

Gender-Relevant Legal Change in Lebanon

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Law is the vehicle through which society defines not only its regulations, but also its actual values and behavioral patterns, as well as what is considered to be natural or unnatural. As such, the laws described in this article become symbols of what Lebanese society considers natural or not and hence assume far more implications than their strictly legal context would admit. Consequently, the law, as the symbol of authority, exercises its power through its simultaneous claim to pragmatic common sense. This is attested to by the difficulties encountered by Lebanese women and human rights organizations in their endeavors to repeal or amend discriminatory laws, or to introduce new laws that would guarantee the welfare of women and protect their rights. Due to the efforts of these women and human rights organizations, several Lebanese discriminatory laws were repealed or amended, from 1953 to the present. Yet, a summary study of the personal status codes (family law) and the civil and secular laws (everything else) clearly demonstrates that the position of a married woman in Lebanon is still that of a femme couverte, since upon marriage, she loses most of her civil rights, becomes the ward of her husband, and assumes a subordinate legal position, one that is incorporated into that of the husband.

Keywords: civil and secular laws / *coverture* / discriminatory laws / *femme couverte* / married women / personal status codes / subordination / suppression

Introduction

Lebanon is, by far, the smallest country in the Levant, being 210 kilometers long and 30 to 90 kilometers wide. The fertile coastal strip on the eastern shores of the Mediterranean is seven kilometers wide and around ten kilometers wide

in the northern plain of 'Akkar. The largest cities lie on the coast: Tripoli, Beirut, Sidon, and Tyre. The Eleutherus River on the north and the Anti-Lebanon mountain range on the east separate it from Syria, and a line across the highlands of Galilee on the south separates it from Israel. It is one of the few countries that hosts two cultures: The East and the West. Geographically located in the Middle East and once comprising one of the territories of the Ottoman Empire (1520–1918), as well as the home of a large Muslim population, it espouses Middle Eastern culture and customs. However, being once subject to the French Mandate (1920–1943), a fertile land for Western missionaries, as well as the home of a sizable Christian population since the days of the Eastern Roman Empire, it consequently adopted and was affected by Western culture and customs.

The approximately four million Lebanese residing in Lebanon belong to eighteen religious sects. To date, however, there are only sixteen personal status codes: Christian, divided into three main groups: Catholic (Maronite, Melkite, Armenian, Syriac, Roman Catholic, and Chaldean), Orthodox (Greek, Armenian, Assyrian, Syriac, and Nestorian), and Protestant; Muslim, divided into three groups: Sunni, Ja'fari (Shi'ite), and Druze; and Israelite (Jews).¹ The two sects recognized by the government, though having no distinct personal status codes, are the 'Alawites and the Isma'ilis. Both follow the Ja'fari personal status code.

These religious sects were first recognized officially by the French High Commissioner during the French Mandate on 30 March 1936 in Legislative Act no. 36. On 24 February 1948, the Druze code, partially based on the Sunnite jurisprudence school of Abu Hanifa, was confirmed. The personal status codes of the Christian and Jewish sects were not confirmed until 2 April 1951, and have not been ratified by the government to date consequent to the demonstrations and strikes carried out against them at the time. Lawyers objected to the new law, claiming that it extended the jurisdiction of the clerics too far, and the clergy objected to the limitations of the new law, asking that their jurisdiction be extended even further. The final version of the personal status codes of the Muslim Sunni and Ja'fari sects were adopted on 16 July 1962. The Orthodox Copts were the last to be recognized according to Decree no. 553 issued on 24 July 1996, and they follow the Greek Orthodox personal status code (Bilani 1982; Hanna 1995–1998; Mahmasani 1981; Shahin 1994–1995; Shehadeh 1998b; Yunis 1996).

The Legal System in Lebanon

Lebanon has two sets of laws: *Civil and secular laws*, which deal with all matters other than family concerns (Penal Code, labor law, citizenship, contracts and obligations, and inheritance pertaining to Christians); and the *personal status codes*, which deal with family issues like marriage, divorce, inheritance

(Muslim sects), guardianship, adoption, and custody of children. The legislative acts, mentioned above, awarded each religious sect the right not only to administer its own affairs, but also to legislate, judge, and carry out sentences in matters pertaining to their respective congregations (Bilani 1982; Hanna 1995–1998; Yunis 1996).

“Personal status” originated during the Middle Ages in Europe. Although the Roman law continued to be followed by some states, others preferred to codify their own law based on tradition and custom. Anxious to avoid any problems that might be incurred through trade and travel between the different states or provinces, it was deemed wise to have two sets of rules and regulations: *Real status*, or *status réels*, derived from the Latin *res*, which dealt with material matters, *Les biens*; and *personal status*, or *status personnel*, which dealt with personal concerns. It was further agreed that since people traveled frequently, the personal status code of their place of origin would be applied everywhere (Bilani 1982, 11–12).

This concept is still practiced today by international law when it has to deal with individuals outside their own countries, and by states like Lebanon, whose citizens belong to a variety of religious or ethnic groups. Thus, a Lebanese residing abroad will be subject to the inheritance laws of his Lebanese personal status code, and each sect, religious or ethnic, would follow its own personal status code. However, we find that while the place of origin of the individual is the determining factor in international law, in domestic law it is the religious sect. In both cases, however, the international and the national or domestic “personal status” refers to the social conditions that distinguish individuals from one another. In Lebanon, however, personal status refers not only to one’s social conditions, but also to his/her religious laws as well. This is made manifest in Article 9 of the Lebanese constitution, which guarantees absolute freedom of belief and worship, as well as respect of the various codes of personal status (Gemayel 1985).

Lebanese Law and Women

Law is the vehicle through which society defines not only its regulations, but also its actual values and behavioral patterns, as well as what is considered to be natural or unnatural. As such, the laws described here become symbols of what Lebanese society considers natural or not and hence assume far more implications than their strictly legal context would admit (Eisenstein 1988, 43; Fineman and Thomadsen 1991; Goldstein 1992, 11–40; Shanley and Battistoni 1992, 263–73). The law or ideas about it are at the source “of some of the most commonplace aspects of social reality that ordinary people carry around with them and use in ordering their lives”; also, the power of the law resides “in [its] capacity to persuade people that the world described in its images and categories is the only attainable world in which a sane person would want to

live” (Eisenstein 1988, 44). Consequently, the law, as the symbol of authority, exercises its power through its simultaneous claim to pragmatic common sense. This is attested to by the difficulties encountered by Lebanese women and human rights organizations in their endeavors to repeal or amend discriminatory laws or introduce new laws that would guarantee the welfare of women and protect their rights.

Due to the efforts of women, human rights, and UN organizations, a number of secular or civil Lebanese discriminatory laws were repealed or amended, and some family laws were modified during the last two decades or so. And, in 1996, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was signed and later ratified by the Lebanese government. Yet, a summary study of the personal status codes and civil laws clearly demonstrates that the position of a married woman in Lebanon is still that of a *femme couverte*, since upon marriage, she loses most of her civil rights, becomes the ward of her husband, and assumes a subordinate legal position, which is incorporated into that of the husband. A woman’s ultimate goal becomes the ensuring of a benevolent “lord and master”—the literal meaning of the word for “husband” in classical Arabic (*ba’l*).

This study will outline a description of all the gender-relevant legal changes that have taken place between 1953, when the first discriminatory law was repealed, and the present. It will examine the position of women in Lebanese legislation for both the personal status codes and the civil and secular laws. The article will also demonstrate the discrimination perpetrated against women in the law despite Lebanon’s ratification of the Declaration of Human Rights and CEDAW (albeit with some serious reservations), and despite the fact that Article 7 of the Lebanese constitution stipulates gender equality. Additionally, the article will show that gender-discriminatory instances of the law are directed mainly at married women, who, upon marriage, become wards of their husbands. Finally, attempts will be made to find possible reasons that prompt legislation of such a highly patriarchal and discriminatory code of law in a newly independent country (since 1943).

The article then aims to answer such questions as what led to the apparent transformation in the fabric of patriarchy that resulted in the repealing of some of the discriminatory laws, but not others, and whether other urgently needed legal changes could see the light in the near future.

Repealed and Amended Gender-Discriminatory Laws

Although many women organizations, especially after the 1995 Fourth World Conference on Women in Beijing, are struggling to eliminate all forms of gender discrimination in Lebanon, none of them has acted as a pressure group to prompt religious leaders to effect the needed changes in the personal status codes—the backbone of women’s subordination.² However, the closest attempts

at campaigning or lobbying those in authority to bring about such changes were the awareness-raising campaigns held recently by some of these organizations, regarding the many gender-discriminatory instances found in the personal status codes. They did, however, support the 1996 proposal of Lebanon's then-president Elias Harawi to establish an optional civil family law and consequently civil marriage. The proposal, however, was met by an immediate backlash from all religious leaders and had to be withdrawn.

However, several civil and secular laws have been repealed over the years: After the Lebanese Council for Women won the right of Lebanese women to vote in 1953, it was not until 1983 that the Ministry of Health, in the interest of family planning, took the initiative and repealed the law prohibiting contraception. In 1987, at the request of women's organizations, women employees were allowed to retire at age 64, instead of 54, in equity with their male peers. In 1993, women were found sufficiently competent to testify in real estate matters; and, in 1994, they were allowed to start their own private businesses without the prior approval of their husbands. In 1995, women employees of the diplomatic corps, stationed abroad, just like their male peers, were given the right to marry foreigners without running the risk of losing their jobs or being forced to return home to Lebanon. Women, as a group, were also separated from the "retarded" and "underage" and were deemed sufficiently competent to take out life insurance policies without the prior permission of their husbands (National Commission 2004, 31–37).

Seventeen years after its inception, CEDAW was signed by the Lebanese government in 1996 and was later ratified, albeit with reservations serious enough to rid the treaty of all its substance. The reservations had to do with articles 9.2 (the right of women to grant citizenship to their children), 16.1 (the granting of equal rights to women in matters pertaining to marriage, maternity, regency, *qiwamah* [marital authority], custody of children, adoption, and the right to choose the family name), and 29.1 (the right of all nations to present any disagreement regarding the interpretation of CEDAW or its enforcement to the International Court of Justice) (Non-Governmental Committee 2005, 26–27). In 1999, Article 562 of the Penal Code, which absolves men of any wrong doing in so-called crimes of honor that involve *in flagrante delicto* (that is, in the very act of wrongdoing) was modified—first, to recognize the occurrence of a crime, and second, to attribute it to mitigating circumstances, thereby allowing the culprit to receive a reduced sentence, in equity with the culprit who commits his crime of honor upon mere suspicion (27).

In 2000, women were separated from children as a group in matters pertaining to labor law and were allowed to work at night in certain domains (26). In the same year, a new law (no. 207, Article 26) was introduced, which requires employers to treat both sexes equally in matters relating to the nature of the work assigned to them, salary, employment, promotion, training, and attire. Moreover, although Article 28 of the same law falls short of the CEDAW

recommendation to extend maternal leave from forty paid days to twelve weeks, it does extend it, in Article 52, to seven fully paid weeks, and it prohibits employers from firing a woman at any time during her pregnancy (26). In 2001, and according to law no. 312, a female, who previously must have worked for ten months before she could benefit from maternal insurance, according to Social Security Law Article 16, can now benefit from it after having worked for only three months, in equity with male employees. Also, the new law no. 344 allows female employees for the first time to share the benefits of the public employees' co-op with their male counterparts.

One wonders at this point how it was possible to bring about these changes despite the conservative Lebanese legislature and a highly patriarchal society. Several factors may have contributed to this. First, the Lebanese Civil War (1975–1991) played a major role in liberating women on many levels—educational, economic, military, and political—and driving them into the public sphere. This exodus from the private to the public sphere with women standing, for the first time, alongside their male compatriots made them more visible and their voice heard more loudly and clearly as they clamored for gender equality.³ Second, women nongovernmental organizations (NGOs), ever since the 1995 Fourth World Conference on Women, have played a major role in bringing about the described legal changes. The third and most important factor has been the role UN organizations played after the conference and the pressures they applied on the different governments to bring about gender equality and justice, not to mention the financial aid, encouragement, and support they gave the NGOs to effect such changes (National Commission 2004; Non-Governmental Committee 2005).

Gender-Discriminatory Laws in the Personal Status Codes

Despite these legal reforms, however, many discriminatory laws are still extant and need to be repealed or amended, and many more need to be legislated for women's protection. Most notable of these are the personal status codes that are ensured and ratified by the discriminatory laws in the civil and secular laws: Namely, the Penal Code on such crimes as adultery, abortion, family honor, and domestic violence, and the labor law and matters pertaining to citizenship or naturalization.

Marriage and *Femme Couverte*

According to the personal status codes, marriage in Lebanon is legally defined as a bilateral contract concluded in public and constituting the agreement of the couple to live together for the sake of procreation and cooperation.⁴ But examination of the personal status codes of the different sects reveals that marriage is a contract between two unequal partners: The husband, who by providing for the material needs of the family, assumes the position of “head of the wife and

family,” and the wife, who by being obedient and providing pleasure, children, and housekeeping, becomes the *femme couverte*. This is a term borrowed from the nineteenth-century Western law of *coverture*, which defined literally as “cover or shelter,” is actually a legal precept that considers husband and wife as a single entity represented by the husband, proclaiming thereby the wife as the property of her husband, whose rights over her are unlimited.

Instances of Femme Couverte

Mahr: Although the law of *coverture* has ceased to exist in Europe, it persists in Lebanon, albeit without such nomenclature. This is clearly demonstrated in that all religious sects, both dominant and minority, share equally in their discriminatory approach to women’s rights and status, although they may differ in some of the details. This is best demonstrated by the numerous conditions that may be stipulated in the marriage contract by the Muslim sects, according to Ottoman family law, and the financial arrangements allowed by the Christian sects. One such example is the *mahr* (cash, property, or presents given by the groom to the bride upon marriage) and/or dowry (cash or property given by the bride’s family to the husband to administer upon marriage) (PSC Armenian, articles 79, 90, 92, 93; PSC Catholic, articles 39, 40, 43, 45–47, 58, 59, 63; PSC Greek Orthodox, articles 40, 49, 52; PSC Syriac, articles 42–45, 48). Such conditions seem to reflect the status of Lebanese women as commodities to be bought and sold at will.

Age upon Marriage: Another example of *coverture* is underlined by the minimum ages of girls required upon marriage by all the sects. These range from puberty (Ja’fari) to age 12 (Jews) to ages 17–18 (all the remaining sects). However, religious courts can override their own requirements; thus, the Jewish sect allows girls to marry at birth, the Muslim sects at age 9, and the rest allowing girls to marry at ages 13–15.

Consent to Marriage: Although consent to marriage is required by all religious sects, this right is automatically annulled when the woman in question is married at birth, at the ages of 9 or even 13 or 15, or, worse, when she is married by proxy (PSC Armenian, articles 3:a, 15, 21; PSC Catholic, Article 57 Q1067; PSC Druze, articles 1–6; PSC Evangelical, articles 13:b, 22:g; PSC Greek Orthodox, articles 5:3, 18:2; PSC Israelite, articles 2, 44, cf. also 45–47; PSC Ja’fari, articles 7–8; PSC Sunni, articles 4–6; PSC Syriac, articles 4, 5:1).

Breaking off the Engagement: A prospective husband has the right to break off an engagement, with impunity, should the prospective bride become disfigured in an accident during the period of engagement. Moreover, should the bride prove not to be a virgin on her wedding night, the groom has the right to return her to her family as “damaged goods” and retain the dowry or *mahr*, or both, as compensation for having been deceived. Finally, should the woman engage in sexual intercourse with her fiancé, who later rejects her for whatever reason, she is entitled to a financial compensation commensurate with her

social standing, not his (PSC Greek Orthodox, Article 9; PSC Syriac, articles 14–16). Thus, while in both instances there is deception and/or breaking of a promise, the damages adjudged upon the woman are far more serious than the man's. Losing one's virginity, in Lebanon, is still socially detrimental to a woman and may even hinder her from ever getting married. Therefore the penalty the prospective groom has to pay for his deception and/or breaking of a promise is far less than that of a woman if she is discovered not to be a virgin on her wedding night.

Qiwamah: Upon marriage, *coverture* is further demonstrated, in all sects, by differential legal and traditional assumptions about the role of husbands and wives. The husband is the head of the family and is declared its guardian by law; the wife, on the other hand, is obligated to live in the domicile of her husband and to follow him wherever he chooses to reside. Should she refuse, according to the law of cohabitation (*musakanah*), her husband has the right to bring her back to the “house of obedience” (*bayt al-ta'ah*) by force (Bilani 1982, 113–14; PSC Armenian, articles 46–47; PSC Catholic, articles 13940, 153, 155; PSC Evangelical, articles 30–32; PSC Greek Orthodox, articles 28–29, 31; PSC Syriac, articles 33–35).

A wife has to obey her husband in all matters unless his orders are against the law and decorum. In fact, according to the Muslim sects, she cannot leave the marital home without the permission of her husband, and the Armenian Orthodox sect does not allow a woman to work outside the home or practice a profession without the approval of her husband.⁵ The personal status code of the Protestant sects considers the wife a “housekeeper” whose duty is to care for the household and abide by the budget set by her husband for all household expenses. According to the Syriac sect, should the separation of the couple be due to the recalcitrance or disobedience of the wife, she must pay her husband the salary of a maid plus whatever expenses are incurred due to her absence (PSC Evangelical, Article 33; PSC Syriac, articles 51–52, 56, 60).

The subservience and subordination of wives to their husbands, however, is best described by the Jewish personal status code, according to which the wife has to serve her husband personally no matter how well off they are or how many maids they may have. Should she work outside the home, or even find money on the street, she is required to deliver her income in toto to her husband. Her dowry, as in the Christian sects, is administered by the husband, and all income incurred from it is the sole property of the husband (PSC Israelite, articles 134–36, 141–43, 149, 169, 170, 178, 183, 190, 195, 206, 220–21, 226, 230–31). If she is divorced before puberty, her husband has the right to be reimbursed for all expenses incurred by her during marriage; if she suffers a long-term illness, she has the option of either using her own money to continue her treatment or getting a divorce; the expenses of burials of widows are to be paid by their heirs, not their husbands (Bilani 1982, 68; PSC Israelite, Article

101). Finally, the Jewish husband has a right to two wives and the Muslim man has a right to four.

Property of the Husband: Coverture is further demonstrated by the husband's property right to his wife's body. This is manifest in all eighteen sects. The rationale behind this is the fact that since the purpose of marriage is sexual relations and reproduction, and since the husband has already either paid (*mahr*) or was paid (dowry) for this right, it is only natural that he should own the property in toto. As mentioned above, should the wife prove not to be a virgin on her wedding night, she is considered damaged and hence returned to her family without her *mahr* or dowry, or both, as recompense for having deceived her husband. Also, she can be summarily sent home should she refuse to have sex with her husband on demand. In fact, a man can never be charged with raping his wife, since she is *his* property and he can do with her as he pleases; also, the wife is not allowed to use any form of contraception or have an abortion without the husband's approval (PSC Catholic, Article 160; PSC Greek Orthodox, Article 71; PSC Syriac, Article 54). All sects require a mother, by law, to breast feed her infant until age 2; if she cannot breast feed, the father or his family, but never the mother, has the right to choose an appropriate nurse for the child (Bilani 1982, 154; PSC Armenian, Article 128; PSC Catholic, Article 124; PSC Evangelical, Article 71).

Iddah: All Muslim and Jewish sects, along with some Christian ones, prohibit a woman from remarrying, after divorce or widowhood, for a specified period of time called the *'iddah*, or waiting period. This is to guarantee the paternity of children born after separation or death. The duration of the waiting period varies from three months if not pregnant (all Muslim, Greek Orthodox, and Jewish sects) to ten months (Syriac Orthodox), and until delivery if she is pregnant (all sects) (PSC Druze, articles 50–53; PSC Greek Orthodox, Article 79; PSC Israelite, articles 661–62; Ottoman Family Law, articles 139–49; PSC Syriac, Article 11:4). One might consider this procedure wise and practical were it not for the ten-month waiting period imposed by the Syriac sect, instead of three or four; the same *'iddah* imposed on postmenopausal women; or the fact that divorcées or widows cannot, according to the same law, wait for three or four months to declare their pregnancy, but have to do it within the first thirty days of divorce or widowhood.

Divorce

The personal status codes discriminate against women not only before and during marriage, but at its termination as well.

Divorce According to Christians

Although divorce is prohibited in principle by all Christian sects, there are cases in which a separation, annulment, or divorce may take place. In such cases, men enjoy a greater number of extenuating circumstances than women: For example,

a husband may divorce his wife if he discovers her not to be a virgin on the wedding night; if she disobeys him and associates with people of “ill repute”; or if she spends the night in a “suspicious” place without his knowledge (PSC Greek Orthodox, articles 71–72; PSC Syriac, articles 50, 54).

Divorce According to Jews and Muslims

Although Jewish and Muslim sects consider divorce to be reprehensible and therefore to be avoided, a man may divorce his wife without her knowledge and at will. The Jewish code even permits the court to force the husband to divorce his wife in case of her adultery, with no option for her to remarry, and to refuse a self-confessed adulterous wife’s appealing of a divorce unless the husband testifies to the veracity of her claim (PSC Israelite, articles 134–36, 141–43, 149, 169, 170, 178, 183, 190, 195, 206, 220–21, 226, 230–31).⁶

Custody and Guardianship

According to all sects, the only authority a mother has over her children is that delegated by her husband. The father has tutelage over his children in all things spiritual or material. Thus, a mother cannot provide her children with passports, travel abroad with them, or open bank accounts for them when they are underage without the approval of their father. If the religious court considers a mother disobedient or incapable of raising her children or if she changes her sect or religion, she is prevented from caring for her children (Bilani 1982, 155–58; PSC Armenian, articles 130, 166; PSC Catholic, Article 123; PSC Evangelical, articles 74–76, 79–83, 85, 100; PSC Greek Orthodox, articles 64, 100–101; PSC Syriac, articles 61, 63, 80–82).

A woman’s subordination is further demonstrated at the loss of her husband through separation, divorce, or death. If the husband dies intestate without granting custody or guardianship of the children to the mother (in Christian sects other than the Catholic), guardianship automatically reverts, first (in order), to the paternal grandfather, brother, uncle, or cousin, and mother of the children, respectively, or as specified by the courts. As for Sunni children, their guardianship reverts to the father or his family after age 7 for boys and age 9 for girls, while Ja’fari law requires boys and girls to be with their mothers until ages 2 and 7, respectively (Bilani 1982, 155–58; PSC Armenian, Article 166; PSC Catholic, articles 183–87; PSC Evangelical, articles 81–85; PSC Greek Orthodox, articles 100–103; PSC Syriac, articles 80–82).

Perpetuation of *Coverture* in Lebanon

The above survey has amply demonstrated the position of a married woman to be that of *femme couverte*, since she loses most of her civil rights, becomes the ward of her husband, and assumes a subordinate legal position. This status reminds one of John Stuart Mill’s (1998) description of marriage in nineteenth-century England as “the primitive state of slavery lasting on,” having “not lost

the taint of its brutal origin” (476). It has also shown that the legal institution of marriage in Lebanon still has a long way to go before it can be considered “a contract made by equal parties to lead an equal life, with equal restraints and privileges on either side,” as defined by Elizabeth Cady Stanton in 1880 (Stanton, qtd. in Pateman 1988, 154; Shehadeh 2004b, 91–93).

Suppression of Women in Personal Status Codes

The question arises, at this point, as to what brings all these religious sects together, despite their other major differences, in the suppression of women? Several factors may have played a role, such as the well-entrenched patriarchal ideology that cuts across all religious boundaries, best exemplified by the ten-month ‘*iddah* imposed by the Syriac church, instead of the three or four months originally instituted by Islam; religious clerics, in an ever-increasing secularized world, have a vested interest in controlling the different facets of their parishioners’ everyday lives and thus are anxious to remain in control; and women, being the most vulnerable and weakest of the different congregations, emerge as the simplest and most visible group for subordination.⁷

There is also the perplexing derivation of the Christian status codes from the *Shari’ah* (Islamic divine law), as evidenced by such practices as the *mahr*, custody and guardianship of children, ‘*iddah*, and inheritance practices.⁸ This can be attributed to the insecurities of the Christians as minorities in an overwhelmingly Muslim region and their having been subject to the 400-year rule of the Ottomans, under whom Islamic laws and values were the norm. It could also be due to the religion-oriented Lebanese, who, like the rest of the inhabitants of the Middle East, are deeply influenced by the clergy and their highly patriarchal religious teachings—as illustrated by the governing system in Lebanon where the individual is identified, employed, elected, and serviced according to his/her religious sect.

While not all marriages may be what the law describes them to be and many husbands may not be aware of their legal rights and privileges, and while “the particular individual man [may] not play a personal role in this general oppression . . . , no personal initiative on his part can undo or mitigate what exists before and outside his entrance,” nor can a benevolent husband, no matter how ready he is, renounce the power bestowed upon him unless the law is changed (Pateman 1988, 154). The freedom of his wife will always be contingent upon his willingness to continue his renunciation of such absolute power throughout his marriage (Delphy 1984, 116). And even if such personal initiative were possible, marriage is designed for *all* men—not only for the benevolent few. Legislators should therefore be wary of affording a legitimate shelter for abusive husbands through the law.

It is therefore incumbent upon all religious sects to modify, if not repeal, all instances of gender inequality that may perpetuate *coverture* and to formulate new ones to ensure gender justice. This is further made imperative by the fact

that all religious court justices are males, thereby rendering all their judgments in family matters suspect, since they are subconsciously influenced by their own patriarchal ideology and the fear of losing what they consider to be their natural rights. This, in turn, makes it difficult for women to obtain any justice even when allowed recourse to the law.

Gender Discrimination in Civil and Secular Laws

The Lebanese civil and secular laws aid and abet the influence of the personal status codes in their discrimination against women. The paragraphs below demonstrate how deep-rooted patriarchy helps husbands establish their authority over their wives through the civil and secular laws, which serve as the best conduit to Ottoman and French patriarchal ideology.

The Lebanese civil and secular laws in all their divisions, as will be demonstrated, penalize wives who “rebel” by undergoing abortion, committing adultery, or deserting their homes. They also ensure that wives’ economic, social, and political independence are untenable. This complicity is further compounded by public officials who, in their zeal to help men control their wives and in complete disregard of the already discriminatory law, take unilateral action against married women and deny them certain rights, such as the renewal of their passports without the permission of their husbands or acting as witnesses in real estate matters.

Criminal Laws and the Penal Code

The civil and secular laws treat single women as equal to men in most matters, yet they discriminate against them in matters pertaining to the control of their bodies and relegate married women to an inferior status in almost everything else.

Rape

The Lebanese law still defines rape as a sexual act performed by force against a woman *other* than one’s wife. This has a twofold meaning: Rape signifies “illegal” sex, and “legal” sex is not punishable, since the wife is considered the property of the husband and thus one cannot rape his own property (Pateman 1988, 158). The law further absolves the rapist engaged in illegal sex of all guilt should he agree to marry the victim and thus save the family’s honor (Penal Code, articles 503–04).

Adultery

A married woman is considered an adulteress if caught in the act and found guilty according to the normal rules of evidence required for any crime or misdemeanor, and receives a sentence of imprisonment ranging from three months to two years. An adulterous husband, on the other hand, cannot be found guilty

unless he commits the act of adultery in his marital home, flaunts his mistress in public, and confesses his adultery and provides letters or documents signed by him to this effect. If all this evidence is provided and he is found guilty, his imprisonment ranges from one month to one year. The prison term or sentence of the adulteress, however, may be commuted if her husband forgives her, thus demonstrating that the Penal Code, rather than acting in the interest of public morality as a whole, helps husbands further tighten their control over their wives (Shehadeh 2004b, 86).

Abortion

Abortion, in Lebanon, is listed in the category of vice and is considered a crime. A woman who has an abortion is imprisoned unless it was performed to save her honor and that of her family. Although the abortionist is also legally liable, should he perform it to save family honor, and even if the woman dies as a result, his sentence may be reduced to a mere reprimand (Penal Code, articles 487, para. 1–2; 488, 489, last para.; pt. 7, chap. 3; 39, 251, 542, para. 2; 545). The Penal Code here also demonstrates legislators' support of the husband by denying the wife the right to abortion without her husband's approval, a right already granted to him by the personal status codes.

Crimes of Honor

The worst instances of discrimination and abuse pertaining to women's bodies, however, are the so-called crimes of honor. A husband or any male relative, no matter how distantly related to the woman in question, may kill her if she is caught *in flagrante delicto* or is merely suspected of any indiscretion on her part. In both cases, if the suspect is found guilty, he receives a much-reduced sentence for having cleansed his family's honor. A woman, under similar circumstances, is accused of and tried for first-degree murder (Penal Code, articles 250–51, 253, 562). What makes this law seem to be the result of patriarchal ideology is the fact that it is contrary to both Christian and Muslim teachings, which treat women and men equally in this regard. Thus, while Islam, in the interest of protecting the innocent, requires four adult-male witnesses to the act of coitus, the Lebanese secular Penal Code finds mere suspicion exculpatory.

Civil Laws

Labor Laws

Labor laws in Lebanon also discriminate against women. This is first made evident by the assignation of a special section for women and children that is distinct from the main codex. Second, it is incumbent upon every employer to notify the government in the case of hiring women or children. Third, women and children are prohibited from working in mines, quarries, industrial ovens, glass production, alcohol preparation, and spray painting, as well as in the

extraction of silver from lead, the use of mercury, and the preparation of explosives. They are further prohibited from both the production of aluminum and other such metals and the driving of heavy equipment. Women and children are also prohibited from working in cement-related endeavors, tanneries, organic fertilizers, and the skinning of animals (Moghaizel 1985, 159–60).

Pensions

Indeed, as the laws, described earlier, lead us to believe, legislators have also contributed to the hegemony of the husband over his wife both physically and economically in compounding the discrimination perpetrated against divorcées, widows, and wives of incapacitated men, who are the sole providers for their families. Whereas all permanent employees in the public sector are entitled to a pension which passes to the spouse and children after death, a married woman cannot bequeath her pension to her children and husband unless she can prove the poverty of her husband or his physical disability (Legislative Decree no. 47/83; Decree no. 3,950, Article 48; and the Law of Benefits and Services, Article 10, as modified by ruling no. 491 of 14 July, 1970).

Family Compensation

A female employee may not receive compensation for her spouse and children unless she is the breadwinner of the family due to the death of her husband, his incapacity, or his absence from the country and without any communication with his family for a period of not less than one year, or if she is a divorcée and her former husband is incapable of paying alimony. A married woman is granted only 50 percent of the medical expenses for her children, while her male counterpart is entitled to 75 percent (Legislative Decree no. 29, Article 8; Decree no. 3,950, Article 48).

Residence Law

The Lebanese constitution guarantees equal rights in all domains to all citizens: Article 7 stipulates equality in civil and political rights; Article 12 stipulates equality in public employment; Article 21 specifies equality in the right to elect and run for office; and articles 2, 9, 10, and 12 stipulate individual freedom, freedom of belief, freedom of education, freedom of expression and congregation, and the right to form societies. Yet, the Lebanese law falls short of fulfilling these rights with regard to married women. Upon marriage, a woman's residency status and therefore her registration to vote are automatically transferred to her husband's district, thus preventing her from voting in her home district or running for office.

Naturalization Law

While a Lebanese man may confer upon his foreign-born wife Lebanese citizenship after a period of one year and at her request, a Lebanese woman, who

relinquishes her citizenship upon marriage to a foreigner, can retrieve it only if her foreign-born husband approves and after having resided in Lebanon for a period of five consecutive years. A Lebanese woman cannot confer this citizenship upon either her husband or children, even if they are permanent residents. Although a naturalized woman may give her underage children citizenship if she loses her husband, a woman who is Lebanese by birth cannot (Decree no. 15, Article 7, as modified by the law of 1 November 1960; Article 5 of the law of 1 November 1960; Moghaizel 1985, 74–76).

Finance Law

A woman's subordinate position and dependence upon her husband are further demonstrated by the fact that a husband is not held liable if his wife goes bankrupt, yet the opposite is true in the case of her husband's bankruptcy. Her inferior position is further demonstrated by her uneven share in matters of inheritance and her unequal treatment in case of divorce. She is entitled to one-fourth (or one-half if she has no children) of her husband's estate according to Christian sects, or one-eighth (or one-fourth if she has no children) according to Muslim sects, in addition to any property or cash that she can prove was accrued her before or during marriage from sources other than her husband. All money accrued to the wife during marriage is considered to have originated from the husband and is therefore accountable. Also, a divorcée or widow may lose all rights to her furniture and/or other household objects unless she can prove that they were bought with her own money. If she had her own career and shared in the household expenses, she still must prove ownership of everything she claims; if she is unable to do so, the court will allot the disputed property according to accepted conventions: For example, a woman could be given the dishwasher and the man the computer (Commercial Law, articles 625, para. 1–2; 626; Moghaizel 1985, 123–26).

Conclusion

Some may object at this point that the large sample of discriminatory laws discussed above do not necessarily reflect the daily lives of Lebanese women and men, who, apparently, live harmoniously. Be that as it may, unless the discriminatory instances are expunged from the law, women will remain without specific rights and be completely dependent upon the benevolence of their husbands and the protections of laws that discriminate against them. Even if a husband chose to relinquish all the powers bestowed upon him by the laws, his wife would still enjoy only “the pleasures of the slave, however varied,” because her condition would always be contingent upon the goodwill of her husband (Pate-man 1988, 158). The legal discrimination against women is further compounded once a woman has recourse to the laws. *All* judges of the religious courts are men, many of whom are immersed in traditional patriarchal ideology and are

therefore reluctant to rule in women's favor. Most judges dealing with secular laws pertaining to women are also men; the few women judges among them function from within the traditional gendered formulations of society. In fact, when asked fifteen years ago whether the law discriminates against women, both male and female lawyers and judges categorically denied it, emphasizing that Lebanese laws treat all citizens equally.⁹ It was not until recently that women lawyers and judges started publishing critiques of discriminatory laws, submitting new laws to the concerned parliamentary committees, extending their help to women organizations, and asking women activists to help them, in turn, discern instances of discrimination that would otherwise remain concealed.¹⁰

Unlike English Common Law, which is based mainly on the principle of precedence, Lebanese laws follow the French textual codification, which leaves very little room for interpretation or maneuver. In order, therefore, for the condition of women to improve in Lebanon, two reforms are necessary. The first must encompass the existing laws, which play pivotal roles in establishing regulations, as well as influencing thought and behavior and defining what is socially acceptable; this reform must rid existing laws of all instances of discrimination. The second reform must cover the legislation of new laws that ensure the rights of women and their protection and the provision of equality within the existing educational, cultural, social, and economic systems.

The existent discriminatory laws, as discussed, are due first and foremost to the prevalence of a patriarchal ideology in Lebanon and the Middle East. Such an ideology is further perpetuated by the all-male legislative body, which has a vested interest in formulating laws that ensure the subordination of wives to their husbands. This present-day perpetuation of the patriarchal ideology is historically situated in the period of Ottoman rule, which helped inculcate the Lebanese with the Ottoman legal system and culture. This is best demonstrated by the 1917 Ottoman family law that the Muslim sects still follow to this day, and also by the impact the then-highly discriminatory French law had on the Lebanese during the French Mandate. Such discriminatory laws, for example, include those pertaining to crimes of honor, abortion, and adultery, of which the first two are nonexistent in Islam and the last requires four male witnesses. The French Mandate's discriminatory laws also explain the dowry in Lebanon, as well as the discrimination that permeates labor laws. However, while over the years the French have ended most if not all instances of discrimination against women in marriage and labor laws, the Lebanese have not.

Therefore in as much as the law is the major player in establishing mores and influencing societal thought and behavior, and inasmuch as it defines what is or is not acceptable by society at large, a discriminatory or prejudicial law is bound to have far more serious implications and consequences than its strictly legal context would allow and should consequently be either amended or repealed. However, amelioration of the legal system cannot be effected through religious reform alone—a call that is being articulated in a number

of Middle Eastern countries, including Lebanon; the clerics guard their power and influence too jealously to allow any substantial changes to occur. If real change is to take place in the discriminatory laws against women in Lebanon, it is incumbent upon the cabinet to pass through parliament a secularized personal status code, which, in turn, is bound to foster further reforms in civil and secular laws. This is a twenty-first-century challenge for women in Lebanon and many other countries in the Arab Middle East.

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Notes

1. The term "Israelite" is the nomenclature used in the personal status code. Although many Jews left Lebanon during the fifteen-year civil war, a good number of Jews still reside in Lebanon. Moreover, the law is such that even if one family is still extant in Lebanon, it has to abide by its own personal status code. This justifies the study of the Israelite personal status code.

2. I prefer to use the term "women" rather than "feminist," since the latter comprises a much more complex gender ideology than any of these organizations is ready to assume or adhere to.

3. For more details on the impact of the war on Lebanese women, see Lamia Shehadeh, *Women and War in Lebanon* (1998).

4. For a lengthy discussion of the concept of marriage in Lebanese law, see Bashir Bilani, *Qawanin al-ahwal al-shakhsiyyah fi lubnan* (The personal status codes in Lebanon), pp. 41–43.

5. This is keeping in mind that, as mentioned earlier, the civil law prohibiting a married woman from opening her own business without the approval of her husband has been repealed.

6. For a good discussion of divorce in Hanafi law, see John Esposito, *Women in Muslim Family Law* (1982).

7. On the agreement of all Muslim sects on women's subordination, see Lamia Shehadeh, *The Idea of Woman in Fundamentalist Islam* (2004).

8. Although the law treats both sexes equally, many Christian families either force female heirs to relinquish part or all of their inheritances to their male siblings, or the males are allotted greater shares in the will, or their shares were transferred to them during the lifetimes of donors.

9. Interviews I carried out while conducting my research on *Women and War in Lebanon*.

10. See the reports and publications of the National Commission for Lebanese Women's Issues (2004) and the Non-Governmental Committee Pursuant to Women's Issues (2005).

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