On the road to a civil code?

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Picture: Van den Ouweland, Guusje. Private property, taken January 6th, 2017, Beirut.

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The influence of women's rights movements on family law reform in Lebanon

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Abstract

This thesis researches the influence of women's rights movements on the reform of personal status laws in Lebanon, in particular which discourse strategies are used to influence reform. In the first chapter Lebanon's history and confessional political system is analyzed. The second chapter focusses on the Arab debate on PSL reform in several MENA countries. The third chapter on Lebanese PSL reform shows the two discourse strategies used by actors in the field; namely secular and religious. The last chapter uses the recent reforms on the Druze PSL in Lebanon as a case-study to show the discourse strategies of women's organizations.

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Acknowledgements

It feels surreal to finally type these words. This thesis is the result of quite some blood, sweat and tears. In 2017 I left the Netherlands for a short internship in Lebanon. I was working as a research assistant for Project RAWE (Raising Awareness for Women Empowerment). The country, the people, the food, the history, it all touched my soul and I felt like I wanted to write my thesis on the topic of personal status laws in Lebanon pretty soon after I returned. However, it took me months to figure out in which direction my thesis was going to go. And it took months to put the first words on paper. The process was a struggle, there were times that I was not sure whether I'd persevere. But I am glad I did, with the help of many supportive people.

First and foremost, I want to thank Karin van Nieuwkerk for supporting me, for the multiple meetings, deadlines and all the ways in which she tried to motivate me. I want to thank her for introducing me to Nadia Sonneveld who helped me tremendously. Her expertise on family law and her enthusiasm for the subject of my thesis were motivating. I could always send an email and even a text whenever I needed feedback or had a question. I want to thank Lieke de Jong, my student counselor, for informing about my progress, for reaching out to me, for asking for updates and for the motivating words.

I want to thank my parents and my sister for rooting for me, for accepting me when I felt sad or defeated. Thanks for all the cheers and hugs. Thank you to Max Stolk, you are an amazing friend and a great tutor. Thanks for the support and the constant belief. Thanks to my Lebanese friends and AIESEC AUB. I could always ask for your help and you used your network of friends to help me out. Thanks to all my dear friends from Oss and Nijmegen. Thanks to my girls from DJC Sitara who always believed in me. And lastly, I want to thank myself for pushing through, for not giving up, for always picking myself up, for believing in my own power. It was one of the hardest processes I've been through and I have learned a lot.

I dedicate my thesis to my dear grandma. I miss you, I love you and I wish you could have been there to see me succeed.

"Here's to strong women. May we know them. May we be them. May we raise them." – Unknown

Hereby I, Guusje van den Ouweland, declare and assure that I have composed the present thesis with the title 'On the Road to a Civil Code', independently, that I did not use any other sources or tools other than indicated and that I marked those parts of the text derived from the literal content or meaning of other Works – digital media included – by making them known as such by indicating their source(s).

Nijmegen, June 24th, 2019

Acronyms and Abbreviations

ADF – Arab Deterrent Force

AIESEC - Association Internationale des Étudiants en Sciences Économiques et Commerciales

AIW – Arab Institute for Women

ASI – Association for Social Initiative

CEDAW - Committee on the Elimination of Discrimination against Women

CLPS – Catholic Law of Personal Status

CRTD-A – Collective for Research and Training on Development – Action

CSO – Civil Society Organization

FLN – Front de Libération Nationale

IDF – Israeli Defense Force

KAFA – Enough Violence and Exploitation

LECORVAW – The Lebanese Council to Resist Violence Against Women

LF – Lebanese Front

LLWB - Lebanese League for Women in Business

LNM – Lebanese National Movement

Marsa – Sexual Health Centre

MENA - Middle East and North Africa

MOSAIC – Mena Organization for Services, Advocacy, Integration & Capacity Building

NGO – Non-Governmental Organization

OLFR – Ottoman Law of Family Relations

PSC – Personal Status Code

PLO – Palestinian Liberation Organization

PSLs – Personal Status Laws

PSP - Progressive Socialist Party

PPS - Parti Populaire Syrian

SCFA – Syrian Commission for Family Affairs

SLA – South Lebanon Army

SLPS – Syrian Law of Personal Status

VAW – Violence Against Women

Arabic

Ajaweed – The religiously educated leaders within the Druze faith who have access to the holy books.

Dhimmi – Non-Muslims citizens who are allowed to follow their faith within an Islamic society.

Fiqh – Islamic jurisprudence.

Ijtihad – Independent and/or original reasoning of the Quran and other holy scriptures with regards to the Islamic law.

Iqta – An Islamic practice of collecting taxes, in this thesis referring to the practices in Mount Lebanon, where feudal lords collected taxes for their Ottoman ruler.

Jismani – The ignorant, the unknowing members of the Druze faith who do not have access to the holy books.

Khul – When the wife initiates a divorce, instead of the husband, by returning her dowry.

Mahr – Dowry.

Millet – Referring to a religious community in the Ottoman Empire, where several *millets* existed, with the Muslim Millet being the biggest one.

Mutassarif – Governor appointed by the Ottoman Empire, to rule over a province.

Muwahhideen – Monotheists, the name the Druze use to refer to themselves as a religious group.

Qadi – Judge of a *sharia* court.

Raya – Flock or herd, referring to non-Muslims members of society, similar to *dhimmi.*

Sharia – Often referred to as Islamic law or 'the Law of God'.

Talaq – When a husband uses this word, he can repudiate his marriage and divorce his wife.

Tanzimat – Period of reform in the last decades of the Ottoman Empire.

Tawheed – Unity, oneness of God.

Ulama – Islamic religious scholars/clergy.

1. Introduction

My thesis provides insight into how organizations are trying to improve women's rights in Lebanon. Women in the Middle East and Lebanon are strong and independent women, educated and smart, who also struggle with religious personal status laws that do not promote gender equality in society. I want to investigate if personal status law change is happening and in what way it is happening. By asking '**What discourse strategies do women's rights organizations in Lebanon use when trying to reform the personal status laws?'** I investigate which discourse these organizations use in a bid to try to influence the laws. I show that some organizations will opt for a more radical secular approach whereas others fight for change from within the religious laws.

In presenting new insights into the development of the approach of women's rights organizations towards the personal status laws in Lebanon, my thesis makes an academic contribution to the scholarly field of family law studies in the MENA region. While all family laws in this region are religion-based, almost all existing academic studies focus on Sunni Muslim family law. It is true that most people in this region are Sunni Muslims, but there are also significant Muslim-minorities (e.g. Shia, Druze, Alawite) and non-Muslim communities living in this region, which hardly receive any academic attention. However, if we want to arrive at a balanced understanding of the impact of religion-based laws on the most private aspects of an individual's life –marriage, child custody, divorce, death—we should also study the gendered impact of religious laws in the lives of non-Muslim and Muslim-minority populations. Being the most multi-religious country of the MENA, Lebanon forms an excellent case study.

Lebanon was a country unknown to me before I set foot there for the first time in January 2017. I applied for a two-month internship with AIESEC (Association Internationale des Étudiants en Sciences Économiques et Commerciales) at the American University of Beirut. The goal of this internship was to gain an insight into women's rights in Lebanon and to raise awareness for these rights. We as interns were responsible for street interviews, questionnaires and meetings with NGO's during these two months.

I knew that Lebanon had been through a major civil war some decades ago, but I also knew, from hearsay, that Beirut had been named the 'Paris of the East'. The people were educated, westernized but at the same time multi-religious and multi-ethnic. The country had been sucked into regional conflict time after time but also faced its own dark sides when the Civil

War broke out. There was a dichotomy in the way Lebanon was shaped in my head. Beautiful and intriguing, yet chaotic and difficult.

After some weeks, many interviews and many more bus rides into the country, it turned out that Lebanon was indeed complicated. History, religion, colonialism, feminism, conflict; it all heavily influenced the status of Lebanese women. Through my internship I learned what personal status laws (PSLs) were and I discovered that many problems that women face rooted in these PSLs and that many organizations and individuals were trying to raise awareness not just for the injustice of them, but also to abolish or amend them. The PSLs seemed to be the reason why women in Lebanon still experience violence within their marriage, why child marriage was legally accepted and why women have little rights when it comes to divorce and custody cases.

Three documentaries opened my eyes even further regarding the PSLs in Lebanon. The first is 'Against Me' by KAFA (Enough Violence and Exploitation).[1] The documentary shows seven women from several religious sects, Muslim, Druze and Christian, who have been negatively influenced by the discriminatory PSLs. Hence the title of the documentary; the women feel like the PSLs are against them, like the law is against them, in control of their fate and discriminating against their human rights. The second; 'Divorce in Lebanon' by Al Jazeera World[2] has a similar approach; it shows five women from various religious sects who married in a religious court, filed for divorce because of several reasons and had to go through a long process before being a divorcee. An interesting addition is the fact that four religious' leaders from the major religious courts are also interviewed which gives the documentary a theological line of reasoning, whether you disagree with them or not. The last documentary is 'Feminism Inshallah'[3]. The documentary sheds light on the development of feminism and activism on women's rights in the Middle East and North Africa region.

The documentaries impressed me because they showed the pain women go through in dealing with discriminatory personal status laws. It also showed how the rules and regulations supported by the clergy did not work to the advantage of women and their human rights in practice. In the documentaries, the equality and rights of women, which were expressed by the

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[1] The documentary was uploaded on YouTube with English subtitles on the 22nd of May 2018. The documentary is directed by journalist
Diana Moukalled. https://www.youtube.com/watch?v=NgEN1zgnpdw&t=2s
[2] The documentary was uploaded on YouTube with English subtitles on the 29th of January 2017. The documentary was published on the Al Jazeera English account and created by Rebicca Bitar and Adam Bahgat. https://www.youtube.com/watch?v=ON1WQuxr5VY
[3] The documentary was uploaded on YouTube on the 7th of April 2019. The documentary was created by Feriel Ben Mahmoud. https://www.youtube.com/watch?v=BuqoLyO3ZeA

religious leaders, rarely turned out to be supported by religious courts and their judges. However, the very fact that these documentaries are being made nowadays shows that these religious PSLs are being challenged by society, by organizations and by women themselves.

1.1 The personal status laws

The subject of religion, law and activism is very relevant and current because change is happening right now. Especially after the Civil War that lasted until approximately 1990, organizations that promoted women's rights and equality took the stage. Since then, and especially with the rise of global internet and social-media, activism against the PSLs has taken on bigger forms than ever in the shape of campaigns and online action.[45] In 2017 several discriminatory laws were dropped due to pressure from civil society. For example, the so-called 'rape law', Article 522 of the Penal Code, was abolished after a huge (online) campaign which was started by Ab'aad, an NGO that fights for better rights for women (Domat, 2016). Although not being a law within the PSLs, Article 522 was an example of the traditional and patriarchal law apparatus of which the PSLs are a part.

Amending the PSLs does, however, mean more than just more equal laws. The personal status laws are religious laws that are intrinsically connected with the 18 religious sects and 15 religious courts that reside in Lebanon. Sectarianism, or as Suad Joseph (2011, 150) calls it; 'political familism', is at the core of Lebanese society. It determines how politics is formed, how certain groups refer to each other and how women are living their life. It will therefore not be a minor change or easy thing to tackle the PSLs. They are shaping, and have always shaped, Lebanese society.

The title '**On the road to a civil code'** refers to what could be a solution for the poor situation of women and their rights. Lebanon has no civil law when it comes to family laws regarding marriage, divorce, custody, etc. These laws are all determined by religious courts which execute their own PSL based on their specific religious laws. Many (wo)men, organizations and NGO's therefore are demanding a civil code or civil law so that equality can be gained in society.

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[4] KAFA annual report from 2015 stating that they have opened the debate on the PSL around 2011 and have been campaigning ever since. 'Legally Bride' against child marriage was one of many. http://www.kafa.org.lb/StudiesPublicationPDF/PRpdf-92-635930575034471502.pdf

[5] Abaad annual report from 2016 stating their activity in the national Lebanese policy reform with campaigns against for instance Article 522 (marrying your rapist). http://www.abaadmena.org/documents/ebook.1515486417.pdf

In this thesis, my aim is to study if society is moving towards a civil code or if this is a yet impossible task. Relatedly, I ask which discourse reformers resort to when they demand reform. Do feminist NGO's work from within a religious framework? Or do they use a religious discourse to legitimize their secular agenda?

It would be a major task to address all 15 personal status laws. That is why I will focus on the personal status law from the Druze community in the last chapter. Most literature on PSLs focusses on Sunni PSL and sometimes Christian PSL. Little is known about the Druze PSL due to the fact that the Druze are a rather secluded religious group. They believe in the reincarnation of their group members, which makes it impossible for people to convert into Druzism (Tarabey, 2013, 122).

In studying Druze family law, I will highlight three topics, namely marriage, divorce and child custody due to the recent amendments that have been made to the Druze PSL in Lebanon. In 2017 several articles of the 1948 Druze PSL were amended, one of which was a raise on the child custody age (Obeid, 2017).

Women who marry in Lebanon have to do so preferably within their religious community and before the religious law. Women have the option of divorce if a marriage proves to be unsuccessful due to, for instance, an abusive husband, violence or an incompatible match. However, gaining an actual divorce proves to be a very hard thing to accomplish. Women do not enjoy equal rights when it comes to divorce in many PSLs. Divorce brings a lot of hardship and often endangers the right for women to have custody over their children. Women therefore often choose to remain within abusive and violent marriages (Chrafeddine, 2013). Moreover, a lot of women are unaware of their rights regarding divorce (Falah, 2016, 203).

In focusing on the Druze PSL, specifically the topics of marriage, divorce and child custody, I contribute to the already existing literature that focusses mostly on the Lebanese Sunni and Ja'afari court, due to the fact that the Lebanese state only has a presence in the highest courts of the three biggest Muslim courts in the shape of a civil judge, to check whether rulings are in accordance with the Lebanese law. In all other courts, the state has no authority (Di Ricco, 2016, 32).

1.2 A focus on Lebanese organizations

In my thesis, I will focus on organizations in Lebanon that raise awareness for women's rights and who want to reform the PSLs. During my fieldwork in Lebanon, I came across several NGO's, most notably the seculars organizations KAFA and Ab'aad, which will be the focus of my analysis, but I will explore the goals and strategies of others as well.

KAFA and Ab'aad are organizations that are part of a new wave of activism in Lebanon, which started after the Civil War of 1975-1990. I will analyze the development of the women's rights movement in Lebanon and show how their activism has changed over the years. The debate on the PSLs has shifted over time due to the framework it operated in such as the French Mandate, the Civil War and the digital era. Activism developed itself from charitable organizations, which provided financial aid and first needs, to advocacy organizations, which fight for the rights of women in the family and in society at large. Importantly, there was also a development in strategies and the use of certain discourses. Some organizations started using a radical secular discourse while others worked from within a religious discourse to advocate for change (Clark & Salloukh, 2013, 743; Dabbous, 2017)

1.3 Structure of the thesis

The first chapter will give a background to the country in which the story of my thesis unfolds. Lebanon, with its turbulent history, has known many events in the last century that have affected Lebanon as we know it today. I will start with the period after the final collapse of the Ottoman Empire in 1918. The following influence of the colonial powers on the newly founded nations also had its impact on feminism in the MENA region. Throughout the chapter, I will refer to developments in the field of feminism and women's rights in Lebanon.

While many events happened, it should be noted that there was one thing that did not change: their religion-based character. I will then move on to the period following independence in 1943 and sectarian sentiments that eventually lead up to the Civil War of 1975, which lasted until 1990 approximately. Lastly, a short description of current political events will set the stage for current women's rights movements and their activism.

The second chapter will focus on the debate on the PSLs in the Arab world. The PSLs are not just relevant for Lebanese women, these religion-based laws have been in existence for a

long time and every country in the Middle East has been dealing with them in different ways. Over the last decades, many states have codified family law, often Sunni, or implemented amendments to improve the position of women (Welchman 2007, 11-18).

The third chapter focusses on the debate on women's rights within Lebanon. As mentioned before, there are 15 different PSLs and 18 recognized religious denominations in Lebanon. This religious pluralism creates many difficulties for women, and it makes it hard to reform them because there are so many. I will show whether organizations have taken a secular or religious road in their attempt to write draft laws or amendments to the PSLs and to what kind of change that has led.

The fourth chapter will focus on the Druze community and their PSL in Lebanon. There is not much literature on the Druze, let alone the Druze PSL in Lebanon, hence the relevance of this thesis to the existing literature. Recently, amendments have been made to the 1948 Druze PSL in the field of child custody, and it will be interesting to see how these reforms have been influenced and through which discourse this happened. Since there is more literature on the Druze community in Israel, I will also take this into account. It might be possible that a parallel can be drawn between the communities or that the Israeli case can serve as a future example for Druze women's rights movements in Lebanon.

In my conclusion, I give an answer to my main question as to which discourse strategies women's rights organizations in Lebanon have used in trying to influence PSL reform, with special attention to the Druze PSL.

2. Lebanon – history of a nation

To answer the question as to whether there is a possibility that reform in the field of religious family law will lead to the introduction of a civil law regulating family affairs, one can be quite straightforward; it will prove to be very hard. The chances of gaining civil law in Lebanon, but also in the other MENA countries, are small.

This obviously raises a new question; Why does it prove so hard for a country like Lebanon to reform or abolish religious family law? The answer to this question can be found in Lebanon's rather complicated past and state formation. The country has always been multi-confessional, non-homogenous and power was always divided between different ethnicities, religions or nationalities. One must also note that Lebanon's past is heavily influenced by foreign intervention, conflict and colonialism. I will trace Lebanese history along political, religious, colonial and feminist lines, in order to understand the makeup of today's system and its eventual influence on family law.

2.1 Introduction to Lebanon

Lebanon is one of the smallest nations in the Middle East; 210 kilometers in length and at its narrowest point only 30 kilometers wide. With fertile land on the Mediterranean west coast and the snowy mountain peaks of Mount Lebanon and the Anti-Lebanon mountains in the east, the name itself, meaning 'milky-white', refers to these mountains (Cobban, 1985, 9). Lebanon is known for these mountainous areas, which proved to be safe havens for minority groups and refugees, although conflict was unavoidably apparent in the mountains as well (Hitti, 1957; Salibi, 1988, 139-149)

In the earliest of years, Lebanon was inhabited by the Canaanites, also known as the Phoenicians. These merchants, who traded all around the Mediterranean Sea, settled in city states along the Lebanese coast (Hitti, 1957, 67-91; Salibi, 1988, 4-10; Markoe, 2000, 10). Through these merchants, and later interest from the Romans and French colonizers, the focus of Lebanon has always been dual; West and East. This mix of Eastern and Western culture is inherent to a country like Lebanon where 18 religious sects, and 15 religious courts, are recognized among its now more than 6 million inhabitants (De Bel Air, 2017, 1). The Lebanese are thus not only Lebanese citizens, but also identify with their own denomination.

Christianity was one of the first religions to reach the Great-Syrian, and thus Lebanese, area. But Christians were not always tolerated and even persecuted (Salibi, 1988, 6). In the 7th century a new religion found its way into the Middle East; Islam. The Umayyad rulers who practiced Islam, gave Christians the option of becoming *dhimmis*; protected people under Islamic rule. Not all rulers were tolerant towards the Christians. The Umayyad caliph Umar ibn-Abd-al-Aziz imposed discriminatory measures onto the Christian *dhimmis*. They were forbidden to take positions in public office, they had to wear certain clothes and were forbidden to erect new churches. The actions meant an exodus from Lebanon (Hitti, 1957, 244-280; Salibi, 1988, 7-10).

Lastly two other groups arrived; the Christian Maronites, who moved mostly north, and the Druze, who spread out through the mountains and the south. The Druze are a religious group, often linked to Islam, but with mystic influences, that originated in Egypt in the 11th century. They believe in reincarnation of their group members and thus are a tightknit ethnic group. The Druze PSL and recent reforms on the child custody age in Lebanon will serve as a case-study in the last chapter (Azzam, 2007; Tarabey, 2013, 122).

At the end of the 11th century, crusaders started to arrive from the West, supported by the Byzantine Empire. With this military influx also came cultural and religious influence in the shape of Christian missionaries who set up schools (Hitti, 1957, 322). In 1100 the Latin Kingdom of Jerusalem commenced and soon after, coastal cities like Tripoli were taken under siege (Hitti, 1957, 281-309; Salibi, 1988, 4-10). It was eventually Salah-al-Din who defeated the Frankish army in 1187. He proceeded to march towards Lebanon and forced the taken cities to surrender. In 1192 a peace treaty was signed, but in the years after the death of Salah-al-Din, crusaders came in again and cities were divided. However, when the Byzantine Empire declined, their enemy, the Turks, could no longer be held back. A new group entered the stage; the Ottomans (Hitti, 1957, 363).

2.2 Lebanon and the Ottoman Empire

Within a few years almost the entire MENA region was in the hands of the Ottomans. They absorbed Islam and its culture and held on to the Arabic script and political structures as they had always been in the Byzantine Empire. They intermarried with their subjects which had an influence on the ethnic diversity in the empire. Greeks, Armenians, Christians but also Arab Muslims were considered *raya*, meaning flock or herd (Hitti, 1957, 360), and were not allowed to

apply for high government offices. *Raya* were divided into millets, religious communities, according to their religious affiliation.

The Ottoman Empire was therefore multi-religious, with each millet having its own jurisdiction and court (Hitti, 1957, 148). Family relations specifically were administered and regulated within these millets. None of the laws though, were truly collected and codified until 1917 when the Ottomans introduced the OLFR (Ottoman Law of Family Relations) (Van Eijk, 2016, 24; Welchman, 2007, 19-32). The OLFR was a family law based on the Sunni, Hanafi school of law, with influences from other schools of Islamic jurisprudence (*fiqh*). The Ottomans were the first to create a separate codified space for family relations within the law.

Lebanon at that time, was ruled by feudal lords who were responsible for the Lebanese territory of the Ottoman Empire. The Ottoman administration was not effective in rural areas; hence the lords were in charge of collecting taxes. Hamzeh (2001, 168-169), describes this system as *'iqta'* a political system in which feudal families operate autonomously. They serve an emir, who himself is loyal to the Ottoman Sultan. This political structure, where personal loyalty is extremely important, allowed emir Bashir II from the Maronite Shehab tribe to gain enormous power over Mount Lebanon (Harris, 2012, 104-167). Mount Lebanon, with Maronite and Druze inhabitants, soon became the fertile soil for religious conflict that influences Lebanese history up until today.

2.3 The Maronite and Druze conflict

The Druze, who were numerically more dominant in the area of Mount Lebanon, did not profit from Bashir II's Maronite reign which caused tensions between the Druze and the Maronite inhabitants. It must be noted that the Shehab tribe was not originally Maronite; they converted from Sunni Islam to Christianity during the reign of Bashir II's predecessor Yusuf Shehab (1770-1789) and worked with the (French) Catholic church, which also heightened tensions with their Druze neighbors (Masters, 2013, 130-156). The Druze in return allied with Britain and allowed Protestant missionaries into Mount Lebanon in the years before conflict in 1845 and 1860 broke out (Salibi, 1988, 149-163)

After Bashir II, Bashir III became emir of Mount Lebanon in 1840. That same year things drastically changed. Tensions between the Druze and Maronites arose again and the Ottoman sultan took away the power of Bashir III. The Ottomans tried to impose direct rule to calm the

situation down. In 1842 Umar Pasha al-Namsawi, was sent to bring back peace between the Christians and the Druze. He decided, under influence of the European powers, to divide the mountain into a northern Christian part and a southern Druze part. This solution heightened the tension even more since there was a mixture of Christians and Druze living in the two districts.

Tension burst out in 1845 and again, the Ottoman empire tried to solve the conflict. The Christians were disorganized while the Druze now also had support of the Turks and other Muslims. In 1860 more than sixty Christian villages were burned down within a few weeks. Now the European powers started to intervene. A commission of France, Britain, Prussia, Austria and Russia, signed an agreement in 1861. The agreement stated that Lebanon was to be autonomous, ruled by a Christian governor, *mutassarif*, who was advised by twelve representatives of the religious sects. The selection of a Christian governor did not contribute to a better relation between the Druze and Maronite sect (Longva, 2011, 51-56, Hitti, 1957, 433-441).

2.4 Foreign intervention and the creation of a nation

The end of the 19th century meant the decline of a great empire and increasing Western influence and dominance. The Ottoman Empire was viewed as the 'sick man of Europe'. The Ottomans tried to modernize by introducing the printing press, modern weaponry and other constructions like railways (Kamrava, 2013, 35-53). This era of the *tanzimat* (reform) was a last attempt at gaining back the golden days of the empire (Longva, 2011, 51).

Lebanese society changed in many ways with the arrival of foreign powers who influenced the educational system and lifestyle of the Lebanese. Thoughts on modern nationalism, being a secular, western movement favored by the Christian Maronites, clashed with the general Muslim community who held on to Arab nationalism and unity (Hitti, 1965, 412-432; Salibi, 1988, 20-53).

In 1914 the Ottoman Empire joined Germany in the First World War. When the Ottoman government disposed the empire of its Armenian population, many fled to Lebanon. The Arab Revolt of 1916 led to the imposing of Turkish direct rule in Lebanon. Leaders with a pro-Western view who had been in contact with foreign or French influencers were killed. Many fled the country and Lebanon lost one fourth of its population when a famine struck the country (Hitti, 1957, 486; Harris, 2012, 147-192).

The end of the First World War also meant the end of the Ottoman Empire. The San Remo Conference of 1920, led by the allied forces, decided upon the division of the Ottoman territories. This conference was based on the 1916 Sykes-Picot agreement between Britain and

France, a secret deal that had been made years prior to the end of the war to safeguard the area. The mandates were confirmed by the League of Nations in 1922. France was given the mandate over Syria and Lebanon; Great Britain oversaw Palestine and Iraq. While Syria resisted the mandate, Lebanon, especially the Maronites, favored the French influence (Hitti, 1957, 321; Salibi, 1988, 20-53)

It is in these colonial times that the issue of a Lebanese identity takes form. The Maronites insisted on developing a Greater Lebanon under French indirect rule. To create a Greater Lebanon, the Beqaa Valley and the coastal plains were added to the Beirut area and Mount Lebanon. This brought the country into a precarious situation; the Maronites, who had been the biggest denomination, now found themselves outnumbered by Muslims who were not that keen on Western, French rule. As Hitti observes: … *'The country gained in area but lost in cohesion'…* (Hitti, 1957, 490, see also Salibi, 1988, 19). The Maronites were advised by the French to reduce the territory to legitimize their Christian rule. But this did not happen, and the political use of statistics, the 1932 Census discussed below, was used to exclude the Muslims from citizenship (Maktabi, 2000, 158-161).

On May 23rd, 1926 Lebanon declared itself a republic with a constitution, an elective president and an elective parliament. The constitution was heavily based on the French one but with a big difference; article 95 pleaded for the balance of sectarian representation. This meant that sectarian pluralism became institutionalized (Joseph, 2011, 154). The republic was home to several religious and ethnic groups of which 18 sects were constitutionally recognized. It was therefore decided that parliamentary membership was based on the numerical strength of the religious constitutions (Hitti, 1957, 220; Maktabi, 2000, 146). A census was carried out in 1932 to determine the numerical strength which, until this day, has influenced Lebanese politics. There has not been a new census ever since, while Lebanese society has changed in size and composition drastically, especially with the arrival of Palestinian forced migrants in 1948 and 1967 and Syrian forced migrants in 2011.

The 1932 census showed that Maronites were a majority and for that reason they were given the most important positions in politics and the army (Hitti, 1957, 219-221; Maktabi, 2000, 161-162). The outcome of the census showed a split in society. The Maronites favoring the Western, less traditional lifestyle, tried creating a new nationality best described as Lebanism (Salibi, 1988, 37). The Muslim community, especially now they turned out to be

outnumbered by the Maronites, turned towards the other Arab countries, opting for Arab nationalism and unity (Harris, 2012, 178-192).

The census of 1932 was implemented in the 1943 National Pact, an unwritten agreement, that was approved by al-Khuri and al-Sulh, the Maronite president and Sunni prime-minister of that time, respectively (Collelo, 1987, 15-20). The pact consisted of some main principles. Lebanon was an independent state and therefore the Maronites had to take a distance from the West and the Muslims had to take a distance from other Arab states. However, taking a distance did not mean cutting of all ties with the West. Lebanon had many important historic ties with the West that had shaped the nation intellectually and culturally. Furthermore, Lebanon had to cooperate with other Arab neighboring states and not take sides in case of conflict. Lastly public offices had to be distributed equally among the religious groups as their numeric strength had shown in the census. It was decided that the president of the country was to be a Maronite Catholic, the prime minister a Sunni Muslim and the speaker of the house a Shiite Muslim. The ratio of deputies in parliament was to be six Christians to five Muslims (Collelo, 1987, 15-20; Binder, 1966; Harris, 2012, 178-192).

2.5 Sectarianism and/or political familism

According to Joseph (2011, 157), it was often thought that sectarianism in Lebanon, the division of society in ethnic and religious sects, was at the basis of the instability the country went through in the last quarter of the twentieth century. She argues that it is not sectarianism but rather 'political familism' that has always influenced Lebanese society. It is the idea that family is what people are loyal to, rather than being loyal to the Lebanese state, since the state does not provide them with the rights they need.

The state itself declared the recognition of 18 religious sects and with that, enforced them by giving these sects power in the shape of family law. Religious leaders and institutions reinforce this political familism. It is at the core of Lebanese society. Leaders mobilize a following of people who are related though kin, tribe, religion or ethnicity, and even when allegiances of leaders shift, people remain loyal to them. Because loyalty to kin provides people with more safety and security than being loyal to a state that does not provide their rights as citizens (Joseph, 2011, 159).

History clearly has shown how Lebanon has struggled with this political familism. Since the family itself was also a political institution with a lot of power in politics it posed governments with great struggles. And it is no surprise that people turned towards their families and leaders in times when the Lebanese state seemed to fail and fall apart.

2.6 Lebanon as a new independent state

In the first years of independence, Lebanon struggled with the colonial influence of France, which was not ready to give up its power yet. In 1943, Maronite al-Khuri became president of Lebanon and his parliament took on a drastic new route, trying to get rid of anything that referred to the French rule of the years before. The French protested this new allegiance but in 1946 all French and foreign troops had left Lebanon (Salibi 1988, 169; Hitti, 1957, 496; Cobban, 1985. 77; Harris, 2012, 193-202).

With the French leaving, Lebanon entered unknown territory. Unifying the population and creating stability, within such a diverse country, was what the political figures were looking for. But each group also still had their own preferences of what Lebanon was supposed to look like.

Maronites felt a strong connection with the French, western way of living. Muslims, whether Sunni, Shia of Druze felt more connected with the rest of the Arab world and therefore rallied for Arab nationalism or Arabism (Maktabi, 2000). On top of that, the country was, by constitution, divided into ethnic and/or religious minorities. Power was divided along sectarian lines, so it was not always in the interest of certain groups, to give up that power.

This division along sectarian lines can also be seen within the women's movement. First generation feminists focused on charity work, and the improvement of the status of women in society, often from within their own religious sects. They were elitist women and men who were highly educated. Their biggest claim was gaining the right to vote and to participate in politics.

According to Di Ricco women's organizations often remained within their own spheres and denominations because it was already hard to rally for change within a group, let alone on a national level (Di Ricco, 2016). But women's associations, one Sunni, one Christian, did unite in 1952, becoming the Lebanese Council of Women. They did so after demonstrations against the first electoral law of 1951, which denied the participation of women in politics (Civil Society Review, 2015, 65) After the merge, women gained the right to vote. It is remarkable that

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confessional organizations unified in a time where division along sectarian lines was common. But in order to participate in a debate on improving women's rights, they had to gather their strengths and step aside possible confessional differences (Daou, 2015; Encyclopedia, June 11th, 2019; Stephan, 2012, 111-132; Hijab, 1988).

In 1948 the state of Israel was declared, and Lebanon was faced with an influx of Palestinian refugees. These refugees, mostly Muslim, did not receive, and have never received, Lebanese citizenship (in contrast to their Christian counterparts), as it would affect the numeric strength of the Muslim community and therefore break the fragile political balance in the country just created (Harris, 2012, 202; Hitti, 1957; Salibi, 1988, 185).

In 1949, a coup against al-Khuri was staged by the PPS (Parti Populaire Syrian, a pro-Syrian and Arab party), and Lebanon's prime-minister, the Sunnite al-Sulh, was killed in 1951. Al Khuri resigned, and Maronite Shamun became the new president in 1952. Instead of bonding with the Arab nations Shamun focused on the West. The fact that he did not break ties with the foreign powers led to unrest in Lebanon. The internal crisis of 1958 almost led to a civil war and was therefore one of the first signs that Lebanon was a nation in which every sect had different priorities and wishes (Harris, 2012, 210-212; Hitti, 1965; Salibi, 1988, 187-195).

Shamun was removed from power and in 1958, Maronite Shihab became the new president of Lebanon. He was the former commander of the Lebanese Armed Forces who had opposed Shamun when he had called in for the help of the U.S. The Shihab era was one of stability, luxury and progress. During these years Lebanon was often referred to as the 'Switzerland of the East' and Beirut 'Paris of the Middle East'. The government ... 'tried to fulfill its social functions'... (Daou, 2015, 8) and especially women's associations were of use to help solve the social dilemma's. They helped in the most 'disadvantaged areas', who were affected by the 1958 internal crisis. Great social and economic problems were a catalyst for sectarian unrest (Daou, 2015, 8)

However, most women's associations were still affiliated with political parties and thus bound to confessional ties. As Daou demonstrates, several committees were set up by political parties for women to discuss their rights and raise awareness. This led to the founding of organizations such as the 'Women's Democratic Gathering' and 'The League of Lebanese Women's Rights'. The work done by these women was controlled and monitored by these

political parties. Hence, they failed to translate their secular ideals and recruit the lower-class women they claimed to represent (Daou, 2015, 9).

On the other hand, The Human Rights Watch Report on PSLs in Lebanon (2015) shows that several political actors did try to draft reform laws. In 1972 for instance the Democratic party put forward a proposal for a new civil PSL (Human Rights Watch Report, 2015, 26). The National Movement did the same in 1976 by forwarding a reform paper on an optional civil PSL, and in 1977 the Lebanese 'Syrian Nationalist Party' submitted a similar proposal to parliament. Some politicians did feel the necessity for change, but up until today no unified civil PSL has been adopted by parliament (Human Rights Report, 2015).

The Shihab era failed to suppress the sectarian sentiments that remained below the surface. Lebanon had democratic institutions but old political traditions. The party system was not modified to a western style and had a great base in tribal and family connections (Joseph, 2011, 156; Cobban, 1985, 77-100). Soon several events put such a strain on Lebanon that eventually the country fell into chaos. And certain groups took advantage from these decades of chaos (Harris, 2012; Hitti, 1965; Salibi, 1988).

2.7 Civil War (1975-1990)

The Civil War, which lasted from 1975 until 1990, and its aftermath, exposed the balance of powers that the country tried to uphold. As mentioned, Lebanese politics are based on a system of confessionalism, which influences tribal and familial connections. The mechanism of political familism provided leaders of different parties with a loyal following. During the war, Lebanon had to face instability almost constantly with allegiances being shifted and renamed and enemies being made or befriended. The Lebanese state was unable to defend itself and its citizens against this chaos (Joseph, 2011, 157).

The war itself erupted due to several events. The 1967 Arab-Israeli war put a strain on the Arab region and Lebanon in particular with another influx of Palestinian refugees. The Maronites did not support the Palestinians, but the Palestinians had already manifested themselves in the PLO (Palestine Liberation Organization), with its headquarter in Beirut. The Shia south of Lebanon lost their support for the Palestinians because Israel attacked the south in order to wipe out the PLO (Harris, 2012, 221-227)

In 1970 Suleyman Frangieh became the new, much more traditional, president. At the same time Beirut grew in a rapid pace. The mixture of different ethnicities and religions turned out to be a toxic cocktail. People were angry with the PLO, while at the same time tensions within groups heightened (Salibi, 1988, 196-214; Cobban, 1985, 151-179). In 1973 Egypt and Syria attacked Israel. The war was fought over and on Lebanese territory. Israeli commands kept raiding the south because of the PLO presence. When Israeli forces raided Beirut and killed 3 Palestinian leaders, the Lebanese government resigned. According to Salibi and Cobban, the Palestinian question toppled the precarious power balance Lebanon so desperately had tried to contain (Salibi, 1988, 2; Cobban, 1985, 109).

In 1975, Phalangists, members of the Maronite Kataeb party, killed 27 Palestinians in the outskirts of Beirut. The PLO responded with attacks and a civil war was born with mainly Druze and Muslim minorities backing the PLO and Israel backing the Maronites and the Kataeb Party. In June 1976 president Sarkis asked Syria to help restore the peace and protect the Maronites. Syria was present in Lebanon from that point onwards as the ADF (Arab Deterrent Force) (Cobban, 1985, 125-149; Collelo, 1987, 26-38).

The major players of that time were the Kataeb Party, the PSP, the PPS, the PLO and the LNM[6]. The Kataeb Party was a Maronite party, founded in 1936 by Pierre Gemayel. The party tried to create a new Lebanese identity, breaking lose from the Arab one. The PPS, who was responsible for the 1949 coup, was founded in 1932. PPS, meaning Parti Populaire Syrien, was a party with a leftist anti-colonial outlook. Druze leader, Kamal Jumblatt, together with six individuals, founded the PSP (Progressive Socialist Party). The Druze PSP opposed the Maronite Kataeb Party, which is not surprising bearing their history in mind.

In 1964 the PLO was founded (Palestine Liberation Organization) by Mahmoud Abbas. At the core was the fight for a Palestinian state, if necessary, by arms. The PLO put the Lebanese political and social life in a precarious situation by fighting Israel from within Lebanon. In order to withstand the Kataeb Party, the LNM was founded in 1969 (Lebanese National Movement) by Kamal Jumblatt. Most minority groups and small parties joined, except the Maronites. The PSP was the main player within the LNM, expressing their Arab Druze support (Harris, 2012, 232-257; Cobban, 1985, 107)

In short, the war was a constant shifting of allegiances, influenced by external parties such as Israel and Syria. The war ended when in 1989 the Taif Agreement was signed. Lebanon was to

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[6] An explanation of terminology can be found in the Acronyms and Abbreviations section

be the authority in the south again, which had long been occupied and attacked by Israel, and Syria had to withdraw in the two years to come. The agreement gave way to more authority for the cabinet and its Muslim members, although the new representation was still not accurate enough (Joseph, 2011, 158).

International attention for women's rights boosted feminists in Lebanon just before the start of the war. In In 1975 the United Nations launched the Decade for Women during the First World Conference. This meant the beginning of a global feminist movement which took the voices of Third World feminists more serious. In 1979, CEDAW was adopted, (the Convention on the Elimination of All Forms of Discrimination Against Women), a bill pleading for more rights for women in every aspect of their lives. Lebanon signed the agreement in 1997, although it had provisions for some of the laws, namely Article 9 on equality in the nationality law and Article 16 on equality in family laws (Daou, 2015, 14; Stephan, 2014).

However, due to the war activities for women's rights were suspended and organizations like the newly founded Lebanese Women's Council became inactive. Women's issues were pushed back on the political agenda as the focus was on creating stability and peace and not on civil rights for women. As Stephan states; *'The second wave of feminism was born in a climate filled with political tension, which left its mark on its mission and self-understanding. To the struggle for rights and justice was added the struggle for peace and security'....* (Stephan, 2014, 1).

2.8 After the war

The first president after the war was Elias Hrawi (1989-1998), who was supported by Syria. Rafik Hariri was Hrawi's prime minister from 1992 onwards. Hariri was highly beloved in Lebanon because he helped rebuilding Beirut. In 1998 Emile Lahoud, again with the support of Syria, was chosen to be president. Hariri opposed this decision since Lahoud used to be an army chief, and his appointment would conflict with the constitution. Al-Hoss became prime minister for a year and a half.

In 2000 Israel withdrew its troops from the south of Lebanon. The same year Hariri returned as prime minster after a major parliamentary win. In 2004 Lahouds term ended, but with the support of Syria his term was extended by three years. Again, Hariri resigned from his post. Lebanon went through a major shock when their beloved Hariri was killed by a car bomb in

2005. Hariri's death sparked sectarian feelings again; who was behind this attack? Two movements arose; the March 8 coalition, mostly led by Hezbollah, Amal and pro-Syria, pro-Assad groups, and the March 14 coalition who were opponents of Assad and the Syrian intervention. These demonstrations were referred to as the 'Cedar Revolution'. Lebanon was once again divided and at the brink of a new civil war. Women participated greatly in these demonstrations.

The 'Hezbollah War' of 2006 put even more pressure on the country. In 2006 Hezbollah attacked Israeli forces, Israel responded by bombing Lebanon; the war lasted five weeks and many civilians were killed. People were upset with Hezbollah for instigating such an attack. The Lebanese army, together with UN forces, deployed along the southern border. Although in November of that year Shiite ministers from Amal and Hezbollah resigned, the influence of the Shia in politics remained strong. For example, in the 2000s and 2010s a significant number of ministers were from Hezbollah. In 2011 a new cabinet, consisting of mostly Hezbollah members, was formed by Najib Mikati. That same year the Arab Spring movement manifested itself in Alawi-led Syria, resulting in a major influx of mostly Sunni Muslim Syrian refugees into Lebanon. In the summer of 2012, the conflict which had sparked in Syria a year before, now spilled over into Lebanese society. Sunnis and Alawi's clashed in the streets of Tripoli and Beirut and security chief Wissam al-Hassan was killed by a car bomb. The opposition accused Syria of the attack and Lebanese forces crossed the border to fight the Syrian forces. Syria then bombed northern Lebanon. To make things even worse, Mikati's government resigned. In 2016 Michel Aoun became the new president of Lebanon after a 29-month period without a chosen president, and 46 electoral voting rounds. Saad Hariri was appointed to be prime minister again but resigned in 2017 because he feared for his life. He however withdrew his resignation a few months later. He remains to be the prime minister of Lebanon, in charge of forming a new parliament after the latest elections in 2018.

The Civil War and its outcome changed women's rights organizations. Before the war organizations were often founded from within a specific denomination and had focused on charity. During and after the war they changed into advocacy groups, often non-tribal and non-interventionist (Accad, 1990, 9-27).

In other words, feminist organizations and female activists took up a role that was much needed. A place in society where there was no division based on ethnicities, religion or nationality. They tried to step away from sectarianism and tribalism. As Olson and Mackune

state; *'The chaos and crisis created a vacuum for Lebanese women to enter domains of society that the dominant patriarchal system had hitherto rendered inaccessible'* …. *'Perhaps it takes a crisis, such as war for those who hold power in patriarchal societies to discover that women can equally discharge the responsibilities of men – and are therefore entitled equal rights…'* (Olson & Mackune – Karrer, 2014, 133). The fourth chapter will elaborate further on the development of women's rights organizations and their discourse after the Civil War.

2.9 Conclusion

This chapter has shed light on the turbulent history of a small country. Several events have greatly shaped the history and therefore future of Lebanon and its different family laws. The Ottoman Empire influenced the make-up of the Middle East and with introducing the millet system and, later, the codified OLFR in 1917, gave way to the codification of religion-based family laws in Lebanon and other MENA countries after the empire disbanded. The sectarian divide pervading Lebanese politics and society proved to be a breeding soil for conflict, as shown with the 1860 Maronite/Druze Mount Lebanon war and the 1975-1990 Civil War. And political familism showed us that Lebanon is a fractured nation because citizens are, due to the makeup of the state, often more loyal towards their family and 'kin contracts'.

The Civil War of 1975-1990 has not changed the confessional system in Lebanon. The sectarian divide and the tension it brought between groups instigated heavy conflict, but the political system remained the way it was. The only minor change happened with the Taif Agreement of 1989. This agreement gave way to more authority for the cabinet and its Muslim members. But still Muslim member are not represented accurately, since no new census has ever been carried out. On the level of civil society, however, the women's movement has tried and succeeded, with for instance the creation of the Lebanese Council of Women, to merge their different backgrounds into one cause; the improvement of women's rights and access to politics. The question, of course, arises as to whether demanding equal rights and stepping away from sectarianism meant women's organizations started advocating for a civil law code, one that applies to all Lebanese citizens, regardless of their religion and denomination, or whether this is impossible in a country, which system of government is based on confessionalism.

Lebanon is unique in its organization of politics and law. No other country in the region has such a heterogenous demographic make-up, and no other country has organized law and

politics along the dividing lines of ethnics and religion. But as mentioned before, even countries like Morocco and Tunisia, with far more homogenous populations and less complicated (family) laws, have not been able to create a civil law instead of a religious based family law. Reforms in Muslim family law did take place and had an influence on other MENA countries, Lebanon including. The next chapter will pay attention to how women's movements and governments of other MENA countries have approached family law reform in their country.

3. The Arab debate on women's rights

'We are not going anywhere; we have been here for some time'
- Lina Abirafeh, Executive Director of the Arab Institute for Women, 2017[7]

This chapter will focus on the different phases of family law reform and the different routes that have been taken and are taken by women's rights movements and other actors to influence women's rights in the MENA region.

With the exception of Turkey, but similar to Lebanon, all countries in the MENA have retained their religion-based family laws. By giving a broader overview on this topic, the situation in Lebanon will be better understood, especially with regard to the main research question, namely; through which strategies do women's rights organizations try to influence PSL reform? The focus in this chapter is on Muslim (Sunni/Shi'a) religious family law since most literature available focusses on Muslim family law.

Nevertheless, other denominations have made codifications and/or reforms too, such as the Catholics and Druze in Syria (Van Eijk, 2016, 62) and Lebanon, and the Copts in Egypt (Lindbekk 2013). It is important though to understand that not all PSL are codified, yet even uncodified PSL can be reformed. The Copts of Egypt for instance, have reformed their PSL, however, they have not codified their PSL till this day.

Since the beginning of the 20th century, almost every country in the MENA region has had, an active debate on women's rights, whether it was regarding modernization, standing up against the colonizers, the patriarchal system or an expression of religious freedom.

In gaining rights for women, different routes have been taken by different groups. At the beginning of the twentieth century, actors focused on freeing women from the traditional and patriarchal strains, usually in the field of divorce and polygamy, while being influenced by the 'modern' West. At the same time the 'modern' West was opposed and reformers such as Egyptian Qasim Amin (1863-1908) and Muhammed Abduh (1849-1905) drew from Islamic traditions, which, according to them, supported equity between men and women. They

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[7] I spoke with Lina Abirafeh in 2017 at the office of AIW (Arab Institute for Women). This organization that she is the director of, raises awareness for women's rights through research, education and activism. Recently she was nominated as one of the World's 100 Most Influential People in Gender Policy. The organization has a big outreach and is active in 22 Arab countries;
https://www.shedecides.com/champions/lina-abirafeh/

incorporated religion and religious language in the debate on women's rights (Sonneveld, 2017, 91-93). Others opted for a more secular approach. Apparently, different routes have been taken in improving women's rights.

3.1 The three phases of family law codification and reform

Welchman recognizes three phases in family law codification and reform. Different countries went through different phases after the very first codification of Sunni family law in the Ottoman Empire. In these phases various actors played a role and different routes, whether secular and/or religious were taken (Welchman, 2007, 11-18).

The first phase of family law codification includes the Ottoman Law of Family Relations (OLFR) of 1917 and the Egyptian codifications of the 1920's and 1940's. Egypt never came into contact with the OLFR and had its own family law codification process. That is why Egypt is seen separately from the countries in the second phase.

The second phase started around the 1950's in the Mashreq and North African countries. In this phase new countries issued their first family law codifications such as Lebanon, Syria, Tunisia, Iraq, Morocco and Jordan. The OLFR often served as an inspiration for new laws or even as the basis for the new family laws. The second phase can be seen in the light of the creation of independent nations, free from the colonizers. The countries that codified during the second phase have since then issued new laws and/or added substantive amendments (Welchman, 2007, 19-32).

The start of the third phase can be traced back to the last quarter of the last century. At this moment it could be said that we are still in the third phase or either working towards a new phase in family law reform. According to Welchman the third phase is one that is influenced by global, regional and national circumstances in Arab states. The Arab world feels the influence of globalization, modern communication and networking through social media. Through these new technological developments civil society can be mobilized easier. Therefore, the actors in the process of reform are also more diverse. There are more women and women's movements and organizations involved at different levels in the phases of reform. It shows that governments take the national and international commentary more serious and that pressure leads to changes (Welchman, 2007, 11-18).

3.2 Phase one: Codifications

The Ottoman Empire stretched out over the MENA region, except for Morocco. The occupied countries therefore came in contact with Ottoman law. The Ottoman Empire used a dual law system; the Kanun, being a codified secular legal system and, mainly in the field of family law, Hanafi Islamic jurisprudence called *fiqh* (Peters 2002, 88). The Ottoman Empire was organized along the lines of millets, that is, religious autonomous communities. Family relations specifically were administered and regulated in courts within these millets. The Muslim millet was the biggest one, followed by the Greek Orthodox, the Armenian and the Jewish millet. Non-Muslims could also go to a judge, *qadi*, in a *sharia* court. It was often thought that *sharia* courts had stronger enforcement power because Muslim *sharia* law was the most widespread judicial power hence more efficient (van Eijk, 2016, 13-22). None of the laws though, were truly collected and codified, therefore judgements could differ depending on the judge. The law was open to *ijtihad* (independent reasoning of judges) (Tucker, 2000, 22; Peters, 2002, 86-87)

This changed with the decline of the Ottoman Empire. The Ottoman Empire felt the pressure to reform and in 1839 the *Tanzimat* period started. Law was modelled on a 'European-based statutory codification'. The edict of Humayun, or Ottoman Reform Edict of 1856, formed the basis of these reforms (Cleveland, 2009; Peters 2002, 88). The edict introduced the concept of citizenship, which meant the abolition of the millet system. Family law though, remained in the hands of the religious denominations (Van Eijk, 2016, 22-25)

The introduction of citizenship within a religious pluralistic system created a dual citizenship. Van Eijk describes this system as a system of plurality; national citizenship was introduced but people also had a denominational membership (Van Eijk, 2016, 22). It is quite similar to Joseph's idea of 'political familism' where people are citizens of a nation but foremost, member of an ethnic and/or religious group (Joseph, 2011, 152). And in the case of women the idea of citizenship is even further complicated. Women in Middle Eastern nations with family law, have a gendered citizenship; their relation to the state is 'thin' since they are not directly in contact with the state. A mediator in the shape of a patriarchal figure (father, brother, tribe, family) is responsible for women, and their rights are granted to them through this relationship with the mediator (Tilly, 1995, 1-19, Joseph, 1996). However, if the patriarchal figure does not live up to his religious and legal obligations, a woman had the right to go to court and claim her rights (Tucker, 2000; Van Eijk 2016, 46-71; Sonneveld, 2017, 95-96).

The Ottomans were the first Muslim-majority state to codify Islamic *sharia* rules and principles in a statutory law code (van Eijk, 2016, 24). Thus, while family law rules were codified, family law remained Sunni Muslim law, and was not amended to European law. This process started in 1917 with the first Ottoman Law of Family Rights (OLFR) (Welchman, 2007, 19-32). The OLFR used the Hanafi school of law as its main guide while also using other minority opinions and judiciary from other schools. The purpose of codification was to select one opinion among the many different opinions existing within the Hanafi school of law on a certain subject, and, in this way, make it easier for judges to rule on family law issues, such as marriage, divorce and child custody (Peters 2002, 87-91). It should be noted that the family law rules of the non-Muslim communities in the MENA were not always codified into statutory law codes.

Peters (2002) stresses the 'pivotal role of men' in the codification of Islamic jurisprudence (fiqh). The ulama, who were religiously trained scholars (men), were still needed during the codification of the sharia to a statutory law. Their expertise was needed as well as their co-operation to legitimize the reforms the state wanted to make. Even though they were open to reform, they could refuse if the state enacted laws that would conflict too much with sharia principles (Peters, 2002, 90).

After the fall of the Ottoman Empire, family law became excluded from statutory codifications except in Turkey and Egypt, of which the latter introduced its first codification of Islamic *sharia* principles in 1920 (Sonneveld 2012, 19-20). The new Turkish nation abandoned the OLFR and proceeded with its own codification of law, based on the (secular) Swiss code (Bucher, 1999, 217-230). In other countries the OLFR served as the base for family law or as an inspiration. The Mecelle and the OLFR remained to be used in Syria until 1949 and in Lebanon until 1932.

In Egypt the OLFR had never been applied. In 1920 and 1929 the first codifications of the Muslim personal status laws took place. These codifications, which were Sunni based, addressed several areas of family law but did not constitute an overall code. Egypt was at that time heavily in conflict with the British colonizers. The fight for women's rights was discussed through this colonial frame. A liberal group of people supported a reform of the PSL while the more conservative, traditional, people opposed reforms (Bernard-Maugiron, 2010, 17-27). The liberal oriented groups were criticized by the conservatives as imposing western views onto the mostly Sunni Egyptian society. It should be mentioned, however, that al-Azhar scholar,

Muhammad Abduh, was a strong advocate of improving women's rights. Together with his friend judge Qasim Amin, they were one of the most influential feminists of their time, while being men (Sonneveld, 2017, 90-94). Amin actively voiced his opinion on the liberation of women and criticized the veil. He questioned the veil as being unequal and oppressive, and he opposed traditional Islam. It was Huda Sha'arawi who took of her veil in 1923 in public (Badran 1995, 23), the same year in which she founded the Egyptian Feminist Union which fought for the independence and equality of women in Egyptian society. The (removing of) the veil became a symbol for liberation. However, this important organization always voiced their secular ideals from within a religious discourse (Badran, 1995).

3.3 Phase two: Reform and newly established national codifications

Although other nations did not have reforms or codifications in the first phase, it does not mean that there were no developments regarding women and their rights. Countries such as Syria, Lebanon and Tunisia also voiced the same reformist modernist thought as Egypt. They were not afraid of using the West as their inspiration to create a modern society, although it did provoke clashes with the clergy and did not lead to reform of their religion-based family laws ('Feminism Inshallah, 2014).

In Tunisia, for instance, women also took off their veil after the example Huda Sha'arawi. In 1924 Manoubia Ouertani took of her veil in public and in 1929 Habiba Menchari did the same. It was the same year in which Tunisian reformer Tahar Haddad published a book called '*Our women in the Sharia and Society*'. In his book Haddad called for the education of women and taking off the veil since it had negative consequences for women. He spoke out against polygamy, wedding off underage girls and forced marriage. He furthermore demanded courts where women could get divorce. Haddad emphasized that his point of view was based on *ijtihad*, independent reinterpretation of the Quran and Sunna. So, while he claimed to stay within the bounds of religion, he was accused of using a secular discourse, being too Westernized and an atheist (Zlitni and Touati, 2012, 47).The status of women turned out to be a sensitive topic and became one of the central parts of the Muslim faith. Touching upon it could easily lead to accusations of being an unbeliever (Feminism Inshallah, 2014, 4:11-7:32).

Tunisia became independent in 1956, with Habib Bourguiba as its first president. The first period of independence from the French made way for reforms. Women and their rights

were high on Bourguiba's agenda and he even knew to convince the clergy of the need to reform Sunni family law on the basis of ijtihad, although protests were not uncommon. The first Personal Status Code (PSC) was issued in 1956 and in 1956 the Union of Tunisian Women was also founded. Women could now vote, work, teach and they had civil rights that could not be found in other Arab countries, except for Egypt where women gained the same rights under president Nasser (r. 1956-1970). The efforts of the Tunisian state to improve women's rights is often referred to as 'state feminism'. Bourgiba actively took up the women's issue and made it part of the legislation of the state, although critics state that this 'state feminism' was actually a way of gaining modernization, not specifically in the interest of women's rights (Jomier, 2011). In other countries however, feminism was often marginalized after independence (Zlitni and Touati, 2012, 50-52; Feminism Inshallah, 2014, 15:25).

For Egypt, 1956 was the year that Nasser became the leader of Egypt. It was also the year in which women gained the right to vote. The 1950's in Egypt gave way to a whole new image of women. Egyptian cinema was well known within the region with many famous actresses who embodied a westernized lifestyle. Egypt adopted a Civil Code in 1948 and the religious courts of both Muslims and non-Muslims were abolished in 1955. Muslim PSL itself was not abolished, but these matters were now treated in civil courts staffed by secularly trained judges. Nasser promoted the idea of gender equality and certain developments did seem to improve the position of women in society. Although women took off their veil and entered the job market, the Muslim PSL in Egypt remained unchanged and therefore the status of women did not substantially improve (Sonneveld, 2012, 21-25; Welchman, 2007, 19-32; Bernard-Maugiron, 2010). The clergy were still powerful, and Egypt was still a rural, traditional Islamic nation. The state secularism that Nasser tried to promote, did not really penetrate the depths of society. Women's liberation was criticized by Muslim Brotherhood followers and thinkers such as Said Qutb (Feminism Inshallah, 2014, 17:53-19:59).

Another factor that obstructed an improved status of women was Nasser's dream of Arab unification with Syria and Iraq. This dream was pushed higher on the agenda than women's rights. Furthermore, the pan-Arab ideology remained closely linked to Islam and showed that even though these countries saw themselves as secular, society was Islamized at heart (Feminism Inshallah, 2014, 20:14-22:09).

In 1967 Egypt and the Arab armies were defeated by Israel in the Six Day War. The national crisis after the defeat postponed the issue of women and reforms further. Ghassan

Salamé, a Lebanese academic, calls the defeat 'the defeat of the modernizing powers' (Feminism Inshallah, 2014, 27:38-27:51). The conservatives saw the loss of the war as a punishment of God on Egypt for losing its faith. Israel, a nation built and created on the basis of religion had defeated a Muslim country. Losing the war gave the clergy the legitimacy they needed to gain power (Machairas, 2017, 5-6).

Nasser started promoting religion as a national cause. His follower, Sadat, (r. 1970-1981) allied with the Islamist movement. The new constitution of 1970 was one with the *sharia* as a main source of legislation. But Sadat was also a modernizer who practiced an 'open door policy'. He held close ties with the West and was influenced by foreign ideas and ideologies. Sadat was in a difficult position; on the one hand he befriended foreign Western countries with ideas about modernity and equality and secularism. On the other hand, he had to keep the Islamist movements close to legitimize his decisions to the people (Sonneveld, 2012, 25-27). This also applied to attempts to reform Muslim family law, which were expressed in the language of Islam.

While women activists in Egypt and Tunisia started disbanding the veil and used religious language to justify the reform of Muslim family law, Algeria went through another process, at least initially. Like many other countries in the MENA region Algeria was occupied by the French. Women's rights were used as propaganda in the fight for liberation. Western colonialism claimed to liberate the Algerian women from the 'backward cultures and religion' they had to live with. The veil became the symbol of the backward oppressive culture for the colonizers. Targeting the veiled women gave the colonizers a legitimacy to be there and to 'liberate' women. But the nationalist movement of Algeria started highlighting the traditionally veiled Algerian women, as 'the Algerian identity'. In contrast to Tunisia and Egypt where the veil was taken of in the fight for liberation (Hammerman 2011, 531-533; 'Feminism Inshallah', 2014, 22:22-23:45).

During the national liberation, feminists did make demands to improve women's rights. But these demands were pushed aside due to the fact that Algeria first had to be liberated. Women thought that their rights would be granted after independence in 1962, but after independence there was no room for emancipation. Instead, the government was about to adopt a, in the eyes of secular feminists, retrograde family code in 1968. The women's rights groups were secularly oriented, and they could not accept that family law found its base in religion, while the government wanted to codify the law from a religious perspective (Engelcke, 2018, 326).

In 'Feminism Inshallah' feminist activist Fadela Murabed, member of the socialist FLN party is interviewed about a book she wrote regarding the situation of women in Algeria at that time. She says that Algeria calls itself socialist, but with these laws and culture a woman will always be 'a minor', under the control of her father, brother or husband. Women can oppose the laws, but opposition is also the only place for women since they are always subjugated. She says women were used in the fight for independence and the independence war. After the war women were expected to get back to their traditional roles ('Feminism Inshallah', 2014, 25:35-26:44)

Syria, being Egypt's pan-Arab partner, went through its first codifications in the 1950's as well. Syria used to be a French mandate, and this led, like in many other MENA countries to protests. In 1922 demonstrations against the imprisonment of nationalist Syrians by the French, led to women removing their veils in public. In 1928 organizations from Lebanon and Syria joined forces in the Syrian Lebanese Women's Union. Similar to other MENA countries the veil was protested against as well as used as a nationalist symbol. In the 1940's Thuraya Hafiz participated in campaigns against veiling and in favor of women's rights. She was followed by many women (Pernille & Golley, 2012, 7-43).

In 1936 the French High Commissioner enacted law 60LR recognizing 17 religious communities and giving them the right to devise their own family laws (Van Eijk, 2016, 29-33).

In 1946 the Syrian Republic was founded and three years later the Syrian Civil code was issued. In 1953 the Syrian Law of Personal Status (SLPS), was issued. The SLPS was the legal source on family law for all citizens, even non-Muslims, and used the Hanafi law school as its Islamic legal source. But Syria also recognized multiple religious communities and gave them autonomy with regard to their own personal status laws, especially with regard to marriage and divorce (Van Eijk, 2016, 29-33).

The 1949 Civil Code brought together western and *sharia* legal concepts and was largely based on the 1948 Egyptian civil code. The Civil Code stated that the Syrian Arab Republic was a democratic state; an Arab, but secular, nation with a variety of religions that live peacefully together. Islam was not the state religion, but it was the most prevailing religion. The president had to be a Muslim and *fiqh* was to be used as the main source of law. The SLPS was based on the 1951 Jordanian PSL. It seemed to be the most progressive family law code until the 1956 Tunisian family law was introduced. It clearly expressed the respect and protection of the PSL of each religious domination (Van Eijk, 2016, 39). But this was also its pitfall; the SLPS was set up

as a law for all citizens but in the end, it did not work that way. The law was never unified and nationalized because minorities issued their own laws (Van Eijk, 2016, 46-50).

Syria, like Lebanon, has a multi-religious and multi-ethnic demography, which was translated into the laws of the country. As mentioned above, in the field of marriage and divorce denominations in Syria had the autonomy to operate next to the SLPS. This made people not only a citizen to oblige to civil laws, but also a member of a religious group with its own laws. It is to be noted that this dual citizenship does however apply throughout the MENA region where men and women gained civil and political rights, but still had to adhere to religious family laws. Still the system of legal religious plurality proved especially difficult for women. Religious law for women meant that a patriarchal system and a male guardian ruled over their rights. It proved hard for women to claim their rights as a citizen while at the same time being judged within their confessional community (Hill, 1997, 131). '*By delegating kinship to religious law and funneling citizenship through religious membership…. the state… assimilated the rule of extended patrilineal kinship codified by sectarian family laws into the codes and practices of…citizenship* (Joseph, 2000, 132).

Syrian women gained the right to vote in 1953, the same year as the SLPS was issued. Syria entered a new period of change when the Ba'ath party came to power in 1961. Hafez al-Assad, a non-Sunni, Alawi president, gave Syria a period of relative stability. But Assad was an authoritarian ruler. His party was suppressive towards the Syrian citizens as well as to the religious authorities, such as the Muslim Brotherhood. At the same time, while promoting a secular agenda, the Ba'ath party made use of an Islamic discourse. According to Van Eijk, Islam in Syria was used as a cultural idiom (Van Eijk, 2016, 41). For instance; veiling in Syria used to be forbidden in public places before the 1990's. In the early 20's women took off their veil just like in Tunisia and Egypt as a statement against the colonial influence and Islamic influence. Wearing a veil therefore could be seen as a political statement. The Ba'ath party changed its opinion and course on this matter. When it came to the SLPS the Ba'ath party tried to put forward a more secular law in which, for instance, polygamy was prohibited, and inheritance would be more equal between men and women. These propositions were met with great opposition by the *ulama*, so when in 1975 amendments were made to the SLPS, not much had changed and the road towards a civil family code seemed very distant.

3.4 Phase three; Reforms and amendments in a globalized era

The third phase is known for its reforms, especially in the field of women's divorce rights, and amendments in the face of a new and globalized world. Nowhere, however, did this lead to the introduction of a civil family code applying to all citizens, irrespective of their religious background. A good example is Algeria where women tried to work through a secular discourse but failed to successfully make changes.

Algeria codified its family law in 1984, 22 years after the country became independent. The codification was not one in which women had a great amount of influence. According to Engelcke this is due to the fact that women in Algeria were unable to form a cohesive block with which the government could cooperate. Another reason for the late codification was that the war for independence did not produce a government in which one political block had enough power. Decision-making proved to be hard and near impossible (Engelcke, 2018, 317)

In the years before the codification in 1984, the Independent Collective of Women was founded in Algiers. They demanded the parliament to involve women in the making of the draft for a codification. In 1982 the National Assembly retracted the draft in which women had had nothing to say, which seemed like a victory for the collective. However, the rather conservative law eventually was implemented in 1984. There was a strong focus on religion and conservative ideals and traditions. The 1984 code meant a split between the government and the feminist groups. Women felt like being pushed aside despite their efforts in the fight for independence in the years before (Engelcke, 2018).

An important factor in the failure of the progressive draft in which women were involved, can be found in the division among feminist groups. Feminist were divided in two camps; one that wanted radical change and secular civil laws. The other camp was open for discussion and minor adjustments where needed. The main question for the feminists lays in the use of a religious discourse. Were they going to reform Islamic laws? Or were religious laws off the table and was it possible to strive towards a civil law? (Engelcke, 2018).

In 1996 the newly formed government tried to reform the 1984 law. They did so by inviting seventy organizations on women's rights to participate in the process of drafting the law. It was the first time that women were included in the process by the state. But, just like in Egypt,

the government could not ignore the demands of the Islamists, because they could not risk potential protests; the Civil War was still in full force.

Although the feminist movements opposed the Islamist stances it seemed like compromises could be made. They even made use of references to Islamic sources to legitimize the amendments they eventually proposed. Instead of going the 'hard-core secular' way of eliminating the Islamic law, they chose to reform laws within the religious framework and treated drafts from within *sharia*. It seemed like this time reform would happen as a result of negotiation and collaboration (Engelcke, 2018, 315).

However, none of the formulated amendments were implemented by the Algerian parliament. Engelcke mentions two reasons for this, mainly the fact that the government was too busy working on a solution to end the Civil War, through which they were in close contact with the Islamist groups. Reforms on family law would be a subject too fragile to treat. However, the division in the feminist movement itself was also a major ground of rejecting the amendments. It turns out that during the process of producing the amendments several groups of women withdrew from the dialogue. They went back to the old stance of abolishing the law altogether. The government no longer saw the groups as a capable partner to cooperate with and the Islamists saw the withdrawal as a victory of Islamic law (Engelcke, 2018, 311-318).

The Algerian Civil War, which started in 1991 ended in 2002. In 2003 President Abdelaziz Bouteflika put together a commission of 52 members, none of which were women or opponents of an Islamic law. In 2004 the amendments, by presidential decree, were adopted by the government. One of the amendments included the removal of the obligation of guardianship for adult women. But guardianship was not removed due to the religious pressure that was exerted on Bouteflika (Engelcke, 2018, 319-325).

But in 2005 a sudden and drastic reform took place in Algeria. Both the family law and nationality law were reformed, through a religious discourse. This proves that reform was only possible along the lines of religion and a religious discourse had to be used. Advocating for a secular civil law proved to be non-negotiable.

The reform process in Algeria cannot be seen separate from the reform process in the neighboring countries Morocco and Tunisia. Morocco reformed its family law code in 2004, also on Islamic terms by using *ijtihad*. The timing, method, framework and content of the Algerian reforms show great similarities with Morocco. Probably Algeria felt the pressure to not lag

behind on Morocco and Tunisia with its 1957 progressive 'Code of Personal Status' and 1993 amendments (Engelcke, 2018, 320-324).

The 2004 Moroccan reforms were the first big modifications to the 1959 Moroccan 'Code of Personal Status' which was very conservative. Due to the new amendments, polygamy became limited and divorce was made possible for women. It was due to women's rights organizations for changing their secular discourse to a more inclusive religious discourse, that these reforms happened. But as is said in the documentary 'Feminism Inshallah' now that the text has changed, the status of women in society needs to change too, according to journalist and activist Meriem Yafout. A new family code can only work if the legal system works with it. She says a democratic system is needed in order to get real change and emancipation ('Feminism Inshallah, 2014, 40:32-41:33).

An important point of the Moroccan reforms is *ijtihad*, a way of interpreting the Islamic texts (Quran and Sunna) which is usually done by the clergy. In Morocco, women voiced their reform demands through a religious discourse which made the clergy more willing to collaborate. In the documentary doctor, author and feminist Asma Lamrabet wants to take this a step further. She demands the right for women to interpret the religious texts themselves, through a feminist perspective. According to her women's rights have always been looked at and interpreted by men. She says; '*In Morocco and other Arab countries there is an Islamic discourse on the one side and reality on the other…. Scholars are shut away from the citadel, out of touch with reality…*' ('Feminism Inshallah, 2014, 38:14-39:43; Engelcke, 2018, 322-326).

In Egypt *ijtihad* also played a great role in the reforms of the Sunni PSL. In 1975, a new draft for the PSL was blocked due to an ongoing debate between the religious leaders and liberal activists. In 1979, PSL reforms were pushed through by a presidential decree, similar as to what happened in Algeria in 2004. These reforms meant changes to the 1920 and 1929 PSL. But the reforms were neither welcomed by the clergy nor the liberals. They had been implemented during a time of government deadlock. The High Constitutional Court dismissed the law, stating it to be unconstitutional and against sharia law (Sonneveld, 2012, 26).

In 1981 Mubarak followed up the assassinated Sadat. A new Sunni PSL was drafted in 1985, but it caused disappointment amongst women's rights groups. One of the main reforms of the dismissed 1979 PSL had been taken out; polygyny remained acceptable. A group of women's rights groups, the Group of Seven, decided to gather their strengths and use international

conferences to pressure the Egyptian government. In 1995 the National Women Commission even took up the pen to propose a 3rd draft which Mubarak wanted to discuss (Sonneveld, 2012, 29).

Mubarak found himself in a difficult position. Opponents were made up out of conservatives, mostly Islamists who feared westernization. They, for instance, did not want a civil contract for marriage. It would mean that the *ulama* would lose power on affairs regarding the personal status. And Mubarak could not lose the support of the Islamists. He needed the clergy to legitimize his rule.

The marriage contract was high on the agenda of Egyptian feminists, but it was also a taboo topic with regard to reform. Feminists had tried to legitimize reform of the Sunni PSL by using a religious discourse. But in order to achieve anything, they had to put the marriage contract reforms on the shelve and start focus on general PSL reforms instead of controversial issues. The procedural law of 2000 was the first big victory. Judicial *khul* divorce was accepted, meaning that a woman could now file for divorce without the consent of her husband and without the need to show cause in court. The law sparked a public debate in which newspapers, movies and cartoons played a great role in portraying the different voices of society. Opponents stated that *khul* was only there for the rich, westernized, elite women who could afford a divorce. According to them these women collaborated with the West and tried to import alien ideas into Egyptian society. The *khul* law was eventually declared constitutional in 2002 (Sonneveld, 2012, 54).

Women's rights movements in Egypt had another major victory in 2000 when travelling without the consent of a husband was approved. It is interesting to see is how the debate around the amendment was shaped. Women's rights movements took on arguments that religious leaders could not refuse, such as the interest of the family and health of the children. In the end all parties used the language of Islam to participate in the debates and promote their liberal or religious ideas (Sonneveld, 2012, 49-58).

The use of a religious discourse was a strategy to gain support from the religious leaders who were so influential. Feminists had seen that it was needed to speak 'the language of Islam' in order to speak to the masses (Sonneveld, 2012, 38). In the case of the Egyptian reforms on family law, activists had found a way to use *ijtihad* and sidestep *fiqh*. They spoke in terms of Islam,

renewing it by using *ijtihad*, without having a religiously trained background. Their participation was crucial in ensuring the introduction of the *khul* law in 2000, in opposition to Algeria where women's groups were sidelined. Still, the debate on the *khul* law showed that the introduction of a new law did not always mean full support from society (Sonneveld, 2012, 49-73).

In Syria the religious plurality clashed with the secular image the Ba'ath party tried to uphold. The Ba'ath party claimed to be secular but also promoted Arab nationalism and the idea that all Arabs are equal. These secular ideas did not resonate with the religious leaders who feared they would lose their legislative and judicial autonomy in Syria within their own personal status laws. And although the Syrian government claimed to have a secular image, Islam slowly began to take on a bigger public role, which worried the other minorities. The stance of the government had always been to be secular with a protective and respecting role towards minorities. But the public space became more Islamic in character; in language but also visibly with the headscarves for example (Van Eijk, 2016, 41)

This double standard also applied to how women were treated. On the one hand the Ba'ath Party mobilized women as symbols of development and modernization (Van Eijk, 2016, 75). But on the other hand, women were still expected to be housewives and maintain a stable family. Women's' participation and education were stressed but the main employer of women would be the public sector. The increased role of Islam affected the role of women in society; the duty to nurture became important again and the traditional maintenance-obedience relationship was valued highly again. The Syrian state promoted feminism and equality, but this did not translate into the legal realities of women. The laws, whether the SLPS or the plurality law system, conflicted with gender equality (Van Eijk, 2016, 40-44).

The Syrian CEDAW membership was a catalyst for women's rights movements. In 2003 a petition was staged by several organizations to change and reform the SLPS. They gathered signatures to have new amendments discussed in parliament. According to the feminists the current law was a 'male law'. Religious groups on the other hand stated that by asking for equality Syria tried to mimic the West (Van Eijk, 2016, 83). In the end, only one single amendment was approved through a presidential decree. It was the fastest and easiest way to end the debate and settle with both sides.

But reform actors were not satisfied with the law. An important actor of the reform camp was Muhammed al-Habash, a member of parliament in favor of reform, but within the

boundaries of sharia. Al-Habash supported several civil society organizations and initiatives such as ASI, the Association for Social Initiative. This organization worked on the 2003 draft law and continued to pursue for more reforms (Van Eijk, 2016, 84-85). Other activism focused on gender-based violence and the 1969 Nationality Law. Studies were carried out by the General Union of Syrian Women and UNIFEM. The government took up the issue of violence against women, but again, the law did not change. The government then founded the SCFA, the Syrian Commission for Family Affairs; a commission responsible for proposing new legislation and strategies. The commission went on to draft new laws, reforms, organized workshops and seminars. But their draft law of 2008 was rejected, similar to the Algerian situation in 1996 (Van Eijk, 2016, 80-89).

In 2009 a new draft law was suddenly introduced. A secret committee had been working on this draft law. In the years before, ASI had been abolished by the government and the Catholic sect had reformed their Catholic Law of Personal Status in 2006. The new draft caused great controversy because it showed that although the Syrian government had taken steps in favor of the position of women in society, they also remained very faithful to the clergyman who criticized the reforms. Women's rights organizations called the draft out for being backwards. Eventually the draft law in its entirety was rejected. However, the PSL of the Catholics, the CLPS failed soon after its implementation, in the areas of bequest and inheritance remained autonomous and intact (Van Eijk, 2016, 93-175).

The Syrian reform case shows that the government has to keep a precarious balance between different actors. Van Eijk also calls this the 'patchwork' approach (2016, 209) in which minor changes are made to keep the people happy but where no major improvements are being made. In a sense major family law change would also mean pressure on political reform. And currently political reform is something that Assad would oppose due to civil unrest, protest and revolution.

3.5 In conclusion: Towards a Civil Road?

Family law reform is a political game. The Muslim clergy are heavily involved because they feel *ijtihad* is something they are entitled to when reforming religious family law. It all comes down to; Who has the authority to decide on these reforms and changes? And how do all different actors participate in the debate?

What is visible is that even though women's rights movements had secular demands and ideals, the best way to achieve reform and change was through a religious discourse. The secular discourse might have given them a place in the spotlight, but no reform. Often the organizations became excluded from the drawing board, as the case of Algeria clearly shows. In order to participate in the debate and demand for change they had to adapt their strategy. In many countries this meant changing their attitude and discourse tactics. Organizations opted for a religious discourse, framing reform in religious language to legitimize change. Furthermore, it was not always the case that discourses changed from secular to religious. As the example of Muhammad Abduh and Qasim Amin shows, early reformers had worked and thought from within a religious discourse. As will be shown in the next chapter, organizations in Lebanon used both, and with success.

Lebanon went through codifications and reforms of family law in the second phase, but it proved hard to change anything after the foundations were laid. Right now, I would say Lebanon is actively in the third phase. The country is small and therefore globalization has a big impact on the inhabitants who are young and often highly educated. Women are actively taking the stage to make new amendments and reform happen.

There is one big difference that we can spot in advance to the next chapter when it comes to family law reform in Lebanon. The countries mentioned in this chapter, and most countries in the MENA region, are much more homogenous than Lebanon. Syria and, to a lesser extent, Egypt and Israel form an exception.

But even in Syria the SLPS governs the family affairs of all its citizens, with the exception of marriage and divorce, and the same applies to Egypt. In Lebanon (and Israel), however, there is no encompassing religious family law and the religious groups in the country have autonomy over all of their own family affairs (e.g. marriage, child custody etc). Moreover, Lebanon is the only country in the MENA region that has institutionalized religious pluralism and created a system of government based on confessionalism. Given these unique features, it is quite possible that women's rights movements in Lebanon take different routes to gain and influence reform of the PSL than their counterparts in the other MENA countries.

4. Women's activism on PSL and women's rights in Lebanon

'If it wasn't for the civil society in Lebanon, this country would have been dead for ages' –
Asmahan Zein, President of the Lebanese League for Women in Business, 2017.[8]

The previous chapter has shed light on the development of the Arab debate on women's rights. It has shown the influence of colonialism, conflict and the clergy and how reform was accomplished: by using religious discourse.

In this chapter the focus will be on the debate surrounding women's rights reform, and the influence of women's rights organizations in Lebanon. As mentioned shortly in the previous chapters, Lebanon is different from the other Arab countries due to the way its religious pluralism is institutionalized in the country's political and legal makeup. Similar to the other countries in the region, Lebanon has retained the millet system under which the different religious groups have the legislative, and sometimes juridical, autonomy to subject themselves to their own religious laws, usually only in the field of marriage and divorce. Lebanon tops the list by recognizing 18 sects and 15 religious courts, each of them with their own PSL. What clearly distinguishes Lebanon from the other MENA countries is its confessional system of government, in which rights and duties are distributed proportionally among the different religious denominations.

If we look at all the difficulties women's organizations were faced with in the other Arab countries when trying to reform religious family law, one can only but understand that in Lebanon this is even more complicated. The fragmented landscape of Lebanon, whether religious and/or political, has an influence on the focus of women's rights organizations. Civil law is hardly a realistic option due to the power of the fragmented religious makeup of the state as enshrined not only in the religion-based family laws, but also the confessional political system.

This multi-level multiplicity of religions is a reason why in this thesis Lebanon and its history on pluralistic family law codification is treated separately from the previous chapter. This

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[8] Interview with Asmahan Zein in February 2017 at the office of LLWB, Beirut. 'LLWB, founded in 2006, is a socio-economic, apolitical, non-religious association bringing together professional women and providing them with a platform'. She stressed the importance of non-religious, non-tribal NGO's in Lebanon, a country in which sectarianism and political familism influences the confessional politics.

chapter focusses on how women's rights organizations navigate a system, which is religiously pluralistic, both at the political and legal level, and how it affects their strategy and success.

This question leads to a number of sub questions. First, are the women's rights organizations based on confessionalism too or they have a religiously mixed membership? Second, in seeking support for the empowerment of women, and given the confessional system of government, do the different women's organizations align with political groups from their own confession, as Clark and Salloukh (2013, 731) argue, or do they try to distance themselves from "political familism" as the period following the end of the civil war seems to suggest?

4.1 Phases of codifications and reform

Lebanon, before independence, used to be part of Syria, but in their development of family law codification both nations have taken a very different route. Syria implemented the SLPS in 1953, hence falling into Welchman's second phase of family law codification. The SLPS was a codified family law based on Islamic principles. The SLPS does not differentiate between Islamic groups, whether Alawi, Sunni or Twelver and therefore applies to all. It also applies to non-Muslims, except in the fields of marriage, divorce and inheritance. In addition to the SLPS Syria also has recognized Christian/Catholic PSL and a Druze PSL that only applies to members of these denominations, with regard to marriage, divorce and inheritance (Van Eijk 2016, 47-53).

In Lebanon the development of family law took a different route. In Lebanon each religious denomination has legislative and juridical autonomy over its own PSL and court, including marriage and divorce. This also includes all the different Islamic denominations, which brings the total to 18 recognized sects and 15 recognized courts. Lebanon does not have a codified PSL that can be applied to all Lebanese like Syria has. Sunni PSL, in contrast to Syria or other Arab countries, is not the main source of family law. In Lebanon the communities are equal, and every law is just one of the fourteen other laws (Van Eijk, 2013, 59).

These eighteen communities include twelve Christian, four Muslim, the Druze and the Jewish confessions. The 60LR decree of 1936 recognizes each denomination but also requires them to submit their PSLs for review to the government and parliament. In practice this does not always prove to be the case. PSLs should not intervene with the public order, but parliament almost never intervenes in the religious affairs of the denominations. Furthermore, the Court of

Cassation responsible for reviewing PSL court decisions, almost never does so[9]. This gives the clergy, who are responsible for executing the PSLs, significant power (Human Rights Report, 2015).

After 1936, the Sunni denomination rejected decree 60LR since parliamentary and judicial review would interfere with the religious affairs of the denomination. As a solution, decree 53 was issued in 1939 stating that 60LR does not apply to the Muslim denominations. Due to this, the Sunni PSL has never been reviewed and thus can easily escape compliance with the constitution. The Sunni PSL had always been based on the 1917 OLFR, but in 2011 the Sunni sect issued the New Code of Family Law Provisions. There are new chapters on children, visitation rights and *mahr*. However, divorce is still treated by the 1917 OLFR. And although questions were raised in parliament about whether some of the provisions would conflict with the constitution, no action was taken. This means that religious authorities have immense powers to legislate (Human Rights Report, 2015).

Druze PSL was codified in 1948 and has since then known amendments introduced in 2017. The 2017 reform addresses several personal status issues such as marriage, divorce, and custody. The Druze 1948 PSL applies to all Druze in the region, whether they live in Lebanon, Syria or Israel. The Coptic PSL was codified in 2012 and the Shia PSL has not been codified to this day. The president of the Supreme Ja'fari Court did write a '*Guide to Ja'fari Justice'* in 1994. Judges could use this material to find jurisprudence on marriage, divorce and other matters. But the lack of codification means that judges still have free hand when it comes to interpreting the law (Human Rights Report, 2015).

Given all these variations in codification and non-codification of family law, the question arises in which phase Lebanon falls when there is not one unified and codified PSL, and when various PSLs that do exist have not been codified yet? I would argue that Lebanon falls in two phases. On the one hand there are PSL's that have been codified during the second phase such as the 1948 Druze PSL. They have also experienced reform recently which puts them in the third phase. But there are also PSLs such as the Shia PSL that have no codification, yet did experience unofficial codification in 1994, and therefore fall outside any of the phases mentioned by

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[9] In 1951 the Christian and Jewish denominations submitted their PSL's to be reviewed by the parliament. Although there were problematic stances in the PSL's according to a government committee, nothing was amended, and the laws remain the same until this day (Human Rights Report, 2015).

Welchman (2007). The late codification of the Coptic PSL in 2012 also places Lebanon in the third phase. The mere fact that it is hard to categorize the Lebanese family law developments clearly shows that Lebanon forms a unique case in the MENA region.

4.2 State confessionalism

It is not surprising that the plural system in which every denomination issues its own, not necessarily codified laws, can be experienced as discriminatory. Not only are citizens of the same country treated differently; women are usually disadvantaged even more due to the patriarchal traditional roots of the laws.

Pluralism was often promoted in Lebanon to ensure and protect the country's diverse identity. '*But in reality, the multiplicity of laws means that Lebanese citizens are treated differently when it comes to key aspects of their lives, including marriage, divorce, and custody of children*'… (Human Rights Watch Report, 2015, 1), as is the same in other MENA countries. It is not surprising that political familism, like Joseph describes, is so alive in Lebanon. And that people often experience a dual citizenship, one in which the state often does not ensure their civil rights by giving the PSL's full autonomy (Human Rights Watch Report, 2015; Joseph, 2011, 160)

…'*The Lebanese political structure has a form of state governance based on a mixture of collective rights and a compulsory double identity – communal and national – for its citizens; the country's political system allows religious communities in Lebanon to manage the personal status issues of their own constituents*'… (Di Ricco, 2016, 32)

The construction of the state maintains the sectarian differences by giving them the authority to handle family matters themselves. The family, the group, is at the heart of the Lebanese state, while being mostly outside of the state control. Lebanese people are citizens of their state whilst also being members of a denominational group that for a great deal identifies them. A friend of mine told me a story of fearing to mention her last name. '*People will ask me for my last name, just to make sure they can assign me to the correct sect or minority. My last name provides others with information, me being a Christian woman, and all its further possible implications*'.[10]

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[10] Personal conversation in February 2017 with a Christian Lebanese friend in Beirut

Lebanon is a 'semi-presidential parliamentary democratic republic'. But the fact that family law is not under the republics control makes it hard for women to experience the state as being democratic. It can be said that the religious laws that were created and are uphold by religious authorities restrict and clash with the other civil rights in Lebanon.

In a news article from Ma'an News a woman responded; "*How can a religious authority protect my rights? They are priests and sheikhs, not policemen. We need an equal citizenship, and equality between men and women. Right now, we don't have that. I'm not a full citizen in my own country."* [11]
In the same article, a man says; '*How am I, a Druze,"* … *"supposed to be attached to a country where I can't become president, but the Maronite Christian kid I grew up with next door can?"*[12]

This sense of not having a full citizenship in one's own country is being affirmed by several researchers. Wang et all (2017), wrote on the need of civil liberties for women in order to gain democratization in a country. Equality, and the equal distribution of rights between men and women is necessary for a successful democracy. Often women's rights organizations and activists are the catalysts behind democratization processes. In Lebanon we could link this to the recent amending and abolition of certain discriminatory laws such as Article 522, or 'the rape law'.[1]Here activists took to the public sphere, claimed their place and made change happen (Wang et all. 2017, 739)

Feminists and activists in Lebanon have called for the creation of a new civil PSL, that truly ensures equality of all Lebanese citizens. But like in many other Arab countries, civil law, although supported by many Lebanese young-adults, is a bridge too far. Civil law would ensue for instance civil marriage, which would mean that mixed marriage would be possible. Mixed marriage is a rather complicated subject since every Lebanese citizen must belong to a denomination to even be recognized by law. At this moment there are two solutions; either marrying outside of Lebanon, but not having a recognized marriage in Lebanon itself, or converting to the others religion. Civil marriage is one of the key subjects within the fight for Lebanese women's rights, but also one that has the most opposition from the clergy and indirectly politics (Stephan, 2014).

Other subjects of attention are the Nationality Law, which means that women cannot pass on their nationality to their children; the minimum age of marriage for women which is non-

[11] Article on 'Religious Rights Restrict Basic Rights in Lebanon'. 20 July 2011.
http://www.maannews.com/Content.aspx?id=406691
[12] Article on 'Secular Lebanon'. 22 April 2013. Irina Papkova; https://therevealer.org/secular-lebanon/

existent and depends on each religious denomination; inequality in divorce rights; and domestic violence which is often seen as a private marital affair, within each denomination.

It is visible though that Lebanese politicians have increasingly come to see the importance of reform in recent years. Reform and amendments, such as the abolishment of Article 522 (the rape law) have taken place and new laws have been issued. This could be due to international pressure, internal political changes, but also women's rights organizations who have become more visible and active.

4.3 Secular and confessional NGO's in recent years

As mentioned in the first chapter, NGO's and women's rights organizations in Lebanon changed their focus and target group due to the Civil War. Activists for women's rights started to exceed national, denominational and ethnic borders in their united fight for women's rights. Activism was not bound to a specific denomination anymore, though Christian and Islamic (charity) organizations still existed. There was a clear shift from women's rights organizations focusing on (local) charitable causes to more national advocacy groups. More and more of these advocacy groups were founded at the end of the twentieth century. They are organizations like KAFA who have a secular agenda and have been successful in using a secular discourse on reform (Stephan 2012, 111-132).

However, the first chapter also showed that women's rights organizations, were still bound with confessional ties to the (religious) politics. Organizations such as the 'Women's Democratic Gathering' and the Lebanese Council for/of Women remain closely connected to the confessional system. This system is at the core of the inequality of Lebanese citizens, yet in order to get work done, some organizations remain within the religious realms, whilst other actively oppose them. Secondly, especially since the Taif Agreement of 1989, the Lebanese state has failed to provide welfare to its citizens. Therefore, it is often sectarian based organizations and NGO's that step in to fill the gap left by the government. This often strengthens the bounds people have with their confessional community (Cammett, 2019). A good example of this is Joanne Randa Nucho's (2016) book on 'Everyday Sectarianism in Urban Lebanon' in which she demonstrates that sectarianism is more than the division of society into sects as religious identities. Sectarianism is also about class, gender and geography and through sectarian

membership, offered by (local) NGO's and leaders, people have access to services and infrastructures (Randa Nucho, 2016, 4-30).

Clark and Salloukh (2013) wrote an article on how sectarianism still flows through the veins of many NGO's in Lebanon, taking the Lebanese Council for Women as an example. They '*instrumentalize the sectarian political system and its resources to advance their own organizational or personal advantage*' (Clark & Salloukh, 2013, 731). These sectarian elites can penetrate NGO's, which causes these NGO's to not really challenge the sectarian system. Their research shows that sectarian elites infiltrate larger NGO's and smaller civil society actors (CSO's). This prevents them from effectively affecting change in e.g. their campaigns on PSL reform.

At the same time these NGO's are themselves actively seeking out the support of sectarian elites in order to gain an advanced position in their organizations for instance. Clark and Salloukh's research is rather pessimistic, since it presents a gloomy future prospect for real reforms (Clark & Salloukh, 2013). This is strongly supported by Khattab (2010), who states that women who are members of seemingly non-sectarian NGO's have strong familial ties to the political leadership. They even initiate the founding of such NGO's and furthermore, these ties give them the opportunity to rise to ruling positions within these NGO's:

*Lebanon's civil society sector is an extreme case of the appropriation of the NGO system by confessional groups and sectarian leaders (*Khattab, 2010, 45).

It is problematic that international governments and funders overlook '*the fact that NGOs are heavily politicized and often serve as vehicles for personal advancement which leads to a situation wherein EU supported politicians and perpetuated their clientelist tendencies*" (Leenders and Goes, 2006, 103).

The Civil Society Knowledge Centre, part of NGO Lebanon Support, an independent, non-religious, non-political organization, wrote an article on the development of women's rights activism in Lebanon in which they support the findings by Clark & Salloukh. In the article it is concluded that the movement is splintered or polarized into; "*….top-down corporatist forms of organizing (NCLW, LCW, CFUWI) with ties to the religious and political leadership, bottom-up grassroots leftist women's organizing (LWDG, LLWR) and development-driven professional NGOs (CRTD-A, KAFA)*" … As we can see the former, including the Lebanese Council for Women, are seen as top-down organizations, having close ties with the leadership, whether religious and/or political. However, grassroot organizations like KAFA (Enough Violence), work from the bottom-up (Khattab, 2010, 79).

A more recent report, written by Dima Dabbous, editor in chief of Al Raida magazine, the Arab Institute for Women (AIW), portrays a similar finding. Grassroot NGO's such as KAFA, Ab'aad and CRTD-A are actively promoting women's issues in a progressive secular way. There are also more conservative religious groups who promote women's rights, but these groups often do not have the international funding, organization and independence that secular NGO's have. *'They function mostly as part of existing religious parties or organizations…'* (Dabbous, 2017, 34).

During my fieldwork in Lebanon with Project RAWE (Raising Awareness for Women Empowerment), which was a grassroot organization itself, I had the chance to speak to several NGO's; KAFA (2005), Marsa (2011), Mosaic (2014), LECORVAW (1997), LLWB (2006) and AIW (1973).[13] With the exception of one, AIW, all were founded after the Civil War. It is exemplary for the movement of that time; all NGOs were unwilling to cooperate with the confessional system. The organizations do not just focus on political participation anymore, their scope has changed to taboo topics such as sexuality, LGBTQI rights, domestic violence/gender-based violence, often referred to as VAW (Violence Against Women). They obtain their funding from international donors such as the EU, and while this might possibly affect their ties to the confessional system and the political elites, the next paragraph will show that KAFA has been fighting the confessional system with success.

4.4 Reform: The secular or religious road?

How do NGO's maneuver themselves in a confessional system of government when trying to influence women's rights improvement and PSL reform? A new dimension to women's rights activism since the 1990's is the focus on taboo topics and the use of social media. As noted, urgent topics include VAW (violence against women), sexuality and LGBTQI rights. The LECORVAW (Lebanese Council to Resist Violence Against Women) started with this activism in 1997, providing safe houses for victims of domestic violence and lobbying with politicians. KAFA (2005) which originated from LECORVAW, took this activism a step further (Stephan, 2014), by introducing the use of social media as a strategy to achieve their goals. Academic literature on family law in the MENA focusses mostly on reform without taking into account the role of social media. While it is too early to claim that the use of social media makes it easier for

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[13] In this article by Demi Korban, student of American University Beirut, it is described what we did during our project: https://medium.com/demikorban/rawe-project-raises-the-roof-for-gender-equality-in-lebanon-80de0eb132ec

Lebanese civil society organizations to realize their goals, it is important that further research explores this issue in more depth, especially in religiously plural societies.

Many organizations utilize various forms of social media to raise awareness, give women a voice and provide a place for activists to share their thoughts. It is through social media that feminists throughout the region collaborate, find each other and learn from one another. AIW (Arab Institute for Women) (1973) for instance, shares their magazine Al- Raida online for people to read.[14][15][16]

Other organizations make extensive use of social media by e.g. producing (mini) documentaries and videos. KAFA and Ab'aad made many videos that are available on their YouTube channels. KAFA describes itself as a non-profit, non-political, non-confessional civil society organization. They are an advocacy group at heart and offer legal and social services to women. They protest child marriage, the 'rape law, domestic violence, catcalling, abuse and many more issues that concern the equality of men and women. Ab'aad is an organization that does similar work in Lebanon.

The videos produced focus on several topics such as child marriage within the PSL, domestic violence as a taboo within the PSL, domestic workers etc. The videos have a clear advocacy stance and try to raise awareness.[17][18] A recent video of Ab'aad was shared extensively throughout Lebanon and the MENA region. The campaign called #shameonwho was about putting an end to victim blaming. The taboo on being a victim of rape or abuse is still huge. Ab'aad hired an actress, made her walk on the streets of Beirut, acting as if she had been raped and was looking for help. Bystanders, especially men, condemned her for wearing an inappropriate outfit and asked her if she was on drugs (Kanso, 2018).[19] Further research would be needed to investigate the influence of social media on the rate of success for organizations like KAFA.

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[14] Arab Institute for Women online magazine al Raida; http://iwsaw.lau.edu.lb/publications/al-raida/
[15] This Facebook page was used to publish our findings and stories: https://www.facebook.com/projectrawe/?pnref=story
[16] Our Wordpress website where our findings were published: https://projectrawe.wordpress.com/?fbclid=IwAR1-PlVvUMEj0Q8eSuFwtS4ftF6B_m5f8_8s_PPo7T240Qg25TQsCnUs87Q
[17] Youtube Channel of KAFA; https://www.youtube.com/user/KAFALebanon
[18] Youtube Channel of Ab'aad; https://www.youtube.com/user/ABAADMENA/videos
[19] 'Shame on Who?' video by Ab'aad MENA; https://www.youtube.com/watch?v=c93hSKth548

Although both KAFA and Ab'aad seem to share the same secular discourse and seemingly work independently from the confessional system of government, another example shows that organizations such as these can still be influenced by the confessional system.

In 2012 Ab'aad and KAFA organized campaigns on VAW. As Daou (2015) illustrates, Ab'aad's objectives for the campaign were to 'negotiate with the state and approach them in a nonthreatening way' (Daou, 2015, 16). According to Daou, this 'soft' approach 'enshrined the power of religious leaders'. KAFA on the other hand questioned male masculinity in Lebanese society by 'launching an advertising campaign mirroring sexist behavior related to violence, to highlight male prerequisites and try to put them under the test in order to change them' (Daou, 2015, 16). They also published testimonials by men to show how these men resisted the patriarchy in their private and public lives. With this approach, KAFA navigated from outside the confessional and patriarchal system, and spoke to society directly without the interference of the system (Daou, 2015).

When it comes to PSL reform, Dabous (2017) offers a good insight into activism that works from within the religious framework, and activism that takes a secular approach. Dabbous calls this 'from within' and 'without' referring to a religious or secular discourse, respectively (Dabbous, 2017, 20-33).

Dabbous uses two cases to show that women's rights movements have taken both roads to accomplish reform or the introduction of a new law. The first strategy 'from within' was taken by NGO's who realized that it would be hard to reform discriminatory laws due to their link to the confessional system. And since it is a big step to demand the abolition of confessionalism, these NGO's tried to work form within the framework of confessionalism (Dabbous, 2017, 20-23).

The NGO's that used this strategy were secular in nature and not necessarily involved with any political party but, like their counterparts in most other MENA countries, were willing to talk with the religious authorities using a religious discourse. They used religious arguments to promote progressive ideas but within an Islamic framework[20]. In doing so they were able to raise the custody age for the Sunni PSL in 2011 from 7 for boys and 9 for girls to 12 for both boys and girls. Reform for raising the custody age was also a strategic move; the topic is not mentioned directly in any of the holy scriptures and thus it is determined by the religious authorities

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[20] The report by Dabous did not speak of reforms of non-Muslim PSLs. As mentioned in the chapter on the Arab Debate, working from within an Islamic framework was also used in Morocco for instance

themselves which makes it easier to amend or tackle the issue without contradicting a religious text. Furthermore, the topic is often related to divorce and domestic violence. Divorced women risk losing their children when they are still very young, and thus they often stay in violent relationships. The custody age, which is now raised to 12 years old, is still lower than the NGO's bargained for. But the reform does show that there is a possibility of reforming the PSL from within. It was met as a great success in breaking the powerful religious system (Dabbous, 2017, 20-23).

The introduction of Law. 293 in 2014 shows that it is also possible to reform 'without'. In this reform process women's rights activists wanted to counter the PSL with a new civil law. By introducing a civil law on domestic violence that would apply to all citizens, they would not have to reform religion-based family laws. The law was introduced to protect women from domestic violence and physical abuse, topics that often remain within the private spheres. There was not yet a law that criminalized domestic violence. KAFA was one of the major NGO's that worked on the law by protesting and raising awareness on the topic in civil society through the use of social media and public actions such as a march against domestic violence. [21]

Unfortunately, major amendments were made after Law 293 was approved in 2014, which hampered the effectiveness of the law. For instance, the law was supposed to be named the law 'To Protect Women from Family Violence' but was renamed so that not only women but also 'family members' were to be protected from violence. Advocates for the law wanted to have the gender aspect mentioned in the title because of 'the unequal power relationship between spouses and the possibility of intimate partner violence' (Dabbous, 2017, 26). The law was eventually named 'Law for Protecting Women and Other Family Members from Family Violence'. These nuances show the constant battle between the religious and secular powers.

Nevertheless, since the implementation of Law. 293 more women have spoken out publicly, on the news and through social media, about their violent marriages. More women seek justice in courts to get a divorce or have their husband punished. More importantly, civil courts have also taken up the new law against domestic violence and acted upon it. More protective orders have been issued in favor of women, and their judgements are made to take women in protection. It shows that judges from civil courts have started to pay much more attention to

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[21] Footage of campaigns, protests and the march on domestic violence can be found on KAFA's YouTube channel; https://www.youtube.com/user/KAFALebanon

international treaties and standards. It might be due to international pressure, it might be because judges do not want to comply to the confessional system anymore. Dabbous calls this a 'pro-women approach' which, according to her, is significantly different from the misogynistic stance of religious courts who have judicial autonomy with regard to PSLs. In the end, room for change has been created and politics, civil society and lawmakers are acting accordingly (Dabbous, 2017, 35).

A civil road has been found, not by reforming or abolishing the different PSLs, but by working around the religious laws and the confessional system. The implementation of the new Law 293 is an example of this. KAFA and other civil society organizations promoted legal reform which was not religion-based and that applies to all citizens and therefore could be enforced by civil courts.

4.5 Conclusion

This chapter has shown that Lebanon is one of the few MENA countries that still lack a unified, codified PSL. It must be noted that while unified, codified PSL('s) exist in other MENA countries, they are based on Sunni law and are not secular.

The country has had some PSLs codified such as the Druze PSL in 1948, during the second phase of reform as described by Welchman, but most PSLs were not codified. Although parliament is said to have a controlling role on the acceptance of confessional PSLs, in practice parliament is reluctant to act whenever a PSL seems to conflict with the constitution. The confessional system gives way to multiple PSLs, that all differ from each other, and is therefore at the base of gender inequality in Lebanon. Confessionalism is at the core of Lebanese politics and religious sects have a free hand in creating and ruling over their own laws.

Feminists and advocacy groups have been active in Lebanon just as long as in other countries in the Arab world. They transformed from confessional charity groups into secular advocacy groups. However, many NGO's are still bound by confessional ties due to the 'infiltration' of members who are from certain political parties or denominational groups. This limits the effectiveness of the NGO's aims as shown by Clark & Salloukh (2013, 744) and Khattab (2010, 73-76).

Over the years, NGOs in Lebanon have pressured for a secular civil law, a secular civil marriage, and optional civil law. But their efforts have been fruitless until this day. Still efforts

have been made in recent years, with success. By using a religious discourse, organizations were successful in reforming the Sunni custody age. And by using a secular discourse, organizations were able to navigate the confessional system and implement a new Law 293 that applies to all Lebanese citizens. It seems that while in most, if not all, MENA countries only the religious discourse strategy works, in Lebanon both the religious and the non-religious discourse have proven fruitful. It can be called a great victory since in Algeria for instance, women's rights organizations with secular demands and a secular discourse were excluded from any codification or reform.

In the next and final chapter, we will see which strategy different actors within the Druze community have utilized to reform Druze family law. Codified in 1948, the 2017 amendments were due to activists and feminists who had worked on the drafts for many years. Studying Druze family law reform in Lebanon is important because it has regional implications; after all, Israeli and Syrian Druze also fall under the jurisdiction of the 1948 Druze family law.

5. Case-study; The Druze PSL in Lebanon

The Druze are one of the 18 recognized sects in Lebanon to have their own PSL. Druzism is an age-old religion, related to the Islamic faith, but with esoteric and philosophical influences. This chapter will serve as a case-study and shed light on the Druze religion, their family law and how recent reform of these laws in Lebanon came into existence. Most of the literature on PSL focusses on the Sunni PSL, hence the decision to choose a relatively small denomination from Lebanon. The Druze are furthermore an interesting choice because their faith is also ethnically based, like the Jewish faith. This is a very important aspect to the Druze faith, and it has a great impact on subjects related to the PSLs such as marriage, divorce, custody and domestic violence. To maintain the Druze faith and community, members are encouraged to marry into the Druze faith. This strong internal cohesion causes the Druze to be a rather closed off community, which is not always in the best interest of women's rights.

When looking for literature on the Druze PSL in Lebanon, it was remarkable to find that most articles on Druze PSL relate to the Druze in Israel; a country in which the Druze have also manifested themselves. The amount of literature and online attention for the Druze in Israel can also say something about the position of the Druze in Israel in comparison to Lebanon.

Recently amendments have been made to the Druze PSL in Lebanon. The process towards reform was long and hard, with setbacks and opponents. It seems that activists have taken the same road as has been taken by NGO's with regard to Sunni PSL; to reform from within. Activists have been in close contact with the clergy, maybe knowing that drastic reform was not possible, but reform from within was a good option.

5.1 The Druze faith

The Druze faith originated in Egypt in the 11th century. In 1017 the *tawheed* (unity) movement was declared under the guidance of Al-Hakim Bi Amr-Allah. He appointed Hamza Bin Ali as the new imam or leader of the faith. But the name 'Druze' is actually derived from Ad Darazi, a leader who questioned the leadership of Hamza. Druze themselves do not call themselves 'Druze' but refer to '*Muwahhideen*' believing in the unity of God. In 1021 Al Hakim went missing and Bahauddine became the new leader in 1043. His writings, plus the teachings of

Hamza and Al-Hakim eventually founded the Kutub al-Hakima, the Books of Wisdom, the holy book for the Druze (Beaini, 1989, 6-11; Tarabey, 2013, 121).

The teachings in the book are derived from various religious schools and intellectual discourse. The Druze believe in the unity of God and that God is everywhere. He is not in heaven and has no limits. The Druze believe strongly in reincarnation and see reincarnation as a necessity to learn from life. A human soul reincarnates until the soul unites with the 'Cosmic mind'. Reincarnation is Gods way of testing the belief. Misfortune is not met with resentment, rather it is a sign of God to keep improving. Once born within the faith, a soul stays there, due to the reincarnation process. Therefore, the internal cohesion of the group is very strong (Beaini, 1989, 6-7; Tarabey, 2013, 122).

Nowadays, the Druze can be found scattered across several countries in the Middle East such as Israel, Syria and with the highest numbers in Lebanon. As mentioned in chapter one, the Druze, upon arrival in Lebanon, moved to the mountains where they lived more solitary and closed off from the rest. Still, most Druze in Lebanon reside in the mountains although urbanization is happening among the younger generations. One could say that the solitary way of living was to safeguard the religion from harmful curiosity from outside.

The enclosed nature of the Druze makes them more sensitive to the concept of political familism. Druze rely heavily on their family ties which provide them with their needs and rights. The Jumblatt family for instance is known to be one of the most influential Druze families in politics in Lebanon (Beaini, 1989, 8-13; Joseph, 2011; Tarabey, 2013).

The Druze faith can be divided in two groups; the Ajaweed and the Jismani. The Ajaweed are a small group of individuals from the Druze faith, men and women, who freely choose a religious life. The Ajaweed are the keepers and protectors of the faith and are the only ones allowed to read the Books of Wisdom and spread their knowledge. They dress in a distinctive way, are not allowed to live extravagantly and meet for prayers on Thursday. Ajaweed are mentors and play significant roles in conflict resolution, such as during the Civil War when Walid Jumblatt had to negotiate with the Maronites. The Ajaweed guide the Jismani in being a Druze and provide them with religious knowledge (Azzam, 2007, 125-158; Tarabey, 2013, 121).

The Jismani make up the biggest portion of the Druze. The do not have to comply to a certain dress code, may eat, drink, dance and live the way they want to. The only difference is that

they do not have access to the religious beliefs. They have to gather their knowledge by speaking to Ajaweed Druze. *Jismani meaning the physical body as opposed to the spiritual; another word used to refer to the Druze of the non-religious strata'* (Tarabey, 2013, 263)

The division of the Druze into two groups, one with and the other without access to the religious faith, may influence reform of the Druze PSL. In other countries, such as Egypt, it was heavily debated who was allowed to speak on reforming religious laws and who was allowed to use *ijtihad,* independent reasoning: religious scholars only or also actors with no background in religious studies? (Sonneveld 2012, 41-44). Ajaweed may question the capability of Jismani Druze to challenge the Druze PSL due to their lack of religious knowledge.

The Druze believe in free will and free choice, only then someone can be held accountable. You cannot be forced to believe, hence why the Druze faith has a lack of rituals and rites, there are no structured prayers such as in Sunni and Shi'i Islam.

The Druze believe in equality of mankind; men and women are equal. Consent is a value that is held high among the Druze faith, a marriage cannot be forced upon a female. Al-Hakim abolished polygamy and emphasized the responsibility of men and women alike. Although gender equality is a high value it is not reflected in society. Ideas and values have been influenced by the socially patriarchal system of Lebanon where the male is the figure of authority. The Druze also incorporated parts of Hanafi legal codes within their legal system, which modified their egalitarian ideas (Azzam, 2007, 99-117; Tarabey, 2013, 136).

The Druze in Lebanon became recognized as a minority in 1926 by the French. In 1948 the Druze PSL was codified and in 1960 Druze courts arose. Before 1948 the Druze had to make use of the Islamic Law and incorporate their own laws. Judges play an active role within the community because their rulings on PSL matters greatly determine the cohesion of the group. They are responsible for matters such as marriage and divorce and are therefore often invested in these themes (Azzam, 2007, 99-117; Tarabey, 2013, 134).

It is 'illegal' to marry outside of the Druze faith; if people do so, they will most surely be shunned. But the Druze are not immune to the globalization and westernization of our times. The Druze are challenged by urbanization, social media, higher levels of education and more liberal ways of thinking about matters such as mixed marriages. They are no longer enclosed communities with strong internal bonds. And because most people within the Druze faith are Jismani, they often feel less connected to their religion (Tarabey, 2013; Azzam, 2007, 2007-210).

5.2 The Druze PSL and the place of women in the Druze faith

As mentioned, men and women are viewed upon as equals within the Druze faith. But the Druze have been influenced socially, politically and lawfully by the Lebanese system. This system of religious plurality, in which patriarchy is still powerful, has impacted the way in which women are viewed upon.

The Druze PSL was codified in Lebanon in 1948; before that time the Druze made use of the Islamic law in combination with their own laws. The Hanafi and Maliki schools, plus the sharia law were modified to the Druze law. The Druze PSL applies to the Druze communities in Lebanon, Syria and Israel. However, each country has made their own modifications (Van Eijk, 2013, 66). The Druze leadership in Israel for instance, adopted the Lebanese Druze PSL but made two big modifications …*'Hanafi doctrine was replaced by Druze custom and Lebanese status were replaced by Israeli status'…* (Layish, 2007, xix).

The Druze PSL rules on marriage, divorce, child custody and other familial topics. I will shortly treat these three subjects to see how the Druze deal with them. It is important to note that whilst many things sound theoretically equal, reality does not always offer that equality as Tarabey (2013, 134) and Azzam (2007) demonstrate in their research.

Marriage amongst the Druze is not seen as a religious act, it is an act of freedom. It is very important that both parties' consent to the marriage. The age of marriage is set on 17 years old for the female and 18 for the male. Both parties have to be 'mature' enough. This rather vague description of maturity created a loophole in the law through which earlier marriage is allowed. As mentioned before, polygamy is not allowed and was abolished by al-Hakim. Over the years the age for marriage has increased for both male and female. Education is a key factor in this matter; more Druze young adults are higher educated and want to have a career first. Still, in villages people marry at an earlier age. Marrying provides women with a future and working is not a necessity. The age difference between men and women who marry has decreased over time, although in the village the difference is still bigger. In villages it is also still not uncommon to marry kin (Tarabey, 2013, 127).

Divorce amongst the Druze is permitted and can be filed for by both men and women. The right to divorce is therefore equal for men and women. The dissolution of a marriage is in the hands of a judge. So, there is not something like '*talaq*' in Islam where the man declares that

he wants to divorce his wife. Divorce must happen in agreement with both parties, which sounds progressive. In practice this ideal has been influenced by Lebanese patriarchal culture, and women cannot easily divorce (Tarabey, 2013, 125).

Divorce within the Druze community is something that is preferably kept within the family bonds. And it is often expressed that resolving is better than a divorce. The court always tries to find a resolution first through mediation. Judges try to contain or limit the conflict. In more recent cases judges have started to make use of social workers and psychiatrists to form a more objective judgement (Tarabey, 2013, 120; Obeid, 2017).

Violence is mentioned as one of the biggest reasons for divorce. Over the last years it has become evident that women have become more aware of their rights and file for divorce quicker than before. This could be due to the immense attention that is given to women's rights by Lebanese NGO's and the concomitant attention for domestic violence and abuse.

An important topic of the last years was raising the child custody age and giving the mother more rights in this matter. The mother remained the custodian of a son until the age of 7 and of a daughter until the age of 9. The mother had to be capable and fit to carry out this duty. In recent years women are filing for divorce faster due to the awareness that has been raised regarding abusive marriages, but also, because women depend less on their husband. Economic independence has caused women to demand their rights more actively.

Nevertheless, in the past, filing for divorce could jeopardize the right for mothers to raise their children. Their right to child custody would end at the age of 7 for boys and the age of 9 for girls. The raise of the custody age to 12 for boys and 14 for girls was therefore welcomed amongst Druze women. They feel more empowered in filing for a divorce, since they have more rights to keep their children with them for a longer time. The Druze clergy (Ajaweed) however, feared that the reform would lead to more divorces (Tarabey, 2013, 134; Di Ricco, 2016).

5.3 Recent reforms; The religious road

In 2017, amendments were made to the 1948 Druze PSL in Lebanon. This was due to activists and feminists who had worked on the drafts for many years. One of the more controversial amendments was that the child custody age was raised from 9 to 14 for girls, and from 7 to 12 for boys. The timing and subject of the amendments could be seen in the light of the other denominations issuing reforms, such as the Sunni child custody age reforms of 2011. As mentioned in chapter two, child custody is a subject that does not directly touch upon the

holy books, and thus is a subject that can be more easily reformed. However, child custody does have a lot to do with marriage and divorce, and hence, the rights of mothers and women are improved as well.

The Druze reforms were made from within a religious framework; Druze activists played a significant role. 'From within' literally means from within when it comes to the Druze. It is probable that non-Druze activists would not have even been accepted to make changes into the Druze faith. Bigger reforms or even new laws like an optional civil marriage law will most probably not be supported by the more conservative and traditional Druze as well as Ajaweed. This is due to the fact that marriage is so important in preserving the internal cohesion of the Druze faith. According to Azzam, however, young adults have less of a connection with the Druze identity and faith since they are Jismani, so they would most likely support more secular reforms (Azzam, 2007, 208-209; Tarabey, 2013, 122).

A Druze friend confirmed the idea that most young people have a hard time to connect with the Druze faith, due to the lack of religious teachings. He said that the most important thing for the Druze (Ajaweed and traditional elders) seems to be to 'marry within the sect'. He himself expressed to have been born Druze but to not believe or follow the rules 'if any' of the religion. He jokingly said; 'I don't even know if they have changed the rules or not, so that is my point exactly'. He also said; 'It seems to be the ultimate sin to marry outside the sect. You cease to be Druze if you marry a non-Druze. So, my parents made a fuss when I brought home a non-Druze girlfriend'.

It is clear that this part of the Druze faith contradicts very much with the increasingly westernized views of young Druze nowadays. However, it is so intrinsically woven into the Druze faith, that it probably will not change anytime soon.

According to feminist and activist May Wahab Bou Hamdan, president of the Charitable Organization for Social Awareness, the Druze PSL reform had been in the making for thirty years. Still, changes to the law sparked concern among the clergy who were afraid that raising the custody age would give way to more divorces (Obeid, 2017). Although divorce rates have risen the past decades, it is not proven that this is due to the raise of the custody age. Rather Tarabey (2013) mentions a significant finding regarding divorce. In her research … '*65% of the divorcing couples had children and 32% did not*'… (Tarabey, 2013, 126). It demonstrates the fact that divorce will happen, regardless of there being children. However, it was evident that women sometimes

wait until the children reach their adulthood with filing for a divorce. … *'The children were now old enough to look after themselves'…* (Tarabey, 2013, 126).

An anonymous religious source declared to journalist Ghinwa Obeid from the Daily Star that; "*We are not against the changes ... but we are only scared that the rate of divorce might increase.…When you raise the custody age for the mother's benefit and there are issues between her and her husband, she might find it easier to resort to divorce.*" (Obeid, 2017). Bou Hamdan and other opponents rejected the religious arguments. According to her the custody issue was the most sensitive one in the draft but it had to be addressed to protect the children. The reformed law still respects the father's visitation rights and obliges mothers to respect their ex-partners (Obeid, 2017).

Ghada Jumblatt, lawyer and member of the committee that was formed by the Druze Council to discuss the amendments, stated that women do not divorce as easily as the clergy would suggest. *'Most mothers don't take the decision to divorce lightly and the religious judge studying the reasons behind any divorce request would hold the woman accountable if she were responsible for the decision to end the marriage contract'* (Obeid, 2017). Meaning that women are already under a microscope when it comes to divorce. If it would turn out that her decision to divorce was not legitimate and taken too easily, a woman would be punished for that by the court.

It is furthermore interesting to see that Ghada Jumblatt, of the Druze Jumblatt family who are very apparent in Lebanese politics and history, had a role in the committee appointed by the Druze Council. It demonstrates an infiltration from the political elite into matters regarding civil society, which Clark & Salloukh (2013, 732) also mention.

Ghada Jumblatt's remark makes it very clear that, even though women and men are 'equal' according to Druze values, the law and the religious judges do not always see the rights of a wife as equal of the husband's rights. And sometimes women are not even aware of the actual principles of the faith and the rights they are entitled to. As this quote from Azzam's book shows; … *'I just learned that our religion gives me the right to divorce. But now I am more frustrated. It's very depressing to find out that traditions are more dominant than the principles of the faith'...* (Azzam, 2007, 208).

Jumblatt and Bou Hamdan furthermore referred to Article 55 which states that a mother can only be awarded custody if she is 'capable of caring for the child'. And if the woman remarries, she loses her right to custody. All these laws are very discouraging for getting a divorce. Although it is a victory for the reformers that changes have been made to the 1948

Druze PSL, one might observe from these abovementioned Article 55 provisions, that the changes made to the law still place women in an unequal position with regards to men.

According to Obeid (2017) organizations began lobbying for amendments due to changing and developing social norms. These new developments could be globalization, higher education, the internet, westernized values and also the advocacy of NGO's like KAFA and Ab'aad.

Di Ricco (2016) adds to this an important development within the Druze community that gave way to Druze women's rights activists reform claims. In 2006 the Druze Council[22] was reformed; from now on, members of the Druze Council were elected by all Druze in Lebanon, instead of them being appointed by the highest religious leaders. The new Sheikh al-'Aql, Naim Hassan, headed the newly founded council. Soon after, Druze feminists presented reform claims to the council. It was clear that this new and functioning institution and approachable Sheikh, gave way to new lobby efforts for PSL changes. In Di Ricco's (2016) article, this is emphasized by the following quote of Anissa Al-Najjar, a 94-year old Druze feminist and activist; … *'We think that the new Shaykh al-'Aql is a very wise man, not like the one before who blocked the institutions. Before it made no sense to contact the shaykh in order to reform women's status in the community. No one was really responsible for the community, and so it was impossible to address anyone'*… (Di Ricco, 2016, 38).

In 2009 the Druze Council founded a committee to prepare a draft law. The draft law was sent to the board of directors who discussed the draft law. Then the draft had to be accepted, finalized and adopted by Sheikh Naim Hassan, the Druze spiritual leader and Druze lawmakers. Lastly the Lebanese parliament and its committees endorsed the new amendments on the Druze PSL (Obeid, 2017). It is not clear if Druze women's organizations only added suggestions from the outside or if they were actually part of the committee. It could be that there is more information in Arabic, a language I unfortunately do not master. Due to the enclosed character of the Druze this is a good possibility. It is clear though that the reforms were made from 'within' a religious discourse (Dabbous, 2017). The reform shows similarities to the Lebanese Sunni 2011 reforms and the 2005 Muslim family law reforms in Egypt on child custody. Here the argument was also raised that the protection of the family and the child was a priority. Through reform, the rights for mothers were also improved (Sonneveld, 2012, 54).

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[22] … 'Founded in 1962, the Council, in theory, has legislative authority; it also manages the economic and administrative affairs of Druze organizations, particularly the incomes of the waqf, community proprieties, as well as shrines and sanctuaries. The Shaykh al-'Aql is the highest-ranking position in the Druze court, and is also the head of the Druze Community Council.'… (Di Ricco, 2016, 37)

According to Di Ricco, Druze reform activists have worked from within, using a religious discourse to appeal to the doctrines which are often seen as being more 'gender-egalitarian' than for instance Muslim personal status laws. Even though the Druze place a high value on equality, everyday practice is often different. This is due to social framework of the plural Lebanese country and state in which Druze live their lives (Di Ricco, 2016)

Tarebey emphasizes that the Druze place a high value on equality. The egalitarian principle is mentioned in almost all literature (Tarabey 2013, 123; Azzam 2007, 19-42; Di Ricco, 2016). However, this egalitarian principle is not experienced in practice. Many Druze women want reform because the current PSL does not answer to the egalitarian principles (Di Ricco, 2016). Druze Activists have advocated to raise the marriage age from 17 to 18, which is also a national debate in Lebanon. It is not uncommon for girls, across all sects, to marry below the age of 17.

Most of the activists are highly educated and live in urbanized areas. It is hard to involve people from rural areas, who rely heavily on their families and kin-relationships, in reform matters. Reforming the Druze PSL affects family relations even though reforms could possibly mean a lot for these rural based women (Di Ricco, 2016)

Di Ricco concludes his article by stating that researchers as well as Druze themselves have to put the focus on involving people from within the community. Change has to come from within the community by raising awareness for these matters within the community. Change from within is possibly easier to achieve in a divided country like Lebanon. … *'Personal status law is the prerogative of the community, and the decision for change is thus in the hands of communal institutions and leaders. Such considerations highlight the importance of communal activism in terms of participating in the affairs of the community. In such cases, the state has no role in the dynamics of internal change; only individuals within the community can actively participate in changing such conditions, without interference from either communal or state authorities'…* (Di Ricco, 2016, 43).

5.4 The Druze in Israel

Information on the Druze in Lebanon was scarce, but information on the Druze in Israel seemed more widespread. I was interested to see how and why there is such a difference. Maybe the Druze in Israel lived a less isolated life, compared to the Druze of Lebanon. This could possibly effect PSL reform efforts and the organization of women pleading for reform.

Israel, like Lebanon, is a state in which several religious communities are officially recognized. The fourteen communities enjoy the autonomy to decide on matters of family law, and they often have their own courts. Israel experiences the same secular-religious incongruence as Lebanon; secular and religion-based laws contradict and do not provide citizens with an equal citizenship experience. The most important similarity is the non-existence of a unified PSL, be it religion-based or not, where all citizens are treated equally in matters pertaining to family law matters (except for marriage and divorce) (Yefet, 2016, 1508-1510). The Druze in Israel, like the Druze in Syria and Lebanon, make use of the 1948 Druze PSL. In 1957 they were recognized as an autonomous religious community with their own family law, and shortly after the first court was opened in Israel.

The Druze in Israel enjoy a different status than the Druze in Lebanon. They are often found in high political, military and social posts within the Israeli highest ranks. This is due to the fact that the Druze have a compulsory military service. The Druze do not view themselves as Arab Israelis, who have an exemption from military service. Military service in Israel is seen as an important marker of being part of the Israeli society. …*'The IDF (Israeli Deterrent Force) is historically seen as an integrative institution, where Jews from any part of the world could become Israeli. Druze in the army are told that their different religious background is not an issue for all soldiers are equal'*… (Hajjar, 2000, 308).

Their close connections to the Israeli military and politics have made the Druze more nationalistic in supporting the state of Israel. Women, however, are exempt from military service, and since this military service is such an important 'identity marker' according to De Hoog (2017) they enjoy less identification with the Israeli society and stay within the often isolated Druze community (De Hoog, 2017, 20).

In the last years several decisions from the Israeli state have brought tension to the good relationship between the state and the Druze community. The Israeli government passed a Nation State law last year in which the Arabic language was declared to no longer be an official language. Furthermore, the law put an emphasis on the Jewish character of Israel. This nationalistic and populistic political trend outraged the Druze because they felt unrecognized as full citizens of Israel. Druze top officers campaigned against the discriminatory bill in 2018.[23] They felt that the state of Israel claims to be democratic on the one hand but excludes citizens by emphasizing the Jewish character of the nation, on the other hand. The Druze always

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[23] Newsarticle on the 24 Druze officers that filed against the Nation State law; https://www.haaretz.com/israel-news/.premium-24-druze-politicians-file-seventh-petition-against-nation-state-law-1.6390496

experienced a special status-quo and according to Alami (2018), the Jewish state and citizens refer to the Druze as a favored minority.

A report from the Pew Research Centre on 'Israel's Religiously Divided Society' stated the following; …. ''*Arabs in Israel generally think the principles of democracy and those of a Jewish state are incompatible. Majorities of Muslims, Christians and Druze in Israel say Israel cannot be both a democracy and a Jewish state. And if there is a contradiction between the principles of democracy and those of Jewish law, large majorities of these groups say democracy should be favored*'' …. (Pew Research Center, 2016, 190).

A second issue that has heightened tensions between the Druze community and the Israeli state has to do with the Golan Heights and the community of Druze who live there. These Druze do not feel the same connection with the Israeli state and rather identify themselves as Syrian Druze rather than Israeli citizens. The Golan Heights are Syrian territory but recently president Trump called for the recognition of the Golan Heights as Israeli territory. This has infuriated a part of the Druze community. Still some Druze in the Golan Heights worry more about their Syrian identity due to the Syrian war and the presidency of Assad of the last years. They have been offered full Israeli citizenship and equal rights by the state of Israel. More Druze seem to take this offer as it brings them more stability and safety.[24]

5.5 Druze women's organizations in Israel

The special status of the Druze in Israel, I argue, has had an effect on the visibility and advocacy of Druze women's rights organizations. On the one hand the Druze community as a whole seems to be more accepted due to their participation in the Israeli society by joining the IDF. On the other hand, Druze women are exempt of this military service, and therefore they do not enjoy this special status granted to the community as a whole.

It does seem as if the Druze experience more room to demand for their rights. A quick Google search serves up several hits on Druze organizations on women's rights and reform in Israel, while a similar search for Lebanon provides little public information. Seemingly, the organizations make more active use of the internet than their Lebanese counterparts, coming out of their isolated sphere. The fact that Druze are so openly active in the Israeli state apparatus provides them with more freedom to discuss topics such as women's rights and reform of PSL.

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[24] Newsarticle on the Druze in the Golan Heights and their decision for Israeli citizenship, https://www.golancoalition.org/druze-in-the-golan-heights/

However, as the following paragraphs will show, activism for Druze women's rights often becomes embedded into a multi-religious framework. On top of that, no amendments have been made to the Druze PSL in Israel, which as mentioned, was based on the 1948 Lebanese Druze codification, however, with two modifications.

One of the first organizations I came across was Nisaa Wa Afaq (Women and Horizons); a Druze, Muslim and Christian Arab organization founded in 2002. They strive for equal rights and gender equality for 'Muslim women' through research, legal reform, raising awareness, engaging with the community and giving workshops. On their website it is clearly written that they consult extensively with leaders and judges with a religious background, as well as religious scholars. Even though the organization has members of multiple religious communities, their activities seem to have been focused on reforming the Sunni PSL rather than the Druze or Christian PSL…' *In extensive consultations with the community and eminent leaders (such as academics, judges and lawyers from the Shari'a Court, Members of the Knesset and religious scholars), Nisaa Wa Aafaq has drafted a reform to the Sunni Personal Status Law to be presented to the Knesset and the Shari'a Court during 2014…* [25](Inter-Agency Task Force; Sadiqi, 2013, 144-165).

A similar development can be found in the article by Di Ricco (2016). In the 1950's an inter-confessional group of women lobbied for the improvement of women's rights in Lebanon. In 1959 they focused on equality of the inheritance law for non-Muslims. To gain this equality the group of activists had to split into their own confessional group. The Christian women outnumbered the Druze women and were thus able to achieve the equality in inheritance within their Christian communities (Di Ricco, 2016, 44)

Another example from Sadiqi (2013) is a project which was set up between Itaach Maaki (Women Lawyers for Social Justice) and Haifa University in which women were taught about their legal rights.[26] Especially Druze women learned through this project that their religion offers much more rights to them in the domain of divorce than they are actually aware of (Sadiqi, 2013, 144-165).

From this small literature and online research, it seems that although Druze women in Israel seem to be more visible, they have not accomplished major reforms yet. Their Lebanese counterparts, however, have profited from the reform of the Druze Council. Through this they

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[25] Quote from the website on Nisaa Wa Afaaq; https://www.iataskforce.org/entities/view/186
[26] Website Itaach Maaki; http://www.iataskforce.org/entities/view/1064

could demand for reform of the Druze PSL. These developments could benefit the Israeli Druze as well.

5.6 Conclusion

This chapter has focused on the Druze denomination of Lebanon and its family law. It has shown that reforming the PSL is very hard due to the isolated and rather secretive nature of the community. One of the foremost issues the religious scholars, judges and leaders are occupied with is preserving the internal cohesion of this ethnically based religious group. This mindset creates a gap between the traditional and conservative religious Druze (Ajaweed) and the younger secularly minded Druze (Jismani) who do not feel the same connection to their group.

The attitude of the clergy has made it hard to reform; the draft law on the age of child custody showed that the clergy are concerned about the internal cohesion of the group. It also showed that reform was only possible from within and it took many years to actually realize reform. Feminist activists tried to stay in contact with religious scholars in order to formulate an acceptable draft law. It was in their major advantage that the Druze Council was reformed in 2006. Druze women felt like their demands finally were taken seriously, which showed when in 2009 a committee on the draft law was founded and in 2017 the draft law was finally accepted. The Druze case-study shows that a civil law in Lebanon, and thus civil marriage, would threaten the status of the Druze religious leaders. However, by bypassing the religious leaders, like KAFA did with Law 293 it might be possible to make bigger changes in the future.

The status of the Druze in Israel was an interesting comparison to be made. Their special status in Israel, through which their participation in the state is bigger, has enabled women's rights organizations to raise awareness amongst the members of their Druze community. Still, Israeli Druze women have not been able to campaign successfully for reform of the Druze PSL in Israel, while this has successfully been done in Lebanon.

6. Conclusion

In this thesis I have tried to answer what influence women's rights movements have had on PSL reform in Lebanon and what strategies these organizations used.

The women's right movement in Lebanon has been influenced by the complex religious structure of the country and its history. The religiously plural structure which stems from the recognition of 18 different sects in the constitution has created a remarkable dual citizenship. People feel they are Lebanese citizens on the one hand, but also members of a religious denomination on the other hand. This if further complicated due to the fact that these autonomous communities have the freedom to create, implement and execute their own family laws. The Lebanese parliament in theory must endorse these laws and check if they do not violate the constitution, but in practice the parliament has little vigor as we have seen in chapter 3. This lack of vigor has also pushed the Lebanese into the boundaries of their own communities in which they feel more supported in their rights. Saud Joseph calls this political familism; it is within the family and kin where people experience the support and rights rather than from the state. The religiously plural system is drenched with traditional patriarchal ideas and values. These ideas are found within the family laws, which are often experienced as discriminatory. It is harder for women to get a divorce, to be taken seriously when talking about abusive marriages and to gain child custody. Lebanese women are not equal to men, due to these family laws. And women are not even equal amongst themselves, since the PSLs differ from religion to religion. This is the biggest reason for Lebanese women, activists, feminists and NGO's, to fight against the PSLs. Because they divide Lebanese citizens as well as women (and men).

The biggest difference with the other MENA countries is not the prevalence of religion-based family laws. These exist everywhere in the region. But for Lebanon, on top of these religion-based family laws, the political system is based on confessionalism. Removing religion-based family laws could affect, not only the power of religious leaders but also that of the political leaders. Because without religion being important, there is no reason why the president has to be a Maronite, the prime minister a Sunni and the Speaker of the House a Shia. At the moment … *'the system does not allow the individual any exemption from membership of such a community, which remains the primary national identity. In effect, Lebanese citizens do not have the option of being subject to a civil status law'*… (Di Ricco, 2016, 34).

The second chapter created a backdrop by elaborating on the complex history of Lebanon. The country was inhabited by many religions and ethnicities from an early start. During the Ottoman era clashes amongst the Druze and Maronite erupted, giving a first indicator of the precarious balance Lebanon had to keep. The end of the Ottomans brought with it the French Mandate. The French had been influential from earlier on by bringing their missionaries, education and law system with them. Lebanon implemented and used these influences such as the law system, with exception of Article 95, pleading for the recognition of the separate sects and granting them with the autonomy on their own family laws. Furthermore, political power was divided along the lines of religious percentiles. This memorable decision influenced the Lebanese state up until this day, specifically the reform of religion-based family laws. It is the main reason why religious and political leaders are not willing to reform these religion-based laws so easily. As noted, by making religion-based laws redundant, political power, which is also based on religion, would crumble too. Chapter one, furthermore, elaborated on the development of women's rights activism in Lebanon. It gave an insight in how they organized and what topics they focused on.

Chapter three gave an insight in the debate on women's rights in the Arab region. By paying attention to how other countries codified and achieved reform, it provided a framework for Lebanon to be imbedded in, to understand the reform of religion-based family laws. The Ottomans were the first to codify Sunni family law into the OLFR, which was used as an example by many countries. Egypt was an exception; it created its own codified, separate laws on family law from the 1920's onwards. Lynn Welchman called this the first phases of reforms. The countries that codified and reformed in the second phase, were countries that actively protested the influence of colonialism. Women often found themselves at the forefront of protest because their headscarves for instance, became a symbol for liberation. Every country had its own process of codification. In Tunisia state feminism provided a very stable base for quick and more equal women's rights. In Algeria it was not until the 1980's that the first codification was made. In all cases, women and their organizations were involved in the process, but they had to find the right discourse to participate. Even when the goal was a civil code such as in Algeria, or a civil law on marriage, women usually had to retreat to a religious discourse to legitimize their secular agenda. Arguments had to be found that did not offend the clergy too much and collaboration was key. The chapter clearly showed that in many cases a (secular) civil code was a bridge too far.

Chapter four brought us to Lebanon; a multi-religious country in which there was not just one codified family law applying to all Lebanese citizens. As stated, this religious pluralism creates inequality between citizens and between members of the religious communities themselves. How to reform in a country that has inequality at its core? Some women's rights organizations in

Lebanon try to distance themselves from the religious sectarian system by introducing themselves as 'non-religious and non-sectarian'.

Organizations like KAFA and Ab'aad are secular advocacy groups who make active use of social media to raise awareness on issues, such as, violence, abuse, child marriage, rape, and the patriarchal system. Dabous (2017) showed that KAFA had been successful on reforming 'from without' when Law 293 was implemented. 'From without' means that organizations work around the confessional system, and as such, can demand for non-religious reform or implementation of new non-religious laws.

Although it faced setbacks, and was not exactly executed as hoped for, the process of drafting had been without the influence of the clergy. This case showed that reform without a religious discourse is possible and that it is not always necessary to compromise demands in order to fit a religious discourse. Law 293 was a new law, not a law that was reformed within the religious PSLs. The successful implementation of Law 293 can be seen as a stepping-stone towards more non-religion-based reform which eventually might include typically personal status law matter such as divorce and marriage.

At the same time, reform that specifically targets the PSLs are hard to accomplish without the support of the clergy. The 2011 Sunni child custody reform showed that NGO's took a step back from their secular agenda and were willing to negotiate with the clergy through a religious discourse. Had they not done this; their voices would probably not have been taken into account. Furthermore, Clark and Salloukh and Daou showed us that often NGO's are part of the sectarian structure of the nation themselves. Even when they claim to have a secular agenda, they are influenced by their members or leaders who have a religious agenda. The confessional system thus adds an additional layer of complexity to PSL reform in Lebanon. KAFA's victory with Law 293 could be the solution for the difficulty of reforming PSLs; by working around it, the system is sidelined and eventually made redundant.

Chapter five resented a case-study of a religious denomination in Lebanon that went through reforms of their PSL recently. The Druze, which is a rather secluded sect, a religion that is even a mystery to most of its members, and a religion that has an ethnic base. Members of the Druze faith remain within their faith due to reincarnation. Internal cohesion is preserved by the religious leaders of the faith who are the only ones that have access to the holy books. Cohesion is furthermore established by marrying in-kin and/or in-faith. The Druze place a high value on equality and women, but in practice this is not the case due to the influence of the sectarian Lebanese system with its traditional patriarchal values. Divorce for instance, can be applied for by

women in the Druze faith. In practice it is very hard for women to get a divorce and if they do so it influences their further lives. The recent Druze PSL amendment showed the influence of feminists in the process, but also the influence of the Druze community as a whole. They pressured their leader to reform the Druze Council, which made the council more approachable for women's rights activists. They acclaimed a victory in 2017 when amendments were made to the 1948 Druze PSL. Reform was most definitely made from within the Druze faith, and within a religious discourse. The short example of Israeli Druze showed us what members of the same faith, in a different country, try to accomplish with regards to the Druze PSL. It would be interesting to conduct further research on the Druze PSL in Lebanon, Israeli and Syria and compare the three with regards to reform and reform strategies.

To conclude: are the Lebanese on the road to a civil code? I will argue that they might be on this road, but the road is very long. The problem of the personal status laws lies within a religious framework, which is, moreover, embedded in the state system. The influence of women's rights movements on the reform of the religious PSL's is significant though. I argue that Dabous (2017) gives two answers to how women can influence the reform process and present a solution for the future. On the one hand NGO's like KAFA are needed to advocate for change through a secular discourse, to change the way of looking at the system and to hopefully, change the system all along into a more democratic one. On the other hand, NGO's that are more willing to use a religious discourse are also important because they provide women with necessary reforms in the field of personal status. The Druze PSL reform showed that women were willing to work 'from within' because they viewed their religion as being egalitarian in theory, though discriminatory in practice. They were not opposing the Druze religion, they just thought that the ideals of their religion had been badly influenced and thus badly executed over the years. When the religious institution of the Druze Council changed into a more democratically chosen one, Druze women saw the opportunity to use the system to their advantage.

Lebanon's unique combination of a confessional system of government and religious personal status laws leads to what might be called an innovative road to personal status reform, one that might have an important impact in the wider MENA region in the years to come.

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Summary

This thesis investigates personal status law reform in Lebanon, in particular, which discourse strategy women's rights movements use in order to influence personal status law reform.

Lebanon is home to 18 recognized religious sects who each have the authority to administer their own family law. In effect this means that Lebanon has 15 religious courts who rule autonomously on personal status matters. Furthermore, it is written in the constitution that Lebanese politics are divided along confessional lines. The president is always a Maronite Christian, the prime minister a Sunni Muslim and the Speaker of the House is a Shia Muslim. The division of the Lebanese nation, in politics but also in law has created a dual citizenship; people are Lebanese citizens, but foremost members of their own religious denomination. This division along sectarian lines enforces political familism; where people rely more on their family/kin/denomination than on the state in order to enjoy their rights. It can also be traced back along various realms in Lebanese society, such as women's rights movements, whether they claim to be secular or religious.

The multiplicity of personal status laws has created additional hardship for women. Lebanon has a strong patriarchal and traditional character, due to the confessional character of the nation. The PSL's do not treat women as equal to men and are experienced as discriminatory. Furthermore, women from different sects are treated differently with regards to the same topics, depending on which sect you are from.

The struggle of personal status laws is not just limited to Lebanon and can be seen in the Arab region as a whole. Women's rights movements have been advocating for policy change, law reform and implementation of new laws. The most successful changes however, happened when organizations used a religious discourse to express their demands. They appealed to the clergy by using *ijtihad*. In countries where women stuck to their liberal secular discourse, such as Algeria, women were side-lined and often not included in policy change committees.

In Lebanon however, organizations have been able to use both a secular discourse and a religious discourse. In 2014 Law. 293 on family violence was implemented after a secular discourse was used. This shows that it is possible to side-step the confessional system, and in the future, this could maybe even mean the confessional system could become redundant.

The Druze case-study has shown that reforming the Druze Council, a religious institute, into a more democratically chosen council, gave way for Druze women's rights organizations to demand for PSL reform. They used a religious discourse, but the religious institution itself was also more open to hear their demands.