Speaking Secular, Acting Sectarian. Lebanese Women's Rights beyond the Constitution

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1. Introduction

In 1998, Lebanese President Elias Hrawi (Ilyās al-Harāwī) presented a draft law to establish a unified code for civil marriage in the country. The draft law was needed for a nation characterised by different personal status codes for its various communities (or groups of communities). The state recognises 15 different personal status codes prescribed by the 18 legally accepted religious sects among the Lebanese population.[1] The bill sought to regulate marriage matters that fell under the jurisdiction of religious courts[2] but did not directly deal with other important issues such as divorce, alimony, inheritance rules and child custody. And yet, even though the draft law was optional, the religious elites firmly opposed it. Overall, however, Lebanese civil society reacted warmly to the draft law presentation.[3] Religious and political leaders presented themselves as custodians of the status quo, even though, at one point, the bill seemed to have support from a majority in Parliament. In the end, however, Prime Minister Rafiq Hariri refused to allow parliamentary debate and put it up for a vote.[4]

The civil marriage law, which complicates marriage between different confessions/communities and has spurred the so-called "wedding business",[5] touched on one of the pivotal issues for the "Lebanese system", namely the regulation and consequent control of the lives of individuals belonging to different communities. In a broader sense, this bill concerned the equal treatment of Lebanese citizens before the law. Article 7 of the Lebanese constitution of 1926 states that "[a]ll Lebanese are equal before the law. They enjoy equal

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[1] Farha. "Secularism in a Sectarian Society? The Divisive Drafting of the Lebanese Constitution of 1926". In: *Constitution Writing, Religion and Democracy*. Asli Ü. Bali; Hanna Lerner (eds). Cambridge, Cambridge University Press, 2017, p. 101–130.

[2] These tribunals vary from community to community but have the common characteristic of enjoying a great autonomy that, *de facto*, escapes control of the state's judiciary bodies. The Lebanese Court of Cassation, Lebanon's highest court, is the final arbiter of disputes and is responsible for examining the compatibility of religious codes with the public order. However, it has long interpreted this responsibility as being limited to examining jurisdictional and procedural rather than substantive religious rules.

[3] Despite awareness-raising campaigns in favour of the bill, civil society does not support the decree. One of the reasons may be the difficult post-war political situation and the fear of new sectarian clashes.

[4] See, for example, Kawas, Nafez. "Cabinet Backs Hrawi Civil Marriage Plan". *The Daily Star*, 19 March 1998. In: https://goo.gl/KpoAXB (accessed 25 October 2017). One of the motivations for Hariri's decision was his desire to serve as the undisputed leader of Lebanese Sunnism, a task set up through a series of strategies that led him, in a few years, to personify Sunnism. In this new role, going against Sunni religious elites would certainly have been counter-productive. Cf. Meier, Daniel; Di Peri, Rosita. "The Sunni Community in Lebanon: From 'Harirism' to 'Sheikhism'?". In: *Lebanon Facing the Arab Uprisings*. Rosita Di Peri; Daniel Meier (eds). London, Palgrave Macmillan, 2017, p. 35-53.

[5] This is similar to the situation in other countries in the region, such as Israel: Lebanese citizens of different faiths go abroad to get married. Upon their return, the Lebanese state recognises their marriage, which is then governed by the laws of the country where the marriage took place. This obviously creates many problems in the case of divorce and child custody because not only do the Lebanese courts and lawyers not know all the civil codes of the countries where the marriage took place, but state laws overlap and compete with those of the country where the marriage took place and those of the religious tribunals. Moreover, it is expensive to get married abroad, and not all couples can afford it, which results in further discrimination. See Casanova, José. *Public Religions in the Modern World*. Chicago, Chicago University Press, 1994.

civil and political rights and assume obligations and public duties without any distinction between them." But Article 9 of the same document seems to contradict this statement in practice when it asserts that "the personal status and religious interests of the population, whatever the religious sect to which they belong, shall be respected".[6] The absence of a unified personal status code leads Article 9 to extreme consequences, leaving the decision-making process over crucial issues in the lives of individuals in the hands of religious courts and exacerbating the already deficient common legal culture.

This religious prevalence (including that of the community), which found its legitimacy in the institutionalisation process of Lebanese communities in the 1900s,[7] has created, over the years, a system of power that has increasingly aimed to exclude state sovereignty from specific areas. Moreover, the creation of autonomous spaces of power exempt from constitutional dictates and state laws has given religious leaders enormous decision-making (and contractual) power that has contributed to creating systems parallel to the state to manage individuals' lives. This has major consequences, especially for women.

Accordingly, the aim of this paper is to show that, despite the constitutional provisions that sanction the equality of all Lebanese, women's rights in Lebanon are subject to different (social, religious and political) constraints. In a system characterised by a complex and often perverse interweaving of state norms, religious tribunals norms, society structure and politics, women's rights have received little to no attention or protection. This is true not only for women who are nationals but even more so for all women who are not nationals: refugees (Palestinian, Syrian, Iraqi, etc.) and foreign workers (especially from East and South Asia). Although the status of the categories mentioned above is important to fully grasp the configuration of the Lebanese confessional system, that it is also a system of exclusion, the debate around non-national women's rights is not included in this paper because the rights of non-nationals are contemplated neither in the constitution nor in the laws derived from it that are at the heart of this essay. The rights of non-nationals (women and men) are not a priority for the political and religious leaders, as is made clear by the fact that Lebanon has not signed several International Labour Organization (ILO) conventions regarding the regulation of migrant workers and the equal treatment of nationals and non-nationals in terms of social security: non-nationals, and especially women, are *de facto* almost nonexistent in the eyes of the Lebanese state.[8] Consequently, despite its relevance, a serious discussion about the rights of non-nationals is a broader issue requiring ad hoc analysis of refugees' and foreign workers' rights and living conditions in Lebanon. It is a question that, also because of a lack of space, cannot be addressed in this paper.[9]

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[6] *Lebanon's Constitution of 1926 with Amendments through 2004*. Original version in Arabic. In: http://www.presidency.gov.lb/Arabic/LebaneseSystem/Documents/LebaneseConsitution.pdf, PDF file, (accessed 22 March 2018). English translation by Constitute Project. In: https://goo.gl/M7ReMB (accessed 20 October 2017). This posture appears to run counter to the United Nations Declaration of Human Rights of 1948, which affirms the equality of men and women and to which Lebanon specifically refers in the preamble to its constitution (point B).

[7] Cf. Di Peri, Rosita. *Il Libano contemporaneo. Storia, Politica e Società*. Roma, Carocci, 2017.

[8] For an analysis, see, for example, Picard, Elizabeth. *The Arab Uprisings and Social Rights: Asian Migrant Workers in Lebanon*, 2013. In: https://halshs.archives-ouvertes.fr/halshs-00938259/document, PDF file (accessed 11 January 2018). In 2015, despite the difficulties they faced, domestic workers, with the help of the Federation of Trade Unions of Workers and Employees Union (FENASOL), launched the first domestic workers' union of Lebanon. Cf. Massena, Florence. "Lebanese domestic workers to unionize". *Al Monitor*, 15 May 2015 In: https://goo.gl/xQkkwk (accessed 11 January 2018).

[9] Cf. Hamill, Kathleen. *Trafficking of Migrant Domestic Workers in Lebanon*, Kafa, March 2011. In: http://www.kafa.org.lb/StudiesPublicationPDF/PRpdf37.pdf, PDF file (accessed 11 January 2018).

To test our hypothesis, it is necessary to reflect on at least two points: first, the nature of the Lebanese context and how it has been configured, over time, as a patriarchal system where the dynamics of production and reproduction of power and control have been put in place leading to the inclusion or exclusion of certain groups or categories; and second, the close correlation between the religious and political spheres. In so doing, we will illustrate how such dynamics and relationships have in fact upheld and strengthened the patriarchal system by increasing the strong and pervasive control exercised over women within that system and society.

The presence of differentiated personal status codes has not made it possible to promulgate laws that protect women's rights within a common framework, and often the conservatism of the religious leaders, jealous of their power over the members of their communities, has gone hand in hand with a similar attitude on the part of political leaders, who are careful not to antagonise religious leaders. The latter are needed, among others, to ensure electoral consensus among the base. The result is a mutual reinforcement of the religious and political power that had a strong and negative impact on women's status. Some examples make this point clearer. On the religious side, the fact that religious courts do not admit female judges (except for the Evangelical and Armenian Orthodox courts) helps us to understand how the system systematically excludes women from making key decisions regarding their status and their rights. As we noted before, it is the religious courts that make key decisions about women, such as those relating to marriage, divorce, child custody, alimony and so on. At the political level, not only is the political participation of women as both electors and candidates limited and included in the community and/or family channels, but also the rights of women have systematically received very little attention in terms of protection laws. For example, the law to Protect Women from Family Violence, drafted by the Kafa Women's Rights Organisation in 2007, was approved in 2010, but with numerous amendments and cuts that altered its content and goals.[10] According to the amended law, religious courts continue to prevail over civil courts; in addition, among other things it did not penalise rape as a crime if the act in question was committed by the victim's husband.[11]

From a methodological point of view, the paper is based on a series of interviews conducted in Lebanon between 2015 and 2017 with women holding various positions in political parties, in associations or non-governmental organisations (NGOs), at the universities (St. Joseph, Lebanese American University-LAU, American University of Beirut-AUB) in religious orders or as an election candidate. Informal talks with female activists were conducted in particular during their participation in public protests (not necessarily linked to women's rights campaigns). Secondary sources, especially reports from the Lebanese associations working for the defence of women's rights, as well as local and international press, have been taken into account. Without claiming to be exhaustive, the paper's goal is to provide a useful contribution for further reflections.

2. Building Consensus and Control

Lebanon is a multi-confessional country marked by the presence of 18 communities recognised and protected by the state. These communities share political power according to

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[10] See Kafa press release, "Cabinet Approves Law to Protect Women from Family Violence". In: https://goo.gl/JTVmuN (accessed 21 October 2017).
[11] Interview of the author with a lawyer who is a member of Kafa, Beirut, 15 May 2015.

their demographic, social and historical weight.[12] During the period of the birth and ascent of the emirate of Mount Lebanon (1586–1635) and with the systems of double *qaimaqam* (1842–1860)[13] and of the *mutasarrifiyya* (1861–1915),[14] the distribution of Lebanese space and society along communitarian/confessional lines created a pattern that had strong repercussions on the country's development in later years and a robust impact on the development of the democratic fabric of political cultures. The invention of sectarianism was carried out through the so-called institutionalisation process of the communities, which has led to the development of the idea of the confessional management of society.[15] This (political and social) process, legitimised by amendments to the 1926 Constitution, which had already provided for a communitarian power-sharing formula, has created a system of "social pluralism".[16] In such a system, which is typical of multi-communitarian societies, the divisions between communities have well-defined and demarcated borders, and individuals' and groups' prerogatives are reflected in the existence of specific communitarian institutions, such as religious tribunals and personal code laws. Even prior to the country's independence, communities were called a "patriarchy" precisely to indicate the vertical management of power by a *paterfamilias*.[17]

In Lebanon, communities are complex and non-monolithic entities: They vary in time and space and are not only physical but also mental "spaces" where religious, political and social dimensions coexist.[18] The Arabic word *ṭā'ifiyya*, which is not easily translatable but is often translated with the incomplete and partial term of sectarianism,[19] expresses the communities'

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[12] Among these, the most important were and continue to be the Maronite Christians and the Sunni Muslims. At the end of and following the civil war, the Shia Muslim community started to become more prominent: for the role that their militias played during the civil war, for their demographic rise and, politically, especially after Hezbollah's creation in 1985, for the role of the "Party of God" in Lebanese political life from 1992 onwards. On the Lebanese confessional system and on the identity issue, see Beydoun, Ahmad. "A Note on Confessionalism". In: *Lebanon in Limbo: Postwar Society and State in an Uncertain Regional Environment*. Theodor Hanf; Nawaf Salam (eds), Baden-Baden, Nomos Verlagsgesellschaft, 2003, p. 75-86, and Beydoun, Ahmad. "Lebanon's sects and the difficult road to a unifying identity". *Beirut Review*, 6, (1993), p. 15–21.

[13] The system of double *qaimaqam* was the first division of Lebanese territory along confessional lines. After the brief period of time during which Lebanon was under Egyptian control (1832–1840) and the Maronite Christian community assumed a new role, the Druze community (which, until then, had had access to power and privileges at the expense of other communities) pushed for a net territorial demarcation between them and the Maronites. This request led to the system of double *qaimaqam* that put the southern area under the control of the Druze and the northern area under the control of the Maronites. Dib, Boutrous. "Les deux Kaimakamiyas ou le dualisme druzo-maronite". In: *Histoire du Liban. Des origines au XXe siècle*. Boutrous Dib (ed.). Paris, Editions Philippe Ray, 2006, p. 549-588.

[14] The regime of *mutasarrifiyya* was introduced to satisfy the European powers and the Ottoman Empire in 1861. It was an administrative unit ruled by the *mutasarrif*, which was appointed by the Ottoman government and assisted in its functions through a representative assembly of the various groups present in the area according to a proportional breakdown on a confessional basis. From this moment on, community power sharing became the rule in Lebanon. See Farah, Caesar E. *The Politics of Interventionism in Ottoman Lebanon*, 1830–1861. London, I.B. Tauris, 1999.

[15] See Dagher, Georges. "Radicalisation de l'identité confessionnelle au Liban". *Cahiers de l'Orient*, 61 (2001), p. 131-141; Rabbath, Edmond. *La formation historique du Liban politique et constitutionnel*. Publications de l'Université Libanaise, Beirut, 1986.

[16] The institutionalisation process is a long historical process that led to the community settling on the Lebanese territory and their recognition by the central power. See Rondot, Pierre. *Les communautés dans l'état libanaise*. Cahiers de l'Association France Nouveau Liban, 4, Beyrouth, 1979.

[17] Rabbath. *La formation historique du Liban politique et constitutionnel*, p. 142.

[18] For a historiography of sectarianism, see Weiss, Max. "The Historiography of Sectarianism in Lebanon". *History Compass*, 7, 1 (2009), p. 141-154.

[19] For a critique of this reading, see Mneimnehm, Hassan. "From Communitarism to Sectarianism: The Trajectory of Factionalism in the Arab Middle East". *The Muslim World*, 106, 1 (2016), p. 62-82. For a

many facets very well. If the Lebanese recognise themselves as citizens with rights and duties towards the state, they establish close ties and relations with and devote themselves to their community. It is inside their communities that they solidify the relationships of trust and exchange of favours that often make the communities (and not the state) the point of reference for the Lebanese.[20] Resolving personal and collective problems is accomplished by asking for the (religious or political) community leader to intercede in order to solve a problem in exchange for a vote or a favour.[21] This practice led to the political and religious leaders' goals converging, namely to maintain control over their members by keeping them connected to the community through religious rules and moral bonds.[22]

One of the areas where this convergence was most evident is undoubtedly the one relating to personal status. The absence of a unified civil law has created systems parallel to those of the state that have produced pervasive control over the "communitarian individuals", despite Decree 60 L.R. of 1936, which is currently in force and regulates matters relating to the freedom of belief. The decree guarantees not only the possibility for each Lebanese to choose their own personal status codes according to their religion but also to opt for a unified civil code disconnected from the laws on the personal status of various religious courts. In principle, this allows Lebanese citizens to join a religion that does not have laws on personal status or not to affiliate with any confession.[23] By virtue of this decree in April 2013, a couple was able to have a non-religious, secret wedding in Lebanon in late 2012 and to remove their religious affiliation from the civil registers before getting married in front of a notary. The couple's argument was based on the fact that Decree 60 L.R. had never been abrogated and in fact provided for a unified, albeit optional, civil code. On paper, there is an opportunity to opt for a civil code; it was the Lebanese state that, negligently, had not legislated on it for all these years.[24]

It should also be noted that the Lebanese parliament's recognition of the personal status codes of the various communities has had very different iterations (and outcomes) that in almost all cases have gone in the direction of a weakening of state power.[25] This is a problem not only

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debate of the changing meanings of *ṭā'ifiyya*, see, among others, Haddad, Fanar. "Sectarianism and Its Discontents in the Study of the Middle East". *The Middle East Journal*, 71, 3 (2017), p. 363-382, and Makdisi, Ussama. *The Culture of Sectarianism. Community, History and Violence in Nineteenth-Century Ottoman Lebanon*. Berkeley and Los Angeles, University of California Press, 2000.

[20] See the studies on Lebanese trust in state institutions and data from the Arab Barometer. Kahi, Abdo; Khoury, Joseph; Kiwan, Fady. "Démocratie, bien commun et liberté. Que veulent aujourd'hui les Libanais?". In: *La construction démocratique au Liban*, Antoine Nasri Messarra (ed.). Beirut, Lebanese Foundation for Permanent Civil Peace, Librairie Orientale, 1994, p. 59-77. *Arab Barometer Survey Project, Lebanon Report*. In: www.arabbarometer.org (accessed 29 October 2017).

[21] Interview with a Lebanese leftist activist, Beirut, 14 June 2017. See also Joseph, Suad. "The Public/Private: The Imagined Boundary in the Imagined Nation/State/Community: The Lebanese case", *Feminist Review*, 57, 1 (1997), p. 73-92.

[22] Bourdieu, Pierre. *Le sens pratique*. Paris, Minuit, 1980.

[23] Di Peri, *Il Libano contemporaneo*, p. 34.

[24] IHEU, Lebanon's first civil marriage divides the country, inspires calls for reform, IHEU 07/03/2013. In: https://goo.gl/E59OVv (accessed 19 March 2018). The reactions to this act were significant. Among others, Grand Muftī Qabbānī decreed that Muslims who marry non-Muslims no longer have to be considered true Muslims. See Meguerditchian, Van. "Qabbani Describes Civil Marriage as 'Germ'". *The Daily Star*, 29 January 2013. In: https://goo.gl/Xt7Uvx and Makhlouf, Youmna. "Civil Marriage in Lebanon: Fighting the State from within its Borders". *The Legal Agenda*, 6 September 2016. In: https://goo.gl/G9VH6W (both accessed 16 October 2017).

[25] Although parliamentary approval for the Christian and Jewish communities has taken place, it has never been ascertained whether these laws comply with the laws of the state and the constitution (although they continue to be used). See al-Bilānī, Bišār *Al Qawānīn al Mitaʿaš šaḫṣiyya fī Lubnān* (*Personal Status Laws*

because these codes, without parliamentary passage, may be in obvious violation of constitutional laws and constraints, but also and above all because in order to regulate matters of relevance to personal status, religious courts use, in addition to laws and jurisprudence, a set of unwritten rules related to confession and practice that make the landscape very complicated.[26] Of course, the various confessions/communities are very jealous of their autonomy in this regard.

Against the narrative that tends to describe Lebanon as a country characterised only by sectarian clashes and always on the brink of civil war,[27] the reflection on personal status allows us to show how the problem does not appear to be confessional fragmentation but rather the will of the sectarian leaders (religious and political) to maintain a system that protects anachronistic privileges and ensures pervasive control over the lives of individuals. If such a vision of Lebanese society has long been blurred by other readings preoccupied with the quasi-democratic nature of the Lebanese context (in other words, the notion of consociative democracy in the post-war period, from 1989 onwards), various analyses have highlighted the highly oppressive and hegemonic nature of this context.[28] Building on a non-essentialist perspective and looking at communities as complex, real and symbolic places where various techniques of domination and control are produced and perpetuated, this line of studies has highlighted the deep contradictions in a country where the existence of multiple parallel systems can call the state's authority and sovereignty into question. Maintaining this system has had two important outcomes: the first is that, given its configuration, the system has favoured the perpetuation of patriarchal dynamics; the second, as a direct consequence of the first, is that, in order to perpetuate this structure, the system has systematically ignored the rights and prerogatives of the group that is most affected by a patriarchal system – women.

3. The Deep Ties between the Consociative, Confessional and Patriarchal Systems

Various systems coexist and interweave on different levels in Lebanon. One level is political. It consists of the so-called consociative model. A second level is confessional, namely the religious belonging of the individuals and the religious norms at play in each community. A third level is the patron-client relation where patronage relations and the power of the community leaders or bosses, the *zuama*, prevail.[29] A brief description of the different dimensions will help to gain a better understanding of how they are intertwined and why this intertwining ultimately has a negative effect on the rights of Lebanese women.

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in Lebanon). Beirut, Dār al-'Ilm li-l-Malāyīn, 1982, p. 2. Muslim communities' codes have not received parliamentary passage. In 2011, however, the Sunnis approved a New Code of Family Provisions – the first and only codification of Sunni personal status law in Lebanon since the Ottoman family law of 1917 and it is still in place.

[26] There are different bodies for each confession or aggregation of confessions. They were created by parliamentary laws with the aim of representing their confessions, overseeing their affairs and defending their rights and privileges. There are many problems with these bodies, not the least of which is the fact that the judges do not receive adequate training and therefore do not have the necessary competencies to deal with the various cases. See Human Rights Watch, *Unequal and Unprotected. Women's Rights under Lebanese Personal Status Laws*. New York, Human Rights Watch, 2015.

[27] For a critique of this narrative after the end of the civil war, see Trombetta, Lorenzo. "Le Liban, entre révoltes arabes et conflit syrien: un exercice de flexibilité". *Oriente Moderno*, 94, 2 (2014), p. 317-334.

[28] Salloukh, Bassel, *et alii. The Politics of Sectarianism in Postwar Lebanon*. London, Pluto Press, 2015; Melani, Cammett. *Compassionate Communalism: Welfare and Sectarianism in Lebanon*. Ithaca and New York, Cornell University Press, 2014.

[29] Another dimension, one that is often neglected in the analysis of Lebanon, is a class dimension that is transversal to the abovementioned levels. See Traboulsi, Fawwaz. *A History of Modern Lebanon*. London, Pluto Press, 2007.

Starting from the dimension of the consociative nature of the Lebanese political system, it should be noted that, on paper, it is a system that protects minorities and their prerogatives. The consociative model focuses on the role of the elite in "fragmented societies" and emphasises the importance of the agreed division of the political power between the different segments (in Lebanon, the communities) of society. According to the consociative model, the divisions in society tend to balance out when they are transversal, whereas they tend to cause conflict if they are mutually reinforced. The role of the elite is fundamental in this case, as it is up to them to moderate or exacerbate the conflict.[30] In addition to the elite's convergent and "preventive" behaviour (their ability to recognise the inherent dangers in a fragmented political culture, a wish to transcend cultural divisions, at least in terms of management groups, an ability to come up with appropriate solutions to the questions posed by existing sub-cultures), Lijphart, the main theorist of the consociative model, considers four main features:[31] 1) the presence of a grand coalition in power; 2) minorities' mutual right to veto; 3) proportional representation; and 4) cultural independence granted to the different segments. Lebanon appears very close to the consociative model between its independence (1943) and the outbreak of the civil war (1975). Starting with the National Pact of 1943,[32] Lebanon was governed by grand coalitions in which the country's main communities had proportional representation. Members of Parliament were elected by adopting the proportional method and scrapping constituencies. The division of constituencies, however, in fact determined the need for a candidate to receive not only the vote of those belonging to his confession to be elected but also the vote of other communities. This would have favoured the search for a compromise and the openness of every community to each other.

Another aspect distinguishing the consociative system in the First Republic (1943–75) was the relative cultural autonomy granted to the communities. Lebanon's communities enjoyed real independence in all issues concerning their personal status, religious aspects and, in part, assets.

After the end of the civil war (1989–90), in what some authors call the Second Republic, some of the aspects mentioned above came to an end, and the system became more rigid and less inclined to compromise. In this context, the last aspect, namely the communities' autonomy, remained unchanged.[33] This leads us to the second level, the confessional one. Lebanese communities, or communities' aggregations, have precise rules for the lives of their members coming from religious tribunals that have civil powers, since there is no unified civil code in Lebanon to regulate matters relating to personal status, such as the transmission of citizenship, marriage, inheritance, child protection, adoption, divorce, etc. If, according to the rules of the consociative model, this autonomy is "necessary" for the model to avoid friction between communities or community groups, the inability to overcome this segmentation has gradually led to an anachronistic and paradoxical situation in which religious leaders have gained more and more power to regulate the lives of individuals by escaping control of the state. To legitimise this pervasiveness, Article 95 of the Lebanese Constitution states the proportional sub-division of the political and administrative roles

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[30] Lijphart, Arend. "Consociational Democracy". *World Politics*, 21, 2 (1969), p. 207-225.

[31] Lijphart, Arend. *Democracy in Plural Societies: A Comparative Exploration*. New Haven, Yale University Press, 1977.

[32] An unwritten agreement between the two main communities at that time, the Sunni and the Maronite, that institutionalised consociativism and confessionalism.

[33] See, for example, Di Peri, Rosita. "Il modello della democrazia consociativa e la sua applicazione al caso libanese". *Rivista Italiana di Scienza Politica*, 2 (2010), p. 1-31.

between the communities, which institutionalised the confessional system. Even though one paragraph in the same article explicitly states that "[t]he tasks of this [transitional] Committee shall be to study and propose the means to ensure the abolition of confessionalism, propose them to the Chamber of Deputies and to the Ministers council of ministers [sic], and to follow up the execution of the transitional plan",[34] the system is still alive. Not only that – the strengthening of the prerogatives of the religious authorities went hand in hand with an overall deterioration of the conditions that had allowed the consociative model to work, albeit with many gaps, before the civil war broke out.[35]

The third level we consider is that of large families and community leaders who have a crucial weight in Lebanese life. Without falling into the essentialist trap that sees the traditional societies, where family relationships have a crucial weight, as backward, it should be stressed how the role of families in Lebanon was and is pivotal in many aspects. First, over the years, great families have created recognised and recognisable "political dynasties" that can hand over power from father to son (and, only in very rare cases, from father to daughter, but never from mother to daughter) and have dominated the political scene for decades.[36] Consider the names on the election posters from independence to understand this pervasive presence. Second, the ties within the great families have fuelled the patriarchal system that, as was said in the opening, permeates the communities. Even in this case, the electoral lists have interesting elements, such as the predominance of male names.[37] Female political participation has been hampered by various factors that can also be found in the deep interweaving among the various levels we are describing. A female candidate in the last municipal elections in 2016 told us how, before she started running, she had to meet with all the men in her family to announce her candidacy and her intentions and, in some way, get their approval. She said, in order to be a candidate, she had no other option than to work within the patriarchal system.[38] There are very few women in Lebanese politics – not just as a deputies and ministers but also in the top positions of the various political parties.[39] Since 1952, only nine women have served as ministers. At present, there are only four women among the 128 members of the Lebanese Parliament, and three of them are relatives of former leaders and/or intellectuals and former deputies who died prematurely or were in prison.[40] Nevertheless, in order to invert this situation, the virtuous examples and the

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[34]   *Lebanon's Constitution of 1926 with Amendments through 2004.* English translation by Constitute Project. In: https://goo.gl/M7ReMB (accessed 20 October 2017).

[35]   In the post-war period, Lebanon was submitted to the so-called Syrian protectorate: Syria's pervasive presence in the country's political life. Moreover, the sporadic search for compromise and the fear of new clashes led to a new power-sharing agreement between the three main institutions of the State, the *troika*, which with the crossed veto system paralysed the decision-making process. See, among others, Kassir, Samir. "A Polity in an Uncertain Regional Environment". In: *Lebanon in Limbo*, p. 87-107.

[36]   Joseph, Suad. "Political familism in Lebanon". *The Annals of the American Academy of Political and Social Science,* 636, 1 (2011), p. 150-163. See also Vloeberghs, Ward. "Dynamiques dynastiques au Liban: transmettre le pouvoir politique en famille". *Critique Internationale*, 4, 73 (2016) p. 71-93.

[37]   During the 2016 municipal elections, more candidates were women than men. Women account for 53% of the voters in Lebanon.

[38]   Interview by the author with a political activist, Beirut, 14 June 2017. Another element is tied to class and income. Everyone who wants to be a candidate must pay $5,000. Women often find it more difficult to get support and pay this amount, especially because they are in a male family environment that does not see the need for a woman to make the effort.

[39]   Interview by the author with a representative of the Lebanese Forces, Beirut, 16 June 2017. As some interviewees have pointed out, there is also the problem of a male chauvinist political culture: often in parliament, in political parties etc., officials are not accustomed to dealing with a woman covering key positions, and women struggle daily to be accepted on their merits.

[40]   See Alami, Mona. "Parliamentary Presence Sticking Point for Lebanon's Women". *Al Monitor*, 19 March 2015. In: https://goo.gl/wJpvnW (accessed 31 October 2017).

commitment of the various political parties but also of civil society activists have been very strong in recent years[41] However, as some interviewees pointed out, women in politics often do not want to be identified as just women's rights paladins – they do not want to be ghettoised in that specific context.[42] This is the reason why, for example, female deputies or female members of political parties do not specifically insist on/fight in favour of promoting women's rights.

Therefore, family ties and the pervasiveness of blood bonds are important not only because they allow large families to accumulate political capital to fuel clientelistic networks but, above all, because these ties strengthen the patriarchal system. The patriarchal system is pervasive and is very difficult to escape. In addition, the patriarchal system is often fuelled and sustained by state norms. Among the Lebanese, there is the feeling that, in order to be protected, it is necessary to remain within the (political and religious) community but also close to their own family. As a result, to go against such institutions and the rules they impose has a boomerang effect, especially for women. An interesting example is the family registration number, which is one of the primary forms of identification for a Lebanese citizen: This number, present in public/civil registers, is shared by members of the same family through the male line. In this system, women do not have autonomy: They are added to their spouse's registration number when they marry and revert to their father's number if they divorce. In such a system, women are strongly discriminated against: trying to get rid of the patriarchal system, they risk being banned from their community, which results in them remaining without protection and rights. In a society where community affiliation and family ties often count more than state membership, this marginalisation is a very serious problem, a social stigma.[43]

This family/patriarchal/religious system is transversal to the 18 communities, and family and patriarchal bonds unite them in the struggle to maintain the status quo necessary to protect their prerogatives.[44] The profound interweaving of political consociativism, confessionalism and social patriarchy represents a ubiquitous and very difficult barrier to overcome, particularly for women.

4. Women's Rights in the Shadow of a Penetrated Society

At this point, in order to better understand the deep interweaving that we have described and its repercussions on women and their rights, it is necessary to consider a few examples. If, in fact, the Lebanese constitution guarantees the equality of all of the country's citizens, it is in the specific rules of the communities and in some state laws that the major forms of discrimination take place.[45] We will focus on two cases in particular: rules pertaining to the acquisition of citizenship and those concerning marriage/divorce.

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[41]   Interviews by the author conducted in Beirut in May and June 2017 with various women members of Christian and Muslim political parties; interview with a representative of the Municipality of Sinn al-Fīl, Sinn al-Fīl, 20 June 2017.

[42]   Interview by the author a representative of the Katā'ib Party, Beirut, 17 June 2017; interview by the author with Lebanese leftist activist, Beirut, 14 June 2017.

[43]   Interviews, May–June 2017.

[44]   See Joseph, Suad. "Descent of the Nation: Kinship and Citizenship in Lebanon". *Citizenship Studies* 3, 3 (1999), p. 295-318, p. 299.

[45]   Lebanon has signed the main international conventions on gender equality, including, in 1996, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Working groups have been monitoring the adaptation of the state's rules to international conventions, and a number of NGOs work on raising awareness not only of the population but also of the judges and the judicial

An important point of discrimination for women is the transmission of citizenship. Article 6 of the Lebanese constitution states: "Lebanese nationality and the manner in which it is acquired, retained and lost shall be determined according to the law." National law assumes the transmission of citizenship according to the patrilineal principle: Whosoever is born to a Lebanese father is automatically considered Lebanese.[46] As highlighted by Joseph, this law has fuelled the patriarchal and family system described above and created a series of serious problems and discrimination for women.[47] According to the Act on the Transmission of Citizenship, Lebanese mothers cannot pass on their nationality to their children, while foreign women married to Lebanese spouses can obtain Lebanese nationality and can pass it on to their children from a previous marriage. Therefore, the Lebanese woman has even fewer rights than a foreign woman who marries a Lebanese man. For these reasons, Lebanese civil society has adhered to "Claiming Equal Citizenship: The Campaign for Arab Women's Right to Nationality", which lobbies for the recognition of maternal *ius sanguinis*.[48] In addition, Lebanese women are subjected to further discrimination. According to the family number registration, when a child is born, it is placed in the family of the father, not of the mother, where it will remain for life. Therefore, if blood ties matter, it is the male ones that carry identities. In 2013, for example, a bill aimed at reforming the Law on Citizenship was rejected with the argument that if the norms of citizenship were changed in favour of Lebanese women, the marriage of Lebanese women with Palestinian refugees and the possibility to pass the Lebanese nationality to children born inside this union could affect the demographic balance between Christians and Muslims in favour of the latter.[49] It is interesting to note that communitarian and confessional arguments to continue the discrimination against women were also been supported by Sunni Muslim groups, which, in principle, would have been favoured by the law: the bill was rejected unanimously by members of the ministerial committee tasked with studying it, which was composed proportionally of members of all communities.[50]

[ ] system more broadly. See Committee on the Elimination of Discrimination against Women. *Consideration Of Reports Submitted by States Parties under Article 18 of the Convention Fourth and Fifth Periodic Reports of States Parties due in 2014. Lebanon*. UN Document CEDAW/C/LBN/4-5. In: http://nclw.org.lb/wp-content/uploads/2017/10/CEDAW-Fourth-and-Fifth-Periodic-Report-Lebanon.pdf, PDF file (accessed 16 March 2018)

[46] The Lebanese Nationality law is regulated by Decree No. 15 on Lebanese Nationality of 19 January 1925. The law follows the principle of *ius sanguinis* and not of *ius soli*. Very little progress has been made since 1925. See el-Khoury, Melkar; Jaulin, Thibaut. *Country Report: Lebanon*. Fiesole (FI), European University Institute, 2012. In: http://eudo-citizenship.eu/admin/?p=file&appl=countryProfiles&f=Lebanon.pdf, PDF file (accessed 30 October 2017).

[47] See Joseph. "Descent of the Nation". Many Lebanese women are often unaware of the norms, and they understand the problems that the norms generate only when they touch their children. See Chamoun, Christine. "The Lebanese Nationality Law that Leaves Children Stateless". *Open Society Foundation*, 11 January 2017. In: https://goo.gl/CfrQ1V and Mandour, Sahar. "To Be the Daughter of a Lebanese Woman". Heinrich Böll Stiftung-Middle East, 10 February 2016. In: https://goo.gl/Xm1o6B (both accessed 30 October 2017).

[48] See Women Learning Partnership for Rights, Development and Peace. "Claiming Equal Citizenship: The Campaign for Arab Women's Right to Nationality". 10 March 2006. In: https://goo.gl/YzE4J7 (accessed 13 October 2017).

[49] See Alabaster, Olivia. "Activist: Rejection of Nationality Law Sets Dangerous Precedent". *The Daily Star*, 16 January 2013. In: https://goo.gl/Uq9qn1 (accessed 25 October 2017).

[50] See Moufarrege, Joumana; Karam, Fadi. "What is this "Higher Interest" that Prevents a Mother Passing her Nationality to her Children?" Heinrich Böll Stiftung-Middle East, 24 April 2013. In: https://goo.gl/V6eDQf (accessed 30 October 2017), and Meier, Daniel. "Matrimonial Strategies and Identity Relations between Palestinian Refugees and Lebanese after the Lebanese Civil War". *Journal of Refugee Studies*, 23, 2 (2010), p. 111-133.

Legislation on the transmission of citizenship is closely related to the second aspect that we referred to in the opening, namely regulation by religious courts of the rules concerning the personal status code. In this field, women are particularly affected by the rules of marriage, divorce, alimony and child custody. Because religious leaders consider such areas to be "sensitive", they have pushed the members of their community into intra-community marriages because in such marriages the transmission of citizenship, as well as membership and the management of inheritance-related practices, is easier to control.[51] Obviously, norms are different from one community to another. While in the Catholic arena divorce is difficult to obtain because of the sacred and indissoluble character of the marriage bond, divorce is contemplated and regulated in all Sunni jurisprudence and among the Shiites.[52] With respect to inheritance, Sunni women have, in practice, not been able to inherit from their fathers, while Christian women have.

Although there are no written rules in this regard, in mixed marriages women must follow the religion of the husband, and the community/confessional identity is transmitted to the children according to patrilineal and non-matrilineal lines. In Muslim communities where conversion is considered apostasy, in the case of mixed marriages, it is still the man of another confession who is asked to convert to Islam. In this way, in line with the patriarchal idea that a woman must follow patrilineal rules, the woman is not allowed to convert and thus is prevented from renouncing her patrilineal name.[53] The Catholic Church has accepted the possibility that believers marry a non-Christian, provided that the children who are born out of such a marriage are baptised and follow Christian rules.[54] In the case of divorce, however, while Christian women retain the right to alimony, their Muslim counterparts do not. But if a Muslim woman converts to another religion, or a non-Muslim marries a Muslim, she is denied child custody in the case of divorce in both Shiite and Sunni Islam.[55] Though different from community to community, similar rules favour patrilineal ties even when it comes to child custody, which creates abnormal situations in which the custody of children favours grandparents and aunts rather than mothers (for example, in the case of divorce). According to Muslim religious tribunals, in the case of divorce, Muslim women may take custody of their children in their first years of life before custody passes to their ex-husband and his family.[56] This is certainly a strong disincentive to divorce, even in those contexts, such as the Muslim ones, that easily allow it. Similarly, a Muslim woman who marries after a divorce loses custody of her children (at issue is the "false father" – the new husband – who would otherwise "contaminate" the patrilineality).[57]

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[51] See Joseph, Suad. "Working Class Women's Networks in a Sectarian State: A Political Paradox". *American Ethnologist*, 10, 1 (1983), p. 1-22.

[52] Saadeh, Sofia. "Basic Issues Concerning the Personal Status Laws in Lebanon". In: *Religion between Violence and Reconciliation*. Thomas Scheffler (ed.), Würzburg, Ergon Verlag, 2002, p. 449-456.

[53] See Joseph. "Descent of the Nation", p. 310.

[54] Kanafani-Zahar, Aida, "The Religion of the 'Other' as Bond: The Interreligious in Lebanon". In: *Religion between Violence and Reconciliation.* Thomas Scheffler (ed.). Würzburg: Ergon Verlag, 2002, p. 401-418.

[55] Farha, Mark. "Stumbling Blocks to the Secularization of Personal Status Law in the Lebanese Republic (1926-2013)". *Arab Law Quarterly*, 29 (2015), p. 31-55.

[56] After a long battle in 2011, the Sunni Supreme Council agreed to raise the age to 12 (the first was 6 for men and 9 for women). Activists demanded 13 and 15, but the result seems to be a success for an institution that had never before changed laws in favour of women's rights. See Dabbous, Dima. *Legal Reform and Women's Rights in Lebanese Personal Status Laws*, CMI Report, 2017. In: https://goo.gl/cv8FBy (accessed 23 October 2017).

[57] See Joseph, "Descent of the Nation", p. 310.

The differentiation of treatment according to the different communities has led not only to a stiffening of the rules of each community but also to an undeclared coalition between communities that share a common goal: the defence of the *status quo* – a *status quo* that is particularly profitable. One of the reasons that led to the rejection of Hrawi's civil marriage proposal in 1998 was that it would have affected the interests of religious communities. Both Christians and Muslims who officiate at a marriage receive more than $1,000 as an honorarium. Furthermore, the Sunni community, as a legacy of an Ottoman law, receives subsidies directly from the state, and the introduction of civil marriage could have altered this privilege. This would also explain why the Sunnis opposed the bill so firmly.[58]

5. Conclusions

Women in Lebanon are subject to double discrimination: the lack of a unified civil code does not allow for the equality of women's rights among women of different communities, and the absence of specific state laws to implement the constitutional dictates continues gender inequality. The first aspect is particularly significant: Lebanese women strive to fight for rights within their community but often find it difficult to undertake trans-communitarian actions. Members of the various associations working on women's rights protection and awareness campaigns often do not know each other. The same is true of "mental" communitarian barriers and geographic specialisation: As Melanie Cammett has demonstrated regarding the case of welfare provision in Lebanon, it is difficult to think and operate trans-confessionally, especially for those working in specific geographic contexts that are confessionally dominated. The confessional/communitarian system is a sort of cage where more progressive activists are sometimes constrained. This weakens and slows down women's demands, if it does not nullify them altogether.[59]

The lack of a unified civil code continues to be one of the crucial points from which to start building a series of law proposals for the protection of women's rights and their equality at the national level, independently of their religion. But the promulgation of laws in the direction of derogating Article 9 of the constitution could help. In the past 10 years, the work done by women's associations has been extensive and widespread and has touched the issue of personal rights, as well as issues related to women's political participation and political rights.[60] Business associations, NGOs and activist associations have been working hard to achieve these goals. In a system such as the one in Lebanon, where the spaces for manoeuvre are so narrow, it is very difficult to produce concrete results. However, it should be stressed that this is not only a Lebanese problem: patriarchal power management systems prevent women from participating fully in social and political processes at every latitude.

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[58] Farha. "Stumbling Blocks to the Secularization of Personal Status Law". Not only the draft law of 1998 but also the one from 2014 that had foreseen a form of compensation for religious courts.
[59] See. Civil Society Knowledge Center. "Gender Afterworks: The Long Road to Reforming Personal Status Laws in Lebanon". 3 October 2017. In: https://goo.gl/A5NXKQ (accessed 16 March 2018).
[60] In this regard, the debate around instituting a female quota is interesting. See Hussein, Walid. "The 'Female Quota' in Lebanon: A Temporary Solution to a Chronic Political Problem". Heinrich Böll Stiftung-Middle East, 17 February 2017, https://goo.gl/11mkTA (accessed 20 October 2017).