious and political boundaries of authority, it is not surprising

71. Asma Asfaruddin, *Introduction*, in *HERMENEUTICS AND HONOR* (Asma Asfaruddin ed., 1999).

72. *Id.* at 6.

73. Sherifa Zuhur, Teaching About Women and Empowerment in the Arab World, Paper presented to the Troisième Colloque Internationale "Femmes et Education," Faculté des Lettres et Sciences Humaines, Dhar el Mehraz, Université Sidi Mohamed Ben Abdellah, Fez, Morocco (April 11-13, 2002) (manuscript on file with author).

74. This estimation of women's global position can be derived from many sources. I mention the explanation given in the Lebanese English-language press because it touches on the concerns of Lebanese feminists regarding the international status of women. See, e.g., Zeina Mobaisseh, *Women Consider Themselves Inferior To Men*, DAILY STAR, at <http://www.dailystar.com.lb> (Sept. 21, 2000).

that women's quest for empowerment would simultaneously create conflict in the political and religious spheres.

The area of legal reform is one in which significant steps have been taken toward the empowerment of women, or at least toward more equity. There has been a lengthy historical debate over secularism and the complicated derivation of civil laws from codified, partially codified, or uncoded law. In some cases, there has been a failure to create civil laws, while in others, the success of new modifications is unclear or incomplete. There is a small degree of regional coordination on matters of legal reform from activists such as those associated with the Women's Court: the Permanent Arab Court To Resist Violence Against Women, an NGO known as the Arab Women's Court, established in 1996 by a group of NGOs and centered in Beirut. Although decisions made by the Arab Women's Court have no binding power, they may be sought for their symbolic influence by reformers who are stymied at one level or another in the legal process in their own country, and who may also gain through strategic consultation.

The Middle Eastern press is suspicious of regionally-based or Western feminist endeavors, and often includes sarcastic or mocking statements about feminism. These are reflected in intellectual discourse as well. For example, this sentiment surfaced in the lengthy debates over the term to use for "feminist" in Arabic, and in Islamist-inclined reportage that is distinctly anti-feminist. Without sufficient hard data for Lebanon, ordinary lower- and lower middle-class women would appear to share society's general concerns with the label "feminist," although they may wholeheartedly support "feminist" propositions when these are specified.⁷⁵ If we consider the broader population's concerns that feminism implies "Westernism," together with religious conservatives' and Islamists' more explicit opposition to feminist goals, the local advocates of empowerment face a psychological and sociological barrier that goes beyond legal conditions. Their best option, I believe, is to seek a stronger measure of political support in each country for incremental legal reforms. Women's associations have followed and will continue to follow the most pragmatic strategy of lobbying in umbrella fashion for such reforms.

XI. DÉNOUEMENT

Sunni opposition to the measure grew after its wording was revealed. When the cabinet voted—twenty-one in favor, six against, with one

75. The nearly 200 interviews I carried out in Egypt in the late-1980s are analysed in SHERIFA ZUHUR, *REVEALING REVEILING: ISLAMIST GENDER IDEOLOGY IN CONTEMPORARY EGYPT* (1992). I have also reflected on this disjuncture in Zuhur, *Qira'at 'al-Qadayat al-Mar'a' fi Misr* [*Reading of the 'Woman Problem' in Egypt*], 3 QIRA'AT SIYASIYA (Spring 1993), labelling Middle Eastern women's ideas "womanist" rather than feminist.

abstention—for the measure, which was only “optional,” in March of 1998, the debate began in full. The Sunni Grand Mufti of Lebanon, Shaykh Muhammad Rashid Qabbani led the charge, arguing that the new law’s application to Muslim women contradicted *shari’ah*. This was an encompassing and damaging stance. Three legal bodies—the Saudi Committee for Scientific Research and Ifta, led by Shaykh Abd El-Aziz Bin Baz, the Higher Council for Islamic Shari’ah in the Kingdom of Saudi Arabia, and the Council of Muftis in Lebanon—upheld this position.⁷⁶ Even with this official backing, Qabbani called for public responses and *jihad* against the proposal.

It was argued that new form of marriage would promote “secularism at the expense of the religious authorities and religious courts,” and “endanger the well-being of the family.”⁷⁷ Eventually, other objections, such as the excessive length of the *’idda* (a post-divorce waiting period for women intended to assess whether or not they were pregnant), were raised as well. Demonstrations, sit-ins and protests against the bill were convened and large numbers turned out in Tripoli, Sidon and elsewhere.

The Shi’a response to the proposal was initially milder and more ambivalent. Whereas Sunni figures began to mention charges of apostasy for those who would submit to a civil procedure, Shi’i religious leader Shaykh Mehdi Shams al-Din did not. Both Sayyid Muhammad Hussayn Fadlallah (an ideologue of the Hizbollah) and Shams al-Din (the head of the Higher Shi’ite Council) made various statements, both declaring their opposition to the application of the proposal’s terms to all, with Fadlallah observing that Muslim marriages are already “civil” in the sense that a cleric need not be present. Still, they must conform to *shari’ah*.⁷⁸ Muslim marriages are contractual, and relatively simple ceremonies. They are not a “sacrament,” as in the Church. Other Hizbollah officials, such as party official Sheikh Naim Kassem, were more emphatically negative, stating that civil marriage would “lead to further decay of moral ethics among Lebanon’s youth.”⁷⁹

It was not until after the cabinet vote that Shams al-Din more firmly rejected the measure. Nabih Berri, the Shi’i political leader of AMAL, had

76. Civil Marriage Bill faces Strong Opposition by Religious Leaders, at <http://www.lebanon.com/news/local/1998/3/19.htm> (Mar. 19, 1998); *Civil Marriage in Lebanon opposed by Saudi Religious Panel*, Lebanon-Saudi Arabia, Politics (July 17, 1998); *Ifta Ruling on Civil Marriage*, Saudi Embassy Press Release SPA (July 17, 1998).

77. El Cheikh characterizes the Shi’a clerics as holding a slightly different position, and issuing more tempered statements than their Sunni counterparts. See El Cheikh, *supra* note 2, at 155-56. She quotes from an interview of Fadlallah with the publication *Muharrir* that appeared in NAHAR AL-SHABAB on March 17, 1998. *Id.*

78. Fadlallah said that a civil marriage could be accepted if it allowed intermarriage for Muslim men (who are permitted to marry Christian or Jewish women under the *shari’ah*), but not for Muslim women. Shams al-Din argued that because it is already legal for Lebanese to register their foreign marriages, there is no need for new legislation. See El Cheikh, *supra* note 2, 155.

79. *President Hrawi Determined To Bring Civil Marriage*, at <http://www.arabicnews.com/ansub/daily/day980119/199801/901.html> (Jan. 19, 1998).

voted for it and strongly supported it, whereas Hizbollah emphatically rejected it. One of the most progressive of the Shi'i clerics, Muhammad Hasan al-Amin, the advisor to the Ja'afari court, was subsequently invited to give a forum with two Christian clerics in January of 2000. He upheld his previous general approval of the "position of" civil marriage, the optional law, and the principle of secularization, although he acknowledged doctrinal objections to inter-marriage.⁸⁰

The Druze have a separate, codified personal status law. The optional law conflicts with its prohibition against intermarriage, in two ways. First, as El-Cheikh indicates, because a non-Druze cannot convert to this sect, the Druze spouse would have to convert.⁸¹ Secondly, the Druze, unlike other Muslims, forbid the remarriage of previously married spouses. The new marriage proposal does not include any restriction on previously married couples. Despite this conflict, Druze spiritual leader Shaykh Bahjat Ghayth, did not reject the proposal, but instead asked that "civil and religious marriage contracts should . . . be allowed concurrently [with religious marriages]."⁸² However, when other Muslim groups protested, the Druze religious leaders shifted their position to one of opposition, although Jumblatt, the chief Druze political leader, continued to support the proposal.

El-Cheikh rightly emphasizes Mufti's position in drawing a "red line" so that Lebanon would be "the first and last battlefield in the confrontation between religion and secularism" on the matter of civil marriage. She quotes his statement in a *khutba* (Friday sermon) in which he says that he will prevent "secular-minded people [from] cultivat[ing] the germ of civil marriage and other secular ideas in Lebanon so it spreads to Arab and Islamic countries."⁸³ His perception of a regional battle between the "secular" and religiously-minded people is quite telling, given the extra-national dimension of the fracas over Lebanese civil marriage and hints at conservative disapproval of transregional efforts to reform laws on behalf of women in general.

Some members of the general public, as mentioned below, mistakenly believe that the Christians support civil marriage, while the Muslims oppose it. Hrawi, a Christian President, championed the issue, and Hariri, a Muslim Prime Minister, essentially squelched it. Media coverage seems to have heightened this impression. Nevertheless, it is clear that young Christians also experience very strong pressure from their families to marry within their faith. Some give

80. See *Interview with Cleric Muhammad al-Amin*, AL-NAHAR (Mar. 11, 1998).

81. El Cheikh, *supra* note 2, at 158. For general information about Druze beliefs, laws, and history, see generally SAMI-NASIB MAKAREM, *THE DRUZE FAITH* (1974); SAMI S. SWAYD, *THE DRUZES: AN ANNOTATED BIBLIOGRAPHY* (1998).

82. El Cheikh, *supra* note 2, at 158.

83. *Id.* at 152 (citing DAILY STAR, at <http://www.dailystar.com.lb> (Feb. 2 1998)).

in to family pressure. Others find that civil marriage as it now exists is an insufficient solution and resolve to emigrate.⁸⁴

The Christian religious officials were at first hesitant about the proposal; but later, a group of bishops published a statement opposing civil marriage. Because marriage is a sacrament, those persons who marry outside of the church (under the proposal, or presumably outside the country) would live in a state of sin, and the Maronite Patriarch, Cardinal Nasrallah Butros Sfeir, threatened to excommunicate them. Although this stance implies that Sfeir strongly opposed the legal initiative for religious reasons, he suggested that he had been guided by a need for sensitivity toward the Sunni opposition instead.⁸⁵

Reports indicated that Orthodox Archbishop George Khodr was not opposed to the “optional” measure, and he later explained how he tried to help couples in intermarriages.⁸⁶ However, such non-Maronite Christian clerical support of the measure was not visible at the crucial moment in the drama. Various sources suggested that Christian authorities did not want to appear to support a measure that Muslim clerics so vocally opposed. Alternatively, Christian clerics may have thought that such a law would have eroded both Christian and Muslim religious control over matters of personal status.

In the end, in order to prevent further dissension, religious leaders and most politicians bowed down once again to sectarianism. The Prime Minister (and President Hafiz al-Assad) played on the issue of “timing” in much the same way that the Saudi royal family or the Kuwaiti government declared that the time was not ripe for reforms (on driving or suffrage), despite their potential benefits to society.

XII. THE POPULAR RESPONSE

What of the other participants in this drama? El Cheikh writes that “the voices of ordinary people were drowned out by the debate between politicians and clerics.”⁸⁷ They could only express their views through the politicians, the religious communities, or through the NGOs, intellectuals, and activist organizations, all three of which were slow to respond, failing to organize until April of 1998. In addition, their tactics paled in comparison to the calls for *jihad* and cries of “apostasy” levied by the Sunni opposition to the bill. El Cheikh believes this suggests the “weakness of civil society” in Lebanon today.⁸⁸

84. Hussam Abdul-Hussain, *A cruel choice: broken hearts or broken families?: Couples From Different Sects Fight Social Conventions*, DAILY STAR, at <http://www.dailystar.com.lb> (Feb. 14, 2002).

85. Chahine, *supra* note 19, at 2, 3.

86. Ranwa Yehia, *Orthodox Bishop Puts Couples Before the Code*, DAILY STAR, at http://archive.dailystar.com.lb/leb/2000/november00/10_11_00/n9.htm (Oct. 11, 2000).

87. El Cheikh, *supra* note 2, at 161.

88. *Id.* at 160.

Popular support for the measure was widely reported, and was still quite apparent nearly a year after the proposal's defeat. Yet the voices of those who opposed the measure, under the leadership of religious authorities, proved louder and more effective than the perhaps thousands more who had supported it. For example, youth groups had campaigned for the measure and the Students Meeting for the Support of Optional Civil Marriage had, by May of 1998, collected more than 12,000 signatures on a petition.⁸⁹ By the time of El Cheikh's writing, the petition for the support of Optional Civil Marriage had acquired 38,000 signatures.⁹⁰

A travel agent who books trips to Cyprus reported that in 2000 and 2001, the number of Lebanese marrying abroad had doubled,⁹¹ indicating that public enthusiasm for mixed marriages has not waned in the wake of the bill's defeat. Various organizations have examined public opinion surveys on the civil marriage proposal, but the figures have not been conclusive. Responses vary significantly by religion, and most of those surveyed were not familiar with the proposal's content.

Might the proposal have succeeded, given sufficient political support? In addition to Elias Hrawi, the President, the former general Michel 'Aoun supported the measure. The Shi'i House Speaker Nabih Berri backed Hrawi, possibly because it included a clause that would establish a committee to abolish sectarianism.⁹² Walid Jumblatt, a Druze leader and Minister of the War Displaced, upheld the proposal, saying that it was a defense of civil society, democracy and liberty, and arguing that "there is no relationship between civil marriage and political sectarianism."⁹³ The list of supporters also included the Arab Democratic Party, the Ba'th, the Communist Party, the National Bloc Party, the Progressive Socialist Party, the Syrian Social Nationalist Party, the Wa'ad Party (all of which promote secularism), many intellectuals, academics, and women's groups.⁹⁴ Thus, several powerful political figures, secularist parties, and the general public were insufficient to overcome the Prime Minister's objections, bolstered by Syria and Saudi Arabia. Was this an insufficient political base, insufficient lobbying, or an example of the way that regional influence subordinates national will?

El-Cheikh provides an interesting metaphor in commenting that the people's voices, many of which supported the initiative and the politicians, were kidnapped by the Sunni objections. "Kidnapping," when used in Lebanon, evokes the civil war period. Popular responses to the debacle

89. Daher, *supra* note 17.

90. El Cheikh, *supra* note 2, at 161.

91. Sengés and Deeter, *supra* note 69.

92. Daher, *supra* note 17.

93. Quoted in Jumblatt Calls for Defending Civil Society, NEWS FROM BEIRUT, at <http://www.Lebanon.com/news> (Mar. 24, 1998).

94. El Cheikh, *supra* note 2, at 159.

included tropes that posed modernism, progress, and patriotism against traditionalism, shame, faith, and violence. Some who had supported the measure and attended a presentation by clerics made passionate speeches in favor of the reform. One man expressed his “shame” that Lebanon, in the forefront of civilized development and culture in the region, had fallen so far behind on this issue. “Even Egypt is ahead of us,” he exclaimed.⁹⁵

Supporters of the proposal explained that its defeat was “shameful” because Lebanese need to recognize their national identity first. “[T]o be Lebanese first,” they insisted, intermarriage, spatial mixing and an end to old sectarian politics were imperative.⁹⁶ “An end to the old sectarian politics” was certainly the swan song of Taif and the reconstruction period. The defeated proposal can be seen as Hrawi’s failure to lobby sufficiently for support from religious authorities and politicians. It can also be seen as a social failure, in that women’s empowerment was only vague scenery in the background of the political melee.

The ideas of civil marriage and a civil law of personal status have not disappeared and may yet be revived. Supporters of the proposed reform, and not only the women’s organizations, have continued to organize events around the issue. Women’s associations have used the annual International Women’s Day to draw attention to this and other desired legal reforms. In March 2000, the Gathering for an Optional Personal Civil Status Code organized a march of 500 people from the National Museum to the Parliament at Najmeh Square in Beirut, where they were met by MP Marwan Fares, a supporter of the measure.⁹⁷ When, in a letter to the *Daily Star*, a disgruntled Canadian-Lebanese observer lashed out at the marchers as “being against Islam,” numerous letters appeared in the publication to chide him for his tone, his sectarianism, and for his antipathy to the proposed law itself.⁹⁸

In his book *Civil Marriage: A Lebanese Question*, Joseph Codsí, a former priest, provided a strongly-worded attack on the confessional structure and argued in favor of civil marriage. He made some creative suggestions, such as the establishment of a nineteenth confessional sect made up of those who have intermarried.⁹⁹

In September of 2000, a special exhibit took place in Beirut, entitled “Rhythm of Contact and Separation,” in which fifty artists spoke about

95. Cleric’s statement, Author’s field notes, supra note 61.

96. Ghazi Assali, *The New Lebanon, Where To?: A Critical Point of View on the Eve of the Twenty-third Anniversary of the Lebanese Civil War*, THE FREE ARAB VOICE, at www.freearabvoice.org/newlebanon.htm (Apr. 30, 1998).

97. Ranwa Yehia, *Civil Law Supporters March to Parliament*, DAILY STAR, at <http://www.dailystar.com.lb> (Mar. 23, 2000).

98. Letters to the Editor, DAILY STAR, at <http://www.dailystar.com.lb> (Mar. 28, 31, 2000).

99. Dominic Hughes, *Unconventional Wisdom on Love: Dominic Hughes Finds That although Joseph Codsí’s Proposal is Radical, His Intentions are Certainly Honorable*, DAILY STAR, at <http://www.dailystar.com.lb> (Feb. 16, 2000).

problems in society. The artists reported some very combative exhibit attendees who verbally harangued Joe Haddad, whose "exhibit" concerned civil marriage and students' rights. He noted that many opponents to the proposal wrongly think of it as a Christian measure and are unaware that other Muslim states have civil marriage provisions.¹⁰⁰ If the general public continues to assume that Muslims oppose the law while Christians support it, the proposal's supporters may have great difficulties in convincing the government to include the issue in a future public referendum.

More discussion events were organized by the Lebanese Women's Council in November of 2000, and such efforts continue. Those in favor of a civil law of personal status that included an article permitting civil marriage do not want to see the issue fade away as a "never-could-be." Some tactical discussions have brought up the utility of pressing for reforms in specific religious legal codes and leaving aside the question of a unified civil law for the time being. When a civil marriage proposal is taken up again, hopefully its supporters will have acquired some practical wisdom from the lessons of the earlier defeat.

When I first presented my reflections on this campaign as part of a panel of scholars examining legal reforms affecting women in Jordan, Pakistan, Egypt, and Lebanon,¹⁰¹ the theme of women's empowerment resonated with colleagues on the panel and in the audience. In contrast, western and mainstream feminist scholars have sometimes doubted the existence of any significant movement toward empowerment in the Middle East, or denied that the creation of civil law is beneficial at all. Furthermore, Middle East scholars who focus on the (male) political arena are more interested in sectarianism than in women's empowerment.

In Lebanon, or in other societies where religious rules have acquired strong legal, civic, and political meaning, legal reform efforts have interesting implications. This disconnection between the processes of power based on gender and those based on religious affiliation tends to reinforce the tactical appeal of incremental initiatives, as suggested earlier. Finally, we may admit that legal reform in a multi-religious society may be more complex than like efforts in more homogenous societies in the region.

100. Zeina Moubaisseh, *Taboo Art Provokes Outrage on Corniche: Exhibition on Problems in Society Is Making People Lose Their Tempers*, DAILY STAR, at www.dailystar.com.lb (Aug. 9, 2000).

101. The panel included Lynn Welchman, Amira Sonbol, Anita Weiss, and myself. It was titled "Empowering Muslim Women: Legal Changes and Challenges," and was presented to the thirty-fifth Annual Meeting of the Middle East Studies Association, in San Francisco, Ca. (Nov. 18, 2001).

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