

Religious Courts

Nayla Khodr Hamadeh

Husbands who physical abuse their wives are not a rare phenomenon. In fact, this type of domestic violence exists in all societies and social strata. This paper investigates the matter through interviews with Lebanese religious authorities who are familiar with relevant court cases.

Four interviews were carried with: Father Suleiman Sammour of the Catholic church, Father George Dimas of the Greek Orthodox church, Sheikh Mohammed Kanaan from the Sunni religious court and Sheikh Suleiman Ghanem from the Druze religious court. They all agree that cases of battered women exist and are not rare; however, their proportion to the total number of cases involving domestic problems varies. It ranges from being low (Catholics, Druzes) to existing in around 50 percent of court cases (Greek Orthodox) or in most court cases (Sunni).

In trying to explain this type of domestic violence, Father Sammour relates it to the oriental mentality which claims that the husband is the master of the household and thus can act as he wishes. This is not true. The wife is an equal partner in marriage and should be treated accordingly. Yet, is it in man's nature to beat his wife? No, says Father Dimas, there are always

circumstances that lead to violence and the wife is not always innocent. Many times she instigates it. The war has also had its effect on family relations. According to Sheikh Ghanem, cases of battered women presented to the Druze religious courts almost always involve at least one partner suffering from psychological problems that they (the couple) relate to the pressures, tensions and effects of the war.

It is known that not all women who suffer from battery by their husbands take their cases to courts. What are the common backgrounds of women who do? When do they address the courts? What do they seek by doing so? What are the different religious legislation that deal with these cases?

There is a common misconception that domestic violence is prevalent among the lower socio-economic classes. Hence, many assume that poverty -- being associated with

unemployment, addiction, stealing, alcoholism, and ignorance -- leads to physical violence by frustrated males. However, according to the four religious authorities, battered women who address the courts belong to all social and economic backgrounds. Rich or poor, educated or illiterate, women suffer from battery. Yet, as Sheikh Kanaan puts it, the upper class tries to hide these realities in any way they can.

It is only when the situation at home becomes unbearable and life impossible that women address the courts. It is, as if, by doing so, they cross the point of no return. What do they seek by doing so? How do the various courts and legislation handle these cases?

Among the Catholics, women usually address themselves to the Reverend Priest, who tries to reconcile the couple. Father Sammour stresses this pastoral role of the church. *We try to reconcile, and to give time to the couple to re-evaluate their marriage. When reconciliation fails, the woman files a complaint to the court. The other party (husband) is summoned, and we hear the two sides of the story. If she insists on going beyond mere complaint registration, she files a suit and asks for*

separation. To do that, the woman has to prove, through witnesses (e.g., neighbors) or through an official medical report, that she is being beaten. However, even if she does, she cannot ask for "permanent separation" or "divorce" because *physical violence, unfortunately, is not enough ground for divorce in the Catholic church unless the life of the woman is considered to be in life threatening*. She can only ask for a temporary separation, unless she has other reasons that are considered valid for divorce.

The procedures are not very different among the Greek Orthodox. Women usually address the court to register a "complaint". The religious authorities must then try to reconcile the couple and work out the differences. *This is our main job, says Father Dimas, we act first in a pastoral way*. Sometimes, reconciliation fails, and the woman pursues her suit and asks for separation. This usually happens when her life is threatened. At this stage, like in the Catholic church, she has to prove that she is being physically abused by her husband by presenting witnesses or an official medical report. In the Greek Orthodox church, too, *being battered is enough for divorce when and only when the life of the woman is in danger*, says Father Dimas.

Battered Sunni women, in most instances, address their religious courts to ask for *Nafaqa*(1) for their children and themselves. Yet, many times, it is also to ask for separation and hence the right to keep their chil-

dren. According to Sheikh Kanaan, *a battered woman can file a court suit against her husband and ask for separation (divorce) even if the Usma(2) is in his hands*.

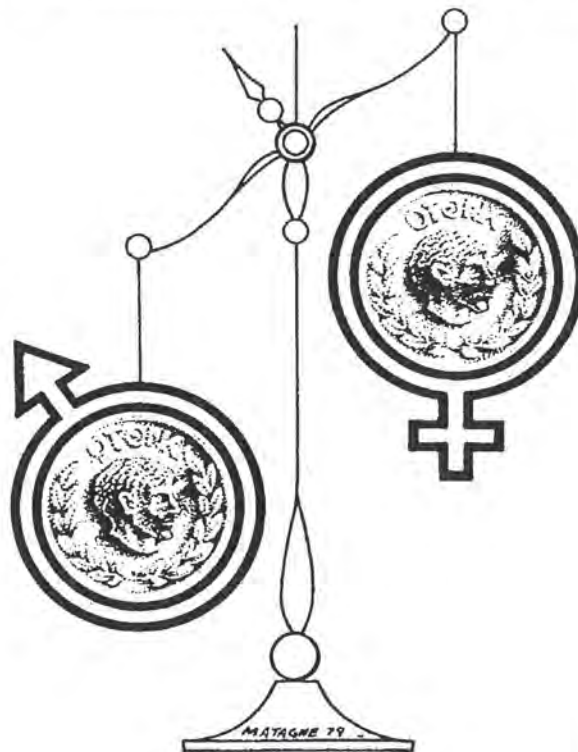
Among the Druzes, the woman usually addresses the court after physical separation has already occurred. Usually, her aim is to register a complaint and ask for *Nafaqa*, especially when there are children. This, according to Sheikh Ghanem, is in most instances, the first step towards complete separation, i.e. divorce. In the Druze religious courts, physical abuse presents enough ground for the woman to ask for divorce and the husband takes all the responsibility meaning that she gets all her rights. It is interesting to note that, for the Druze, the only legal form of separation between husband and wife is an irrevocable di-

vorce, unlike other Lebanese sects which allow for annulment, temporary or permanent separation.

Among Sunnis and Druzes, battered women have to prove, through witnesses and medical reports, that violent abuse is occurring, in order to pursue their court suits.

To sum up, it seems that among the four sects involved in this study, a woman has to prove battery in order to file a suit against her husband. Even when she does, this does not mean that she will eventually get separation. It is only among the Druzes that battery, when proven, is considered enough ground for divorce. A question raises itself at this stage: Is the situation the same among other Lebanese sects? This remains for future research to determine.

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(1) **Nafaqa** is the financial obligation of the husband towards his wife from the day of their marriage through the divorce and until the Idda or the three months period following the divorce are over.

(2) **Usma** is the right for divorce. The one who holds the Usma is entitled to initiate divorce proceedings.