

The Reaction of the Muslim Communities*

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1. Introduction

The personal status of the Lebanese is governed by the respective laws of the country's eighteen recognized religious communities. Article 9 of the Lebanese constitution says that the State shall "safeguard for the citizens of whatever religion or sect, due respect to their personal status code and their spiritual interests."¹ In addition to the Christian and Jewish communities, the Lebanese constitution recognizes three main Muslim communities, the Sunni, the Shiite and the Druze. Each of these communities possesses its own jurisdiction and sole competence in all matters of personal status.² Personal status rules are primarily *shari'a* based in that *shari'a* courts have jurisdiction with regard to the Sunni Hanafi and Shiite Ja'fari sects while the Druze have a Codified Personal Status Law promulgated in 1948 and amended in 1959. The various confessional laws, both Muslim and Christian, contain fundamental differences. Complications arising from having a variety of laws regulating the same issue is particularly acute in the context of marriage between persons belonging to different sects. In order to provide some remedy to this situation, the president of the republic presented the cabinet with a detailed draft of a facultative civil personal status code in February 1998.

The supporters of the law argued its necessity in Lebanon by pointing to the fact that couples are forced to travel abroad to contract the civil marriages denied to them by local laws. This was deemed to be an infringement of the country's sovereignty as the national civil courts are thus forced to apply foreign laws under whose auspices such marriages take place. Those Lebanese who choose not to marry outside Lebanon are forced to undergo conversion in order to comply with religious marriage requirements.³

Furthermore, the proposed law, in some of its articles, was designed to be advantageous to the juridical status of women, since to varying degrees, the prevalent religiously based personal status rules are detrimental to women.⁴ The preamble to the law also stressed the beneficial impact that such a law could impart to national cohesion.

In this paper, I will review the proposed law and reconstruct the reaction to it by the three principal Muslim sects in Lebanon, namely, the Sunnis, the Shiites and the Druze. I will outline the arguments, actions and reactions of different Muslim constituencies, namely, the clerics; the politicians; and the intellectuals and activists.

2. The Proposed Law

The question of civil personal status has a relatively long history in Lebanon. On 28 April, 1936, a decree by the French Mandate authorities entrusted the civil courts with personal status litigation, reducing the juridical competence of the religious courts to actions relating to marriage. However, the protest of all the communities, and particularly the Muslims, were so violent that the French High Commissioner was forced to postpone the decree indefinitely.⁵ After independence in 1943, discussions concerning the introduction of an optional personal status law occurred during a debate surrounding the law of 2 April, 1951 which gave Christian religious courts powers similar to those enjoyed by Muslim religious courts. It is significant that, at the time, both Muslim and Christian clerics exerted strong pressure to institute the above mentioned law. In reaction to the extension of the powers of the religious courts, the Order of Lawyers proclaimed a strike that lasted for six months. The strike

was called off only after the Order received a promise that parliament would discuss civil personal status law sometime in the near future. As in the 1950s, debates over a civil personal status law burst out intermittently in the 1960s and early 1970s. One of the most serious proposals preceding the current one was elaborated by the Democratic Party in 1971. In 1997, the Syrian National Socialist Party also proposed such a law in parliament.

The proposed bill of 1998 is mainly confined to issues pertaining to marriage and its effects without delving into issues of inheritance and testaments; thus, it does not include all aspects of personal status. By not discussing the religious affiliation of the parties involved, the proposed law implicitly permits the marriage of a Muslim woman to a Christian man, a union forbidden by the *shari'a*. More explicitly, a number of articles are in clear contradiction to Muslim religious laws on personal status. Article 9 infringes upon Muslim men's legal right to marry more than one wife by clearly stating that "it is illegal to contract a marriage between two persons, if one of them is already bound by an existing marriage." Article 25 establishes the equality of the sexes in divorce by granting equal rights to women and men in initiating a divorce. The law also allows a marriage prohibited in Islam, namely the marriage between two persons connected through the relationship of *rida'ah* (suckling). Another article in the proposed law which is fundamentally contrary to the *shari'a* recognizes the principle of adoption.

The proposed law has been criticized by supporters of civil marriage as being wanting in secular spirit in that it allows religious marriages to be subject to religious laws. Indeed, the proposed law does not aim at abolishing the religious courts.⁶ Moreover, the proposed law follows current legal practices with regard to other legal points, such as child custody, guardianship and inheritance. Thus, following a divorce, custody of the children is automatically given to the mother until the son reaches the age of seven and the daughter the age of nine (Article 42). As for guardianship, it is given to the father and reverts to the mother in the cases of the ex-husband's death, disappearance, or loss of sanity (Article 86). Finally, the law relinquishes the regulation of inheritance and testaments to the current religious personal status laws of the concerned parties (Article 110).⁷

3. The Sunnis

3.1 The Religious Establishment:

As soon as the actual text of the optional personal status law was made public, the clamor which had been going on for a few months intensified. Rumors that it was impending had already aroused vocal opposition.

The polemic had started more than a year earlier when, on the occasion of Lebanon's Independence Day (22 November, 1996), the president announced his intention to present and support this proposal. A statement by the Sunnite Islamic Council rapidly followed which denounced the future project with a rare virulence.⁸ The campaign was spearheaded by the Sunni Grand Mufti of Lebanon, Shaykh Muhammad Rashid Qabbani. The Sunni clerical establishment headed by Qabbani was the most categorical in its rejection of the law. The arguments offered against it were based upon the following grounds: that it opposed legal provisions in the *shari'a*; that it furthered secularism at the expense of the religious authorities and religious courts; and that it endangered the well-being of the family.

The Sunni establishment's position concentrated on a number of legal rejections. The first concerned the illegality, from an Islamic perspective, of a contract of marriage between a Muslim woman and a non-Muslim man. Under the *shari'a* and all modern Islamic laws, both for the Sunnis and Shiites, the marriage of a Muslim woman to a non-Muslim is null and void.⁹ This view is so pervasive that even one of the most moderate of Shiite clerics, Muhammad Hasan al-Amin, confirmed that there is a consensus among Muslim jurists that such an act is forbidden.¹⁰ A second major issue pertained to the prohibition of polygamy. The Sunni position on this matter was clearly enunciated by the judge Muhammad Kan'an who stated that the stipulation in Article 9 aiming at preventing a Muslim man from marrying more than one wife is contrary to the Qur'an, the Sunna and the *ijma'*. Moreover, Article 61 defined illegitimate progeny as progeny resulting from the relationship between two persons one of whom married to another under this law. Thus, a Muslim man who married in accordance with the civil law, and then contracted a Muslim marriage with another woman would find his progeny resulting from the second marriage to be illegitimate. Article 61 was understood by the Muslim establishment as a law aiming at outlawing polygamy.¹¹

Another criticism concerned the articles pertaining to divorce. Muslims contended that the religious courts take rapid decisions concerning such lawsuits in order to insure a quick stabilization of the lives of the persons involved. One critic asserted that, in light of the situation prevalent in the Lebanese civil courts, divorce lawsuits are likely to last for many years, thus possibly impeding the resumption of a normal life for the parties concerned.¹² On a more substantial level, the Muslims criticized Article 26 which prohibits divorce by mutual consent. Objections were also raised concerning the length of time required to lapse before a divorced woman is allowed to remarry (*al-'idda*). Article 34 states that a woman can remarry only

300 days after the nullification of the previous marriage. This makes the *'idda* three times longer than what the *shari'a* stipulates. People related to each other via "suckling" are allowed to marry under the proposed law, thus contradicting Article 18 of the Law of the Rights of the Family of 16 July, 1962, which states: "Marriage of women to a man where there is a relationship by suckling between them shall be permanently forbidden...."¹³ The article which legitimizes adoption was also deemed to be in clear defiance of the *shari'a*.

It is clear from the official and unofficial objections to the proposal that the main problem did not only lie with the contract of marriage per se but with its effects on personal status in general. One commentator stated that

civil marriage is contrary to the *shari'a* as well as are its effects on child custody, support, divorce, *'idda*, adoption, the law of succession and guardianship.... Many of the details pertaining to civil marriage and its effects are clearly in contradiction to the Qur'an and Sunna.

Sami Khadra concluded by exclaiming:

How is it possible to turn one's back on a divine *shari'a* ... and replace it with human laws... And what is the Muslim left with in a country that forbids the implementation of Islamic law in all areas except personal status?¹⁴

The view that personal status was the last bastion in which the *shari'a* could manifest itself was reiterated on various occasions, reflecting an almost existential concern.

Another reason for the opposition, as the Mufti of Mount Lebanon remarked, is that the bill "presupposes the drafting of unified civil laws for marriage, divorce, guardianship, financial compensations, child custody... in other words, it presupposes the establishment of secularism and the relegation of the religious authorities to the sidelines."¹⁵ Thus, in addition to trespassing on territory covered by the Muslim *shari'a*, the law was seen to pose a major threat to the Muslim religious authorities. Indeed, at an early stage of the debate, Qabbani had stated:

We have been following with apprehension suggestions concerning optional civil marriage, the elimination of the religious courts, and the transfer of their powers to the civil courts. The Muslim religious court is not subject to give and take. It is an established institution and its competencies cannot be entrusted except to the *'ulama* who are specialists in Islamic jurisprudence and its *ahkam*.

Sunni religious leaders in al-Kharrub district highlighted this issue in a statement condemning the bill and its author, the president: "In his recent speeches on civil marriage, the president is undermining the authority of the religious leaders and is making a mockery out of them."¹⁶ A civil law on personal status thus represented a direct threat to the clerics' autonomy in their relationship to the state and, equally important, to their legitimacy in regulating the personal matters of their communities.

That the law threatened the family was one of the underlying themes of the clerics' attack. Tripoli's Sunni Mufti, Shaykh Taha Sabūnji said that the bill was likely to undermine the family as society's nucleus, stating that "civil marriage heralds the end of the family."¹⁷ One of the arguments used by the Higher *Shar'i* Muslim Council to discredit civil marriage claimed that "countries that have turned their back on religion have reaped nothing but anxiety, dissolution, and social and psychological crisis." The argument, presented in a statement by the council, focused on the dissolution of the family and the resulting "illegal cohabitation in the name of personal freedom." According to the statement, another result of the rejection of religion was that the "phenomenon of illegitimate children has become widespread... until matters came to [the point of] legitimizing homosexual marriages."¹⁸ This view equated civil marriage with the utter dissolution of traditional "family values"; in countries where civil marriage exists, cohabitation rather than marriage is the rule, illegitimate children roam the streets and legal homosexual relations are tolerated. The statement reflects a real fear of the degradation of a certain ideal model and paints a picture of that degradation by describing the worst features of western society from the perspective of religious Muslims. What results is an apocalyptic picture of what Lebanese society could become if it were to go beyond the bounds set by the Muslim culture.

All of the above objections were clearly expressed by the Grand Mufti, who presided over the council, on various previous occasions. Marriage in Islam is governed by Islamic rules and "if these rules, which were set by the prophet Muhammad, were jeopardized, our lives will be sacrificed to defend them."¹⁹ On a later occasion, Qabbani stated that the proposed law "is an insult to the Muslims and the *shari'a* which was dictated by God and upheld by the constitution." The Mufti said that he would campaign with all spiritual leaders to confront "this dangerous proposal which we will not accept under any condition."²⁰ The attitude of the Sunni clerics was one of defiance and escalation as Qabbani reiterated that "there are limits that we will never allow anyone to trespass.... Religion and family

are red lines... our position is clear and irrevocable."²¹ On 2 February, in a Friday sermon, Qabbani said that he would not allow "secular-minded people to cultivate the germ of civil marriage and other secular ideas in Lebanon so it spreads to Arab and Islamic countries."²² The passing of the law in Lebanon was, thus, seen as constituting a dangerous precedent for the other Arab countries. Lebanon was to be the first and last battlefield in the confrontation between religion and secularism on a regional level.

By the time the position of the Sunni religious establishment was published in the official statement referred to above, the intensity of the reaction had reached a fever pitch. The statement reminded the Muslims that "for more than fifty years, some have tried to introduce the subject of civil marriage, arousing great controversy, and each time the Muslims stood against it in absolute rejection." Observing that "Muslim personal status laws are the epitome of perfection and equilibrium," the statement reiterated that "civil marriage is considered to be a violation of Islamic rules... and of the Qur'an and Sunna... and that following its rules is a sin that leads to apostasy."²³ Once the term apostasy was used, it spread and was repeated by the Sunni and, later, the Maronite clerics. This was one of the practical intimidating actions undertaken by the religious establishment to halt any further discussion of the proposed law.

On a more popular level, the Dar al-Fatwa stepped up action by mobilizing the man in the street. Demonstrations against the bill spread and intensified to such a degree that the interior minister declared that street protests would be strictly banned. He, accused, moreover, the clerics of fomenting unrest in their calls for demonstrations. Sunni clerics remained defiant, maintaining that it was their duty to oppose the draft bill publicly, and to mobilize the masses against it.²⁴ By mid-March, Muslims around the country who were opposed to civil marriage used the opportunity given by Friday prayers to hold peaceful protests and to attack verbally those political leaders who were pushing ahead with the bill. In Tripoli, Islamic associations and movements staged a sit-in after Friday prayers in the Mansouri mosque. In Sidon, around 2,000 people gathered at the Zaatari mosque to hear sermons against the proposal. They shouted that the proposal would be passed "only over our dead bodies."²⁵ Delegations of women went to Dar al-Fatwa to express their objections to the proposed bill.²⁶ The following Friday, stirred up by fiery clerical sermons, several thousand worshippers poured into the streets of both Beirut and Tripoli after noon prayers to protest against the civil marriage proposal. In Tripoli, protesters burned a banner which read "civil marriage."²⁷ By 30 March, the newspapers were still reporting delegations to Dar al-

Fatwa supporting the Grand Mufti's categorical rejection of the civil marriage bill.²⁸

3.2 The Sunni Politicians

The religious dignitaries counted on the political leadership to support them. Qabbani said that he trusted the Sunni, prime minister, Rafiq Hariri "to take measures to block this dangerous precedent and act in accordance with God's wish."²⁹ The head of the Sunni Muslim religious courts expressed his further conviction that Muslim MPs would vote down any bill on the matter: "I am sure the proposal will not see light because Muslim members of parliament are fully aware of its dangers."³⁰

A number of interlocking political factors influenced the subsequent reaction by various political forces in Lebanon. The most significant of these factors was the distribution of power between the Maronite president, Elias Hrawi, the Sunni prime minister, Rafiq Hariri and the Shiite speaker of the House, Nabih Berri. The personal and political interaction between these three men known as the "Troika" among the Lebanese, was of pivotal importance in determining their reactions to the proposed bill. Another variable included the specific relations of each member of the troika to his own religious community. Moreover, the timing of the proposition by the president of the republic was indicative of political motivation since it coincided with the last year of his term in office. Thus, the reaction to his proposal was closely linked to this perception that politics, and not the national welfare, was behind the president's initiative.

On 2 February, 1998 the proposal was presented to the council of ministers. During the cabinet's session of 18 March, it was adopted by a majority of 22 ministers out of 30. Prime Minister Rafiq Hariri, who rejected the bill, pointed out that the cabinet had only endorsed the principle of an optional personal status law, and that it would need to study the draft, article by article, before endorsing it.³¹ Insisting that his objections mainly concerned the timing of the debate, Hariri added that the law needed not only the approval of the Christian community but in-depth discussion; yet a heated debate over the proposal would only divert attention from Israel's maneuvers to avoid implementation of UN resolution 425.³² Consequently, Hariri refused to sign the bill, thus preventing its presentation to parliament. As the Lebanese constitution does not bind the prime-minister to a deadline for his signature, the bill is still temporarily shelved.

The Higher *Shari* Islamic council, nonetheless, expressed its disapproval that the bill had been submitted to the cabinet before consultations had taken place with the religious authorities.³³ The struggle between the religious and political establishments over spheres

of influence was now out in the open. Indeed, the tension between the two forces reached dangerous levels when the Higher *Shar'ī* Islamic Council declared that "anyone who calls for the proposal, or agrees with it, is going against the will of the Muslims and loses all capacity to represent them in any position."³⁴

Although the majority of cabinet ministers voted for the proposed law, the reaction of politicians in general, including deputies and ministers, was, largely, cautious and evasive. As the religious establishment became increasingly vocal, a number of Muslim deputies, particularly those who had previously been absent from the debate, demanded a suspension of any discussion of the proposed law.³⁵

Ministers who opposed the bill hinted at political machinations which had surrounded its introduction to the cabinet. The minister of information spoke of an "act of infiltration," while minister 'Umar Misqawi stated that the issue "was an open bazaar between president Elias Hrawi and speaker Nabih Berri with the aim of confronting the prime minister." The former prime minister and current MP 'Umar Karami emphasized that political disagreements between the members of the troika had constituted the real context for the bill's approval.³⁶

No prominent Sunni politicians spoke in favor of the bill, while quite a number took the line argued by the religious authorities. For example, Karami considered the civil marriage proposal to be a call for people to deviate from their various religions. In one statement, he equated secularism with atheism saying: "This law is rejected by all except for the few who call for atheism and secularism."³⁷ Even moderate Sunni politicians such as ex-prime minister and current MP Salim al-Hoss evaded the question by pointing out that the conditions prevailing in the country were not propitious for any discussion of the subject:

All indicators suggest that the proposed law will fail in parliament. In order to avoid sharp divisions in the country we ask that it may be withdrawn, because further discussion will be followed by a demand that confessionalism be abolished completely on both the political and administrative levels. Is the country ready for such a probability at the moment?³⁸

Al-Hoss was hinting at what many considered to be the crux of the problem: namely, that civil marriage was inextricably linked to the issue of political sectarianism.

The support that the Sunni religious clerics received from the leading Sunni politician, Hariri, and obversely, the Sunni clerics' backing for Hariri's opposition to

the bill resulted in a unified position on the part of the Sunni community. This partly explains the strength and virulence of Sunni opposition to the civil marriage bill.

4. The Shiites

4.1 The Religious Establishment

Initially, the position of religious Shiites was slightly ambivalent. It gained in intensity only gradually, perhaps in conjunction with the fierce Sunni attack on the proposed legislation. On 21 January, one of the leading Shiite religious scholars, Muhammad 'usayn Fadlallah denied having given his full approval to civil marriage. The occasion was the publication of an interview with Fadlallah in the London-based *al-Mu'arrir* which quoted him as stating that civil marriage was compatible with Islamic law under certain conditions. He subsequently explained that

... the Muslim marriage is a civil marriage in the sense that a religious cleric does not need to be present during the contraction of marriage. However the Muslim marriage includes provisions that are not found in the civil marriage.... Thus, we can say, from a Muslim point of view, that if a marriage does not include the provisions in the *shar'a*, it is considered invalid and illegal.³⁹

He confirmed that Islamic religious courts should govern the personal affairs of the Muslims.⁴⁰ A month later, prominent Shiite clerics, 'Abd al-Amir Qabalan, demanded that the president of the republic withdraw the proposal for civil marriage before a cabinet vote in order to allow Christian and Muslim spiritual leaders, to examine it first.⁴¹

While the head of the Higher Shiite Council, Muhammad Mahdi Shams al-Din, at one point, stated that "civil marriage is a critical issue... it is not negotiable under any circumstances,"⁴² on another occasion he maintained that the Muslim marriage contract was similar to civil marriage, and that Islam had no problem with the latter.

Throughout the subsequent debate, Shams al-Din behaved with caution and prudence. Despite his principled rejection of the proposed bill, he was careful not to declare its supporters apostate, as did Sunni and Maronite spiritual authorities. Shams al-Din's moderate tone was influenced by the political stance taken by major Shiite politicians.

Speaker Nabih Berri, and almost all the Shiite ministers of the cabinet voted for the bill. Shams al-Din's circumspection is to be understood in the context of his need to carefully balance his religious position with that held by his political allies. But a clear shift in his position occurred on the second day following the

cabinet vote, when he proclaimed his solidarity with the Sunni religious authorities. Thus the positions of the Sunni and Shiite clerics were finally brought into alignment. A meeting at Dar al-Fatwa which included Shams al-Din and Qabbani produced a joint statement condemning the civil marriage proposal.⁴³ By taking this stand, Shams al-Din was closing the door to potential accusations that the Shiites had tacitly accepted the bill, a necessary move due to a perceived lack of intensity by the Shiites when contrasted with the Sunnite opposition.⁴⁴

Gradually, then, Shiite clerics rejected the proposed law in clear and unequivocal terms. Shams al-Din stated that "civil marriage is in violation of the core of Islamic thought and belief, and for this reason cannot gain any legitimacy, and should be dropped immediately."⁴⁵ Fadlallah attacked the bill repeatedly stating that the civil marriage bill would legalize adultery.⁴⁶

On Friday 21 March, the Shiite clerics reiterated in their weekly sermons their opposition to the proposed law. Shams al-Din advised its withdrawal while Fadlallah repeated that "a Muslim who embarks upon a marriage that is not bound by Islamic legal provisions is living in adultery."⁴⁷ By the end of the month of March, Shams al-Din's tone became threatening. As he reiterated that both Muslims and Christians opposed the proposal, he hinted that "had the spiritual authorities wished to bring the people into the streets to express their opposition to the proposal, they would have brought everyone capable of moving...." He added that he had had no idea that the situation was going to last so long since the idea should have been withdrawn the moment it was voiced.⁴⁸

The advisor to the Ja'afari court, Muhammad Hasan al-Amin, was the only divergent voice among both Sunni and Shiite clerics. He considered the discussion surrounding civil marriage to be comic and insisted on the necessity of working toward the achievement of a completely secular state:

I thought that Christian clerics would be more adamant in their rejection of civil marriage, since for them marriage is a sacrament..., while in Islam, it is possible to contract a marriage in front of a civil board, and it can be righteous if it conforms to the conditions of the Muslim *Shari'a*.... The civil marriage contract resembles the Muslim marriage contract in that both parties can conclude it based upon conditions to which they agree.... Since the Muslim marriage contract allows for the stipulations of conditions, what is the need for civil marriage? It is possible to come to a settlement of the problem by amending a few articles in the proposed law?⁴⁹

Thus, the one Shiite religious cleric who tried to reconcile the clerical and secular positions, nevertheless, found, the option of civil marriage to be superfluous.

4.2 The Shiite Politicians

In a popular TV talk-show, Shams al-Din expressed the wish, as early as January, that parliamentarians avoid discussing the civil marriage issue, since he argued, "we have not elected members of parliament so that they may take decisions concerning such matters, which bring temporal authority into spaces which do not belong to it."⁵⁰ The message was clear: if support for the religious position was not to be expected, from politicians, then the politicians were not to get involved at all. Nevertheless, and in spite of this warning, a number of Shiite ministers and deputies openly supported the bill.

Shiite speaker Nabih Berri expressed the view that optional civil marriage would not contradict religious teachings.⁵¹ He endorsed the cabinet's approval and considered that particular cabinet session to be "the most important of all ministerial meetings in recent history" for daring to tackle the issue of sectarianism. Berri accused the opponents of civil marriage of fearing the demise of political sectarianism: "The cause of the controversy lies in the call to annul sectarianism. The real battle isn't that of introducing a civil marriage law. Civil marriages made abroad are recognized here... The problem is political sectarianism."⁵² The Shiite political community was divided between, Berri and his strong Amal party heavily represented in parliament and the Cabinet, on the one hand, and, Hizbullah backed by a group of religious clerics and some popular circles, on the other. The Hizbullah, the main political rival to Berri, rejected the bill repeatedly. On one occasion, a Hizbullah spokesman rejected civil marriage as "it would only lead to further moral degeneration among the young."⁵³

The introduction of the optional civil law was understood by many, both opponents and supporters, as the first battle for the progressive dismantling of the confessional system, but the activists pushing for the civil marriage bill soon came to regret the association of the two issues. Indeed, one prominent journalist lamented the situation and expressed his incomprehension as to why civil marriage needed to be connected with the abolition of political sectarianism. He suggested that the connection between civil marriage and such a complicated national question aimed, as was usually the case, at the paralysis of any project capable of benefiting citizens.⁵⁴ The obvious and tacit link between the two issues led the information office of Fadlallah to take a defensive position stating that "the elimination of political sectarianism does not mean the elimination

of [religious] personal status because the latter is related to culture, not politics.”⁵⁵

5. The Druze

5.1 The Religious Establishment

The Druze religious establishment held a distinctive position which initially endorsed the optional secular marriage law. The fact that the Druze, alone among the Muslim communities, have a codified personal status law colored their reception of the new law, and their reaction to it. For instance, Article 10 of the law of 24 February 1948 (Pertaining to Personal Status for the Druze Sect) states that “polygamy is prohibited and a man shall not be permitted to have two wives at the same time. If he does so the marriage to the second woman shall be void.” Moreover, Article 12 does not include the relationship resulting from suckling among those precluding marriage.⁵⁶ Indeed, the main points of disagreement between the Druze personal status law and the proposed civil law were only two. First, the Druze personal status law does not allow a divorced woman to return to her ex-husband in a subsequent remarriage; and, second, it does not allow mixed marriages.⁵⁷

Acting Druze spiritual leader, Shaykh Bahjat Ghayth, said that civil and religious marriage contracts should both be allowed concurrently: “As long as the proposal is for voluntary civil marriage, we have no say in the matter.”⁵⁸ The advisor to the Druze High Court of Appeal, the judge Shaykh Sulayman Ghanim, answered a question on whether civil marriage contradicted Muslim provisions in the following way:

If there exists any contradiction between civil marriage, on the one hand, and Muslim and spiritual religious provisions, on the other, the contradictions, in any case, remain much less than those found between the legal provisions of one sect and those of another sect... Civil marriage remains a common denominator between the various religions and sects.

He added that the Druze personal status law has a civil and secular character that he “as a judge, saw nothing harmful in legislating an optional civil law.”⁵⁹ The gap between the Druze code and the proposed law was not so wide as to warrant a strong reaction. Nevertheless, and in light of the intense rejection of the bill by other Muslim and Christian religious dignitaries, the Druze religious hierarchy realigned its position accordingly.

5.2 The Druze Politicians

From the beginning, the Druze political leader, Walid Jumblat, announced that he was backing the civil marriage proposal because the move would be “a step towards building a true civil society and annulling political sectarianism.”⁶⁰ Three months later, Jumblat renewed his support for the bill: “I fully support the

optional civil marriage because I have had three civil marriages myself.”⁶¹ The controversial bill also received the backing of Druze MP, Ayman Shuqayr, who is member of Jumblat’s Progressive Socialist Party. He stated: “The bill’s approval by the Cabinet is a positive move and is likely to enhance national accord and achieve a unified society.”⁶² A number of Druze politicians supported the bill in clear terms. Others, who were not equally vocal, did not reject it outright.

6. Political Parties, Organizations, Activists and Intellectuals not Representing Mainstream Muslim Ideology

Supporters of the civil marriage proposal included members of the Syrian Social Nationalist Party, the Communist Party, the National Bloc Party, the Wa’ad Party, the Progressive Socialist Party, the Baath Party, the Arab Democratic Party and followers of former general Michel Aoun. By and large, all of these parties have a secularist agenda. Other prominent parties with more confessional characters did not support the bill.

Many NGO’s, including, the Committee for Women’s Rights, as well as lawyers and groups supported the proposed law. A considerable number of intellectuals and academicians also announced their support for a civil personal status law. The daily newspaper, *an-Nahar*, interviewed 30 writers, artists and intellectuals belonging to various religious sects. On the whole, all supported the proposed law declaring that it is a basic human right.⁶³

‘Asim Salam, the Sunni president of the Order of Engineers denied that civil marriage stood in contradiction to religious dogma. He argued that religion had to respect the individual.⁶⁴ The president of the human rights’ organization, Ibrahim al-‘Abdallah, stated that the details of the proposed law could be subject to debate but that his organization accepted the law in principle because it would give Lebanese citizens freedom of action and freedom of belief...⁶⁵ The Women’s Rights Council organized a series of events to discuss the proposed law. The People’s Right Movement undertook an active campaign, and organized a one-day forum at the American University of Beirut. Speakers complained that those in favor of civil marriage were being branded as non-believers.⁶⁶

More conservative organizations and institutions had more difficulty in taking a position. This was exemplified by the controversy triggered among leaders of al-Maqasid, a Sunni philanthropic association which runs schools, clinics, and a hospital. When the head of its alumni league, Sami Sha’ar, welcomed the notion of optional civil marriage, it caused a reaction from the association’s president, Tammam Salam, who

demanded consultations with the highest, ranking Muslim clerics before taking a position on the matter.⁶⁷

It is important to note that an organized campaign encompassing intellectuals, activists and local NGOs did not crystallize until late in April when more than fifty non-governmental associations and political parties joined forces to campaign in support of a civil status law. Participants announced the formation of a group called the Meeting for an Optional Secular Personal Status Law.⁶⁸ But by that time, the bill had been politically shelved and the on the whole, the reaction of the NGOs and activists was modest when compared to the vociferous response of the religious establishment. The level of coordination, and the hesitant and slow response reflected the weakness of civil society in Lebanon.

The reaction of the population at large can be partly measured through a reading of a number of polls that were conducted at the time of the debate. It should be pointed out that the reaction of the population was not directed at specific articles in the bill but, more generally, toward the very idea of an optional civil personal status law. A questionnaire that circulated in late 1997 gave the following results: 26% of the Muslims polled knew nothing about the proposed bill; a majority of 83.83% preferred religious marriage; and support for the bill was highest among members of the upper classes, the young, and holders of university degrees.⁶⁹ Another questionnaire conducted among university students in late January of 1998 revealed that the proportion of those who approved of civil marriage within this category was much higher (64.48%). A difference between the principle behind the bill and its practical application was highlighted when students were asked: "If the law permits it, are you ready to contract a civil marriage?" The answers tended to be more negative than previously because the question no longer involved a theoretical possibility, but a more likely practical prospect. Only 44.62% expressed their willingness to marry under civil law. However, here again, the overwhelming majority of those unwilling to do so was constituted of Muslims (34.81%). It is significant that young women showed less willingness than young men to contract a civil marriage.⁷⁰ In March, a probe carried out by *al-sharika al-dawliyya li alma'liimat* revealed that half of those polled did not have a clear idea of the details of the proposed law. The proportion of those who approved of the bill was almost the same within the Muslim and Christian communities. Of the Muslims polled 31.5% supported the bill. This figure rose to 36.8% for the Christians. The notable exception was the high rate of approval prevalent within the Druze community (72.7%). Whereas there were no significant differences between the opinions expressed by men and women,

the bill was more popular with the young and among educated citizens.⁷¹

7. Conclusion

Lebanon offers the example of a country which proved unsuccessful in bringing about a unified personal status law for its Muslim and Christian communities.⁷² The latest attempt at introducing a civil personal status law revealed the enormous obstacles that such attempts have to face.

The controversy that surrounded the civil marriage bill exposed, moreover, the weakness of civil society and the strength of confessional institutions following twenty years of civil war. The tension between the secular and the religious spheres was revealed in all its magnitude during the debates over civil marriage. The absence of a real dialogue was evident not only in the campaign that was organized by the clerical establishment, but also by the complete estrangement of secular and religious discourses. Indeed, the negative responses demanding that the proposed law be withdrawn from circulation represented an obvious attempt at silencing secular voices and stifling democratic discussion.

Although religious dignitaries, belonging to the various sects condemned the proposed optional law, the Sunni clerical establishment was the most categorical in its total rejection. Only four political leaders supported the proposed law in clear terms: the Maronite president Elias Hrawi; his co-religionist the ex-general Michel 'Aoun, the Druze leader, Walid Jumblat; and the Shiite speaker of the house Nabih Berri. The voices of ordinary people were drowned out by the debate between politicians and clerics.

The reaction of each community to the bill was informed by a number of factors. While the responses of the Sunni political and religious leadership were concordant, the Shiite responses reflected divergent opinions among clerics and politicians. The Druze position was informed by their community's divergent legal practice in questions of personal law while displaying a generally unified stance among the religious, political and popular elements of their community.

Although discussion on the political level has subsided, the debate is still alive. The Meeting for an Optional Secular Personal Status Law has been organizing an awareness campaign that has included seminars, and discussion groups, as well as a petition which has collected 38,000 signatures. In September of 1998 this group organized a celebration for five couples who had recently celebrated their civil marriages outside Lebanon.⁷³ In the unwavering confessional atmosphere still prevalent in Lebanon, civil marriage constitutes a most meaningful political act.

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