London School of Economics and Political Science

GOVERNING THE PERSONAL:

FAMILY LAW AND WOMEN'S SUBJECTIVITY AND AGENCY IN POST-CONFLICT LEBANON

Nisrine Mansour

A thesis submitted
to the Department of Social Policy
of the London School of Economics and Political Science
for the degree of Doctor of Philosophy (PhD in Social Policy)

London, September 2011

Declaration

I certify that the thesis I have presented for examination for the PhD degree of the London School of Economics and Political Science is solely my work other than where I have clearly indicated that it is the work of others (in which case the extent of any work carried out jointly by me and any other person is clearly identified in it).

I warrant that this authorisation does not, to the best of my belief, infringe the rights of any third party.

Abstract

Family law in multi-religious settings poses a problem for gender equality. However, there is a need to learn more about the dynamics of this process and its effect on women's capacity for taking action. This thesis asks the following research question: 'How does the enactment of family laws impact on the ways women negotiate their personal relationships in post-conflict Lebanon?'

Mainstream statutory and cultural explanations failed to analyse the gendering effect of family law for three reasons. First, these explanations dissociate legal frameworks from broader social norms. Second, they reduce gender equality to entitlements rather than outcomes. Third, they fix women's agency as static and one-dimensional.

The thesis presents a broader view of the 'enacted' aspects of family laws and examines their impact as historically bound social institutions with a dynamic gendering effect. It uses qualitative research methods to examine the case of post-conflict Lebanon (1990-2005).

Findings suggest that family law forms an order of 'gender governance' that sustains institutional gender inequality and restricts women's agency in three ways. At the judicial level, women's legal personhood is blurred in both legal texts and in judicial practice. At the normative level, women's subjectivity is confined within dominant gendered norms on family relations and womanhood ideals. Finally, at the level of social spaces for action, women are restricted in their individual and collective capacity for negotiating their rights. Hence, women's subjectivity is found to be composite and fluid continuously shaping various directions for agency beyond narrow western definitions of freedom.

The thesis' main contribution is to argue for the need to engage more thoroughly with family law's institutional complexity and the processes of their enactment. The concept of 'gender governance' helps explain why women have so far been unable to organise effectively towards challenging or reforming family law. It also informs the complexity of citizenship in multi-religious settings by contextualising the religious influence and framing it within political discourses on national identity and post-conflict state building.

3

Acknowledgements

angel or my angelic rock, literally carrying me to the finish line with infinite gentleness and care. Dwan Kaoukji was there when it mattered most - no questions asked - with her very own innovative, optimistic, and witty ways. She unstrapped my creative impulse and is to blame for any future consequences. Zeina Halabi, my ingenious and gorgeous 'Thelma', initially pointed me to a small place called the LSE. She recklessly maintained her unfaltering belief in, and support of, whatever I was getting myself into, for no obvious reasons other than her being sweetness incarnate.

Two Mikes deserve special mention: Mike Shiner (Dr), a long-term friend and confidante, soothed me with lucid chats over numerous tea rounds. Mike Drella, aka Sumptuous Cocoa Faux, kept me sane with delightful weekly escapes less usual territories of London. Special thanks go to the surfing wanderer Dean Moyce who was always there at the other end, reconciling me with vivid dreams of freedom, and teaching me to be patient when seeking them.

Nasser led the way and taught me valuable lessons on bravely getting on with work despite the many strenuous circumstances that life throws at us. Mohammad and Afaf were of ultimate support, patiently reassuring me to 'take my time' despite the manifold pressing family circumstances they faced. I am blessed with Bassem's upbeat and bigger than life take on life, and in awe of his healing sparks. Faten's strength, determination, and passion for life make her the most delightful sister and friend one can ever dream of.

Finally, I am indebted to all the women and men who agreed to share their personal experiences with me to complete this research. In particular, I dedicate this project to Faten, Julian, and Johann, hoping they will be united again one day. When this happens, it will be another story.

Now that everyone mentioned and inadvertently omitted had a sigh of relief, we can all draw a line on the PhD thing and move on with our lives.

List of Abbreviations

BM –Board member respondents of women groups
CDCs -Community Development Centre
LWNGO – Lebanese Women Non-Governmental Organisation
RJ – Religious Judge
RCL – Religious Community Leader
W(n)- Women respondents

Table of Contents

1 CHAPTER ONE Introducing the research project

1.1 Aims of the study and research questions

It is the 2nd of April 1997 on a sunny late afternoon in Clemenceau -a chic, urbanite neighbourhood of Beirut. Outside the Al-Madina theatre, an alternative literary hub, around two hundred activists gathered from all walks of the leftist, anarchist, and secularist (democracy and human rights) civil society space, and I was one of them. The atmosphere was electric, with music, cheers, toasts, and a sense of defiance; people congratulated each other for the success of the event. Centre stage gathered twenty newlyweds in celebratory clothing and smiles. They were the event. They went all the way and back from Cyprus, the nearest place they could get a civil marriage contract. The crowd was publicly denouncing the current religious framework under which personal relations were organised in Lebanon. They voiced one demand that took civil society by storm at the time: to issue legislation for an optional civil family code where willing citizens could organise their family issues outside of the existing plural religious family law frameworks.

No doubt that these demands, popular among many activist and academic accounts, highlighted a pressing form of injustice in the ways people organise their personal relations. However, they provide a problematic understanding of the ways people engage in personal relationships under a given legislation. The assumption is that individuals who do not choose to contract a civil marriage are deemed happy with their religious marriage arrangements. Thus, individuals are rational subjects who hold fixed, manifest, and coherent beliefs on personal status (Shachar 1998). They chose to belong to mutually exclusive and all-encompassing secular and religious identities (Modood, Triandafyllidou et al. 2005). Their agency was fixed and non-mediated by any social influences. They had equal power to take intentional steps for action that matched statutory directives.

According to these demands, the problem – and solution- of personal relations were statutory and gender-blind, primarily located at the level of out-dated legislation. Following from this logic, endowing structural reforms with a secular morality was more equitable than a religious one (An-Naim 2008). Men and women would be on an equal footing in negotiating their personal affairs once legislation is amended.

Three months later, on 18 August 1997, I received a call from a very close Lebanese friend (hereby W1) who lives in France. W1 was horrified as she returned home after work to find it empty. Her then husband and her two sons were nowhere to be found, nor were their belongings. Her husband called her a few hours later telling her that he landed in Beirut with their five and two year olds and expected her to follow him there. W1 and her husband met in Beirut and lead a secular way of life. Both were well educated professionals who had married ten years earlier in Lebanon in the Shiᶜa family law court. They then contracted a civil marriage in France where they settled and eventually gained citizenship and embraced a French secular mode of life.

Two weeks before the incident, W1 had asked her husband for a divorce in order to opt out from what she considered an unhappy marriage. A few months after the incident and an intense litigation process in Lebanon, W1 was baffled to learn that, in Lebanon, she was effectively bound by the directives of the religious marriage they had contracted in Lebanon before their relocation to France. W1 could not make sense of the multiple and contradictory jurisprudence advice she received. Shīᶜa judges ruled that, as a woman, she was not entitled to ask for divorce. W1 was also legally bound to follow her husband. If not, her two and five year old sons would be immediately placed under her husband's custody.

More than a decade later, W1 is still living in France having won all her lawsuits against her former husband there, including divorce and criminal charges for kidnapping minors. Yet, these decisions failed to be enforced by transnational legal mechanisms. In Lebanon, W1's family mediation attempts with religious judges bowed under her husband's political connections with them. As a result, she lost all her lawsuits and is forced to remain married to her former husband. Although the family law court granted her legal visiting rights to her children, her former husband refuses her any contact with them. If W1 travels to Lebanon, with the view of seeing them, she is banned from leaving the country. Hence, in a combination of ill-fated frameworks, interpretations, and practices of personal relations, she is in forced exile.

The case of W1 shook the activists' claims about the fixed nature of people's engagement in family law. It throws, in my view, several pertinent questions about

various possibilities and constraints that individuals – and especially women – encounter when negotiating their personal relations. Often people do not seem to know about, believe in and act upon their personal relations in a carefully planned in a rational path (McNay 1992). Their beliefs and actions are not always coherent and slotted in a mutually exclusive secular-religious binary (Fay 2001). Their action and practices are restricted by external constraints beyond their control (Hartsock 2003). These constraints are not only enacted at a statutory level, nor are secular frameworks always helpful in enacting justice (Cheriet 1997).

My involvement with these two stories raised questions about the ways in which gender discrimination in family law is assessed and tackled. The potential reform in legislation for optional secular family code would not help women like W1 with their negotiations of their personal relations. It does not explain what makes women who are neither manifestly adherent to religion, nor fall within the stereotypical destitute profile of abused women, contract marriages that are so disadvantageous for them. Nor does it explain why they do not have prior knowledge of the details of these marriage contracts, or why do they contract them in the first place. More importantly, it does not answer why, under the same legal frameworks, some women are more successful than others in gaining favourable family law settlements.

Therefore, my starting point is that static analyses of frameworks, subjectivity and agency cannot explain the full impact of family law regulations on claims for gender equality. I had to look at the interaction between the socio-political formulation and enactment of current legislation in relation to the lived experiences of women within the multi-religious context of Lebanon. For this, the analytical lens needs to zoom in to the enacted negotiations of personal relations in the courtroom and beyond it, to women's lived social spaces. It also needs to analyse the history, moralities, and ethics that drive the politics of these negotiations. These negotiations and moralities are shaped by and enacted within particular constructions of national identity, state building, and citizenship frameworks. Locating my study in post-conflict Lebanon is particularly suited for the purpose because it has been a fertile context for debates of renegotiation of citizenship since the end of the civil war in 1990.

Through this thesis, I am thus concerned with understanding how the regulation of personal relations through family law influences the ways in which women view themselves as social beings and act on their claims of gender equality. This research is about the construction of women's subjectivity and agency in the process of negotiating their personal relations with their social environment. It poses the following research question: 'How does the enactment of family law impact on the ways women negotiate their personal relationships in post-conflict Lebanon?' This question addresses two concerns: i) the ways in which family law constitutes and perpetuates gender inequality, and ii) how it affects women's subjectivity and agency.

1.2   Justification of the subject and domain of research

Much academic research tends to stem from personal interest, especially the first major work like a thesis. Hence, my interest in understanding gender equality and personal relations draws on a strategic and political feminist stand. I am primarily concerned with dispelling some academic and policy biases around the formulation of knowledge on and political action around women's experiences of personal relations. One such bias is that women tend to be represented as a homogenous group that is more of an 'aggregate' rather than a diverse and heterogeneous social group (Young 1998). Another bias is the focus on macro frameworks of analyses that tend to overlook the variety of women's experiences due to their varying positioning in their socio-political environment (for example see Moghadam, Karshenas et al. 2006; Weldon 2002). This thesis depicts women's lived experiences as a stock for effectively analysing and advocating their rights in family law in Lebanon and other complex contexts.

At the analytical level, this investigation is necessary to expand our knowledge at four levels:

- *First, how we understand the problem of gender discrimination in family law*

The thesis addresses the limitations of adopting a statutory communitarian approach to family law. This approach relies on a double gender-blind sectarian-secular

dichotomy. Family law has been often analysed in relation to various principles of sovereignty, citizenship and cultural rights based on individualist and communitarian frameworks of citizenship (Siim 2000). In this approach women are drawn into ideal representations of citizenship that are also heavily statutory or reductionist (Lister 1997). For a long time, gender equality in the family sphere was negated or dismissed based on the two interrelated grounds of liberalism and communitarianism (Phillips 1998). In classical liberal thought, the private domain often refers to a social space that is unregulated by the 'external' authority of the state. In communitarian debates, private particularly refers to de-politicised intra-community consensual relations. This debate analysed women's positioning mostly in the family as belonging to historically 'immigrant' communities and only when cultural politics of citizenship showed tension between 'non-western' and western frameworks of family law.

There are very few answers provided on the complexity of negotiating gender equality in family law among women belonging to equal nationalist claims but competing 'cultural' ones such as Lebanon. It is not clear how the codification of family law, or lack of, affects gender equality in pluralist contexts (Rabo 2005). There is a need to recognise the institutional gender discrimination channels across policy frameworks, norms of subjectification, and spaces of action.

- *Second, how we understand family law policies*

The thesis is concerned with the politics of family law policies – law making, interpretation, and implementation. Much research on gender equality and religious family law tends to focus on locating and interpreting legal texts in terms of a fixed religious tradition, such as Islamic jurisdiction or *'fiqh'* (see Esposito and Bas 2001; Diduck and O'Donovan 2006). Much of these analyses are mainly taken with the debate over universalist and relativist rights (Wolfe 2006). These traditions are often analysed outside of a historical institutional context (Amirmokri 2004) and are treated as positive law. Most importantly, little attention is paid to the un-official side of legal frameworks, or "customary rules" that are recognised to be "a stronger controlling force than 'law'" (Welchman 2000:16).

These shortcomings reflect on the types of policies devised for achieving gender equality in personal relations. Many of the instruments such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), as well as international actors such as multilaterals, governments and civil society groups sustain this legal-enactment distinction. These policies imposed a particular framework of analysis that might not concord with women's lived experiences (Briar, Munford et al. 1992).

This bias was rectified through comparative historical research on Islamic law and courtroom dealings (Sonbol 1996; Tucker 1998). This thesis focuses on the contemporary reworking of religious directives of competing legal jurisprudence sources. It proposes to collapse the distinction between a 'text' and 'enactment'. Thus it focuses on "examining the specifics of the 'contested ground'" as Lynn Welchman (2004:1) explains in the context of Islamic family law, and looking at "what different levels, why, how, and by whom this ground is contested in the particular contexts[...]". It elaborates on the gendering processes resulting from competing law making.

- *Third, how we understand women's subjectivity*

Fixed analyses of family law draw women as statutory subjects that are uniform, fixed, and mutually exclusive (Mullally 2004). In research on the Middle East, family law was analysed from a historical perspective (Sonbol 1996; Tucker 2008) or from a socio-economic policy approach (example: Moghadam, Karshenas et al. 2006). These constraints are largely reported as external from women's understandings of themselves and their actions. Another is a cultural bias that also fixes women's experiences within essentialist analytical frameworks of patriarchy, culture, religion, or colonialism (example: Esposito and Bas 2001; Roded 1999).

These gaps relating to women's engagement in personal relations were redressed to an extent by research on gender, social policy, and psychology especially within the recently elaborated concept of Violence Against Women (for example Cling 2004; Lewis and Open University. 2004; O'Toole, Schiffman et al. 2007). Much research in this area relies on various theoretical feminist schools ranging from liberal to radical views (for example Fawcett and Waugh 2008; MacKinnon 2005) However,

there is a need to explore in detail the relationship between family law morality and the construction of gendered cultural selving that results from the multiple positionings of women within the institutions of the family, religion and state building.[1]

- *Fourth, how we understand women's agency*

Women's agency is the Achilles Heel of research on gender equality and family law. With a focus on the 'gendered' effect of family law, research tends to overlook the 'gendering' process that extends from women's subjectivity to their agency. Hence, as women are considered to hold a fixed subjectivity, they are assumed to hold linear and unidirectional 'engendering' tendencies in their individual and collective action. The thesis traces the link between subjectivity and agency by analysing the internal dynamics of women with family law issues within feminist collective action. It is concerned with the crossings of social policy and human development that links the lived experiences of populations and the regulation of their lives within society (Petersen 1999). It addresses the intricate and convoluted aspects of social relations within structures, institutions, and action (Sabatier 2007).

1.3 Contribution of the thesis

In order to understand the broader gendering effect of family law frameworks on women's subjectivity and agency I propose an analytical shift. I start by inverting the entry point of the analysis of family law from religion to gender. This shift is crucial in capturing the multi-layered dynamics of gendering processes. I therefore depart from mainstream analysis where religion is considered as the analytical constant because it essentialises the institution of religion (Gellner 1994) and ossifies gender as a marker of differentiation and categorisation (Williams 2002).

In my research, I adopt an analytical framework that combines Michel Foucault's concept of governmentality with post-structural research on gender. I propose to

---

[1] Western-focused social policy literature includes family law under a broad umbrella of 'family policies' studies. This grouping includes anything from research on economically related issues of work-life balance to unpaid domestic care. In fact, the impact of family law on women's subjectivity and agency is absent from most major works in public and social policy. Even in the exceptional cases where marital policy issues are discussed, the emphasis is on the possible adverse effects of divorce on social fragmentation and not on a concern with the overall situation of women (Stone 2002).

understand family law as an 'order of gender governance'.[2] This order is underpinned by a gendered logic and relies on particular moralities (such as socio-cultural and political expressions of religion) to shape women's subjectivity and agency within a gendered system of social differentiation. It is animated by particular contextually specific gendered institutional frameworks, norms and practices of family law. Foucault's (2000) notion of governmentality is particularly useful to understand 'the conduct of conduct' of family law frameworks. This means that the statutory and enacted elements of laws, and in this case family law, are not separated dichotomies but rather constitutive of the same governance order (Burchell, Gordon et al. 1991). The enactment of family law is an ongoing process that exercises discursive power aimed at maintaining gender inequality in personal relations.

Applying Foucault's view to family law is useful for two reasons. First, unlike other theoretical schools, it collapses the structural distinctions between individuals and the state (McNay 1992). It thus accounts for the most crucial limitations of statutory feminist perspectives on family law that are based on these distinctions (O'Toole, Schiffman et al. 2007). Second, it highlights the importance of broader socio-political changes that affect the changes in legislation and application. This helps us locate the disciplining effect of family law within a specific socio-political normative context. Adopting the analytical framework of 'order of gender governance' on family law offers the three following contributions.

First, it contributes to understanding the gendered socio-political dynamics animating gender discrimination in family law. This adds to the existing valuable legal and structural analysis on the topic. It adds a new angle to the existing textual and structural analyses of family law. It analyses family law frameworks as dynamic historically bound social institutions whose gendering impact goes well beyond women's statutory rights. This understanding is useful because these institutional legal frameworks constitute essential components of an order of governance that controls individuals by advocating a certain vision of welfare (Foucault and Hutton 1988).

---

[2] I am indebted to Dr Hakan Seckinelgin for suggesting the term 'order of gender governance' and helping me construct the conceptual framework during our several supervision discussions.

Second, it ties gender and governance to understand discrimination as an active political process. Hence discrimination is enacted at the discursive levels of policy making and implementation rather than a policy outcome. In this sense, the framework helps us understand the various roles played by state and non-state actors in the gendering process of family law. It draws an analytical continuum between micro and macro institutional influences and discrimination. It explains how actors are involved in the multiple dynamics of the gendering process. They transfer 'family law knowledge' in the Foucauldian sense of politically mediated exercise of power relations.

It also helps us understand how family law disciplines individuals into legal subjects through a process of subjectification. It thus elaborates on the formation of women's subjectivity and agency within family law, a less-developed research area. There is no doubt that women's legal status in family law legislation is a crucial component in constructing women's subjectivity. However, it is the tip of the iceberg of the subjectification process. As Butler (1999) reminds us, there is no subjectivity outside of legal subjectivity. Thus legal subjectivity provide a basis for 'categorising' women and 'naming' them as gendered subjects within broader society (Douglas 2001). This approach traces how legal subjectivity transpires, reverberates, and is compounded through broader social norms and relations (Butler 2003). Thus, legal subjectivity turns into a gendered categorisation of a gendered personal subject within the less formal social relations.

Third, this analytical framework brings a dynamic understanding of the relationship between gender and religion. Rather than having religion as a precursor of gendered personal relations, it unpacks what is meant by 'religious' family law and links it to contextual socio-cultural expressions of norms around family law. It draws a symbiotic and dynamic conceptual relationship between the gendered institutional norms on personal relations, gender discrimination in family law, and the failure of women-based activism to achieve reform in family law.

With this framework, we are able to move beyond the dichotomies of universal and relativist, individual and communitarian, religious and secular inherent within family law debates. People often display enmeshed secular and religious practices (Göçek

and Balaghi 1994). The basis of these choices they make is not always manifest or intentional (Kousha 2002). Statutory legislation is only one aspect of the manifestations of gender inequality (Parpart, Rai et al. 2002). Secular frameworks do not always have all the answers (Afkhami and Friedl 1997).

Furthermore, it de-essentialises the religion as a distinct moral order. Instead, it concurs with critical perspectives that argue for demystifying religious moralities. It does so by revealing the blurring between their moral basis and secular or modernist rationales (Asad 2003). Thus, the claims of religion's moral 'exceptionalism' are dispelled. Religious laws become one example of an ideological and moral system that is continuously modified by political, social and cultural influences, not least those of modernist components of secularism. This angle is crucial in making sense of the context-specific amalgamation of scriptural and modernist secular political discourses on gender, national identity, and the politics of post-conflict state building. It challenges western-centric perspectives of a unitary personal citizenship in family law debates. The personal becomes a mosaic of multi-layered, competing ideological claims of legal subjectivity.

Finally, at the political and strategic feminist level, this thesis primarily contributes to voicing women's concerns. It is positioned from the post-structural vantage point of women with family law problems. In this sense, it is grounded in women's experiences and qualitatively assesses the effect of family law in as much as it relates to their daily lives. It explains why women have so far been unable to organise effectively towards challenging or reforming family law. It is different from a feminist stand-point approach in that women's experiences are analysed discursively rather than taken at face value as discussed in chapter 3.[3] In doing so, the thesis focuses predominantly on the discursive relations between women with family law issues, women groups, and the religious institution.

---

[3] The feminist stand-point approach was developed by Marxist feminist theorist Nancy Hartsock (1983) to challenge the hegemonic gendered 'truths' about women's lives. Its merits lie in valuing women's experiences and knowledge. However, it is limited as it claimed unified basis for the oppressed experiences of women. Donna Haraway (1988) later suggested the notion of 'situated knowledges' to move beyond the universalist bias of this approach.

1.4   Framing the argument

This thesis seeks to understand the impact of family law on women's subjectivity and agency. It invites us to understand family law as a political system of ideas and practices that govern populations to maintain institutional gender inequality. This order is historically bound and dynamic, transmitted through various institutional state and non-state actors.

This framework is drawn from Foucault's (2000) concept of governmentality. Governmentality is a method of governance used by nation-states with the aim of 'managing populations' in addition to establishing sovereignty over territory.[4] It is enacted through three modalities of power. First, the state and other institutional actors establish sovereignty over populations by producing regimes of truth about their existence. Applied to family law, the thesis identifies actors involved in establishing sovereignty over women's legal subjectivity. It also traces the legal frameworks, structures and practices that are used to sustain gender inequality in family law and the ways that they do.

The framework also examines the category of women as 'gendered legal subjects' and traces it at both the statutory and the applied levels. The moralities constitute the basis for the various local and global gender norms and include particular notions of 'womanhood ideals'. It analyses the extent to which these frames concord or are removed from women's experiences and their constructions of themselves as social actors. It probes into the formation of these categories by broader political processes and social interactions as well as their meanings and effect on shaping women and notions of gender equality.

A second element of governmentality involves controlling populations through specific disciplinary techniques of rule setting that produce processes of compliance and punishment. These techniques are enacted by the actors who claim legal authority over the mechanisms of law making and enforcement. Adapted to family

---

[4] Foucault is critiqued for providing a unitary analysis of state power (McKee 2009). Later elaborations acknowledge the heterogeneity and fragmentation of the state into several components that might exercise power in contradictory directions. Furthermore, the order of governance is also be sustained by non-state actors. The thesis incorporates these additions to the concept.

law, this dimension highlights the enacted aspects of legal frameworks, and the related legal and social practices that influence women's understanding of themselves as actors in personal relationships, and shape their actions while negotiating their personal issues.

Third, governmentality is also transmitted through the control of the bodies of populations referred to by Foucault (1981) as bio-power. This form of power is exercised on populations through the 'management of flows and norms' aimed at creating spatial control of the bodies and movements of the populations. The thesis expands this dimension of governmentality and adapts it to family law. First, it analyses the ways in which family law frameworks influence the ways in which women with family law issues relate to their bodies, and manage their social and physical movements during their engagement with personal relations.

In addition, bio-power affects the ways women move physically and discursively across various institutional social spaces –formal and informal- related to family law, such as legal, advocacy, and family/community spaces. As the research untangles individual and collective agency construction, it traces the ways women practice different types of agency. They address family law issues in ways that are more complex than standard notions of submission and resistance, questioning the plain roles usually attributed to women groups as actors of feminist resistance (Braig and Wölte 2002; Mateo-Diaz 2005). Their ideals and practices are analysed in relation to the contradictions inherent in the civil society spaces (Chatterjee 2004; Fisher 1997). This analysis allows for gauging how family law frameworks construct women's agency in variable degrees of influence over their personal relations.

1.5   Defining Terms and Concepts

As the title suggests this thesis is concerned with family law, gender equality, subjectivity, and agency. I define below these terms and concepts as they are used throughout the thesis.

The thesis focuses on family law issues that mainly refer to socio-legal arrangements related to marriage, divorce and custody laws regulated by local religious and/or civil frameworks. I therefore exclude not least important issues of gender discrimination

such as inheritance, matrilineal nationality transfer, 'honour' crimes, and alternative sexuality.

My decision to use the term 'family law' throughout the thesis goes against that of 'personal status law' (*qanūn al-aḥwāl al-shakhsiyya*), a term commonly used in most academic and policy accounts on Lebanon. Both terms include some historical and descriptive biases of particular importance to the overall argument. In the case of Lebanon, the term 'personal status law' is derived from the French mandate's codification of religious communities in Lebanon, Decision 60 (13/03/1936) and its amendments. As explained in chapter 6, 'personal status law' refers to the legal provisions organising the legal personhood of individuals circumscribed under recognised religious communities. In this sense, the category of the 'personal' was meant to signify 'religious' (Eekelaar 2006). The term was popularised through the historical development of related policies. Its meaning was modified by secularist activists who called for 'secular personal status law'.

However, in order to avoid any confusion, I opted for the term 'family law' instead, and refer to women's 'personal lives' or 'personal issues'.[5] My reservations on this term is that it emphasises group affiliation and places the 'family' as the analytical unit, at the expense of individuals involved in it, not least women who often are at a disadvantageous position. In order to account for this bias in the term 'family law', I use whenever appropriate the term of personal relations to refer to the dynamics between women and men engaged in pre-marital, marital, or post-marital relationships.

The definition of family law probes into the meaning of 'law'. Recent conceptualisations moved away from the classical view of 'positive' law as an a-historical set of regulations within a unitary state. Instead, law was found to be historically bound and evolving within the political and normative institutional settings of various state and non-state actors (Dupret 1999). In non-western and post-colonial settings in particular, scholars acknowledged 'indigenous' or 'customary'

---

[5] Eekelaar (2006) acknowledges the religious connotation underlying the term 'personal status' law. He also recognises the usefulness of focusing on the 'personal' because it relates to the varying issues touching upon intimate or personal issues involved. As I agree with his perspective, I emphasise the use of 'personal' lives or issues rather than 'personal status law' to avoid confusion.

law that was excluded from colonial and post-colonial state legal frameworks. Here I consider both the Ottoman rule (1516-1918) and the French mandate (1920-1943) as imperialist powers defined by Said as "the practice, the theory and the attitudes of a dominating metropolitan centre ruling a distant territory". Throughout the thesis, I refer to both rules as 'colonial powers' and 'colonialism' to refer to the apparatus, processes, and mechanisms that these imperialist powers have enacted, also going by Said's (1993:9) definition: "colonialism almost always a consequence of imperialism, is the implanting of settlements on distant territory".

A move away from state legal centralism brought the notion of 'legal pluralism' (Griffiths 1986). Legal pluralism was defined as "the condition in which a population observes more than one body of law" (Woodman 1999:3). These various legal frameworks are often conflicting, and dictated by state and non-state actors. This multiplicity has been later nuanced into 'plurality of legal orders' (Santos 2002). However, criticism of legal pluralism questioned where to draw the line between 'legal' and 'normative' frameworks that constitute social control. 'Normative pluralism' or 'plurality' are used to refer to social norms that are not necessarily coded by the state (Dupret 1999). Here it is useful to provide a working definition of social norms as "rules which are shared inter-subjectively by many people in a society – not necessarily everyone, but enough to make it a reasonable expectation that people in that society will conform to the rule." (Mullard and Spicker 1998:7).

Pierre Bourdieu's conceptualisation of the 'juridical field' is useful to come up with a working definition. Bourdieu (1987:806) considered the juridical field as part of the process of cultural production in society that is "organised around a body of internal protocols and assumptions, characteristic behaviours and self-sustaining values". Bourdieu (1987:842) asserted that law revolves around "the activity of *formalization* and [...] the interests of the formalizing agents as they are defined in the competition within the juridical field and in the relationship between this field and the larger field of power" (original emphasis).

Following the above discussion, I use a working definition of law as the set of rules and regulations that are formalized (in writing or not) by political actors (state or non-state) who assert a certain political authority over populations. This definition

helps specifying the array of actors and institutions involved in making up the juridical field of family law in Lebanon. This web of legal frameworks does not fit with the simplistic categorisations of 'state' and 'non-state' law, or with 'civil' and 'religious' law. As Griffiths (1999:ix) mentions these distinctions are "primitive folk-taxonomies" that "tell us nothing about the sort of social control involved, nor about [...] the degree of morally binding force generally attributed to a rule and the choices actors make between rules of different provenance[...]". Here while acknowledging the importance of the institutional approach to my research, I have specified whenever possible the bureaucratic capacity of the actors who make up the 'state' and 'religious' institutions in order to show the different power that they hold on gender equality of family law.

These institutions require further detailing. Hence, I differentiate between the two national and communitarian types of legal systems that regulate family law in Lebanon - including codes, courts, and the judiciary body. These two systems are commonly referred to- and often opposed as- civil or secular and religious institutions. Civil or 'secular' refer to legal systems that followed the codification by western states following the enlightenment era. In non-western contexts, these systems developed under various direct or indirect colonial or Western influences at the turn of the 20th century.[6] However, the use of the term secular is problematic because these systems are not completely distinct from any religious influence. The term religious is commonly used to refer to systems that have been traditionally developed and administered by religious authorities, Canon law or Shari`a law being two prominent examples. However the distinction between the two systems is not sustained. Although some states that their religious family law regimes are 'God-made' (Mayer 1995) and thus not open to scrutiny, it is increasingly recognised that religious family laws are 'man-made' in the sense that they are codified by legislators - religious leaders, based on their particular interpretation of doctrinal moral codes. Hence their role is crucial as pointed by Bourdieu above. In this sense, religious systems can be conceptualised as communitarian as they rely on the codification of particular moral doctrines of specific social groups. However, there is conceptual relevance in retaining the term 'religious' system due to the specific basis

---

[6] One example is the civil codification of family law in Kemalist Turkey.

of morality. Legislators attribute the morality behind religious systems from a seemingly divine source of legitimacy and jurisdiction that they only can mediate the access and interpretation. The source of authority moves from the conception of a civil nation-state, to the authority of a highly mediated and exclusive supra-national authority.

However these two systems overlap more than often suggested. In many western and non-western contexts alike, 'civil' or 'secular' systems of family law are often based, with varying degrees, on religious morality. Similarly, religious systems are often codified and administratively structured as civil institutions. In this sense a hybridisation of systems is increasingly recognised. For the purpose of the thesis, I adopt the term 'civil' to refer to legal categories of systems/codes/personhood to refer to national frameworks on family law that draw their moral and legal legitimacy from the gradual establishment of modern Lebanon since 1840. I also use 'religious systems' to refer to communitarian frameworks deriving their moral and legal legitimacy from supra-national divine authority mediated by learned legislators and judiciary.

Throughout the thesis I contrast two sets of terms. The first set is the secular and sectarian categories of citizenship/legal personhood/subjectivity. These two terms are used to refer to patterns of classification found in, and constructed by, legal frameworks and dominant social norms that categorise individuals according to the presence (sectarian) or absence (secular) of an ascribed religious identifier.

The second set of terms is the universalist and communitarian citizenship/legal personhood/subjectivity. I use these two terms to refer to the construction of individuals' entitlements and rights (in the broadest sense) within frameworks of uniform equality (universalist) or differentiated fairness (communitarian) in relation to their nationality, ethnicity, or religious ascription.

Thus moving away from state-centred distinctions of 'state' or 'non-state' actors, I use the term 'governmental' to refer to actors within the executive and legislative state apparatus. I also use the term 'official' to distinguish between formal religious judges as opposed to 'community' religious leaders. Finally, in order to de-

essentialise the religious aspect of these institutions, I use the term 'communitarian' rather than the more common 'sectarian' or 'confessional' to refer to organisational and institutional aspects of social and political arrangement within religious communities.

In terms of defining women's subjectivity and agency, I follow Butler in her view that it is important to use the category 'women' for lobbying purposes, while recognising the need to differentiate within the category (Butler 1992). Following post-structural understandings of subjectivity (Foucault and Rabinow 1997), I use subjectivity to analyse the ways individuals understand themselves ontologically and ethically as constituted from within positions of power within which they are located. The subject "is constructed through acts of differentiation that distinguish the subject from its constitutive outside, a domain of abjected alterity conventionally associated with the feminine, but clearly not exclusively" (Butler 1992:12). In order to differentiate between the social process of subjectification and the legal categorisation of individuals, I use the concept of 'legal personhood' (Mundy 2002) to refer to the ways in which individuals and groups are defined in the various legal provisions, in terms of individual and collective 'personae'.

In the same way that subjectivity is constructed, women's 'agency' refers to a constructed ability to change their situation. Agency is analysed in the thesis at two levels. First is the level of 'collective' spaces where women with family law problems engage with women groups into solving their issues. Second is the level of 'individual' spaces where women act on their own issues within communal or governmental spaces. In order to differentiate between various respondents, I use the term 'women respondents' to refer to women with family law problems. I also opted for the term 'women groups' to refer to the collective efforts by actors concerned with gender equality in family law because they use it for self-reference.

The final definition in this section is that of gender equality in family law. I rely on Joan Scott's (1999:2) definition that considers gender as historically shaped "knowledge that establishes meanings for bodily differences". I use equality beyond the common statutory liberal notions and extend it to the equal access and use of power over the terms and effects within the institution of marriage. Thus, policies

relating to gender equality in family law are any initiatives by institutional local and global actors that explicitly or implicitly impact discursive, legal and/or practiced/lived aspects of women's experiences of personal rights. Within this definition, related policies are those aimed at shaping, modifying or implementing family issues.

1.6 The Case: Gender equality and family law in Lebanon

In order to reflect on the enactment of family law on gender equality, this thesis explores the case of post-conflict Lebanon. The discussion of the impact of family law on gender equality is set against the backdrop of the period of renegotiation of 'consociational' citizenship in the national post-war reconciliation pact era (1990-2005). The case is selected mainly because it provides a complex context for understanding the link between the personal, gender, and religion at several levels.

First, it challenges the fixed mainstream notions of both liberal and communitarian analyses of family law and national identity, including secular-religious, individual-communitarian, and universalist-relativist ones. It aims to dispel the binary often drawn between social freedoms and the rigidity of the religious institution. The state system is composed of a complex juxtaposition of religious and secular legal and governance frameworks. While the state does not adopt an official religion, it has been established based on a consociational approach to religious communities living there. All branches of the judiciary are organised in civil courts with the exception of family law that enjoys 15 different 'exceptional' religious courts.[7] The legislation and legal structures of family law were set in the pre-independence era by the Ottoman rule (1516-1918), reinforced by the French mandate (1920-1946), and maintained by the post-colonial Lebanese state. Family law frameworks organise all Lebanese citizens according to nineteen sectarian denominations under the Christian, Muslim and Jewish faiths. These diverse religious frameworks contest an essentialised take on particular religious frameworks, such as Islam for instance, as an exceptional and fixed moral order (for example Gellner 1994).

---

[7] The administrative government system is practically organised in terms of specific sectarian allocation, including parliamentary, cabinet and presidential posts as well as high ranking civil service positions. The National Reconciliation Pact of 1990 and the amended constitution dictated the gradual abolition of sectarian allocation, but this is not applied to date.

The complexity of the Lebanese case allows us to analyse the historical, institutional and contextual influences on the development of family law and its impact on gender equality. Family law frameworks reflect the colonial and post-colonial configuration of Lebanon as a nation of 'sectarian minorities'. In the Lebanese case like many non-western contexts, the interplay of internal and external forces thoroughly remodelled family law. The current state structure is a mix of importations of the western state model and colonial reconfiguration of cultural influences such as religion. The Lebanese case allows for recognising the power relations generated by various groups (Pringle and Watson 1998). These power relations mainly include historically specific political influences, such as colonial powers, that shaped and normalised unjust social structures on the political, legal, and collective awareness levels (for example Said 1979; Spivak 1987). In Lebanon, Ottoman and French colonialism have tailored the territories of modern Lebanon, emphasised religious group affiliation and imposed a set of religious laws to drive this segregation (Makdisi 2000; Salibi 1988).

Therefore, family law in Lebanon also elucidates the relationship between gender equality and the renegotiation of post-conflict citizenship. The case of Lebanon indicates that gender equality in personal relationships is compromised in favour of adopting communitarian political governance frameworks in a way to mend war-torn societies. As the case of post-Baathist Iraq illustrates, family law was a crucial issue of debate used by various political groups to reinforce sectarian identity. (Cole 2009).

Second, the Lebanese case allows for a nuanced understanding of the generation, perpetuation and subscription to gendered norms. Often Lebanese society is portrayed as the 'border case', holding liberal gender social freedoms in comparison to the surrounding Arab countries. This portrayal is often posited against a fixed system of family law (Shehadeh 1998). Gendered norms are often referred to as 'external' to the make-up of the Lebanese society (Shehadeh 1999). The gender related socio-economic indicators include high levels of literacy, low maternal mortality and fertility, and average levels of participation in the workforce (Schulze 1995). Social freedoms are also expressed in low reported incidence of honour killings and kidnappings (Khalaf 2002). These basic indicators are countered by a

severe gap in political participation and representation indicators. The case problematises this view and elaborates on the various channels of norms formation and perpetuation.

While Lebanon enjoys a history of thriving feminist action, most feminist achievements were in the field of socio-economic indicators. Political participation and personal issues have been harder to secure. For instance, the Lebanese government ratified the CEDAW convention in 1996 and placed reservations only on family law issues. The indicators for parliamentary and municipal women's representatives have been extremely low also in the post-conflict period. Similarly, Lebanese family law regulations fall well behind other Arab countries such as Egypt's *khul*[8] law, and Morocco's 2004 *Mudawwana*. The case of Lebanon provides an interesting setting for analysing the complexity of legal frameworks and women's agency.

The contradictions involving the status of women show that women's socio-economic rights issues are addressed successfully, while political, civic and personal rights are highly ignored. Figures from the UNDP Millennium Development Goals report (UNDP 2004) show that women's literacy rates are 90.7%, and women's economic activity constitute 49.3% of the total economically active population. However, women have low access to positions of responsibilities and decision-making in the private sector, as they constitute 8.5% of employees in high managerial positions in 1996. Access to decision-making in executive public positions is also very weak as women accessed ministerial posts for the first time only in 2004. The proportion of women in the first and second civil service ranks is low, 2% and 10%, respectively. Krayem (2003) finds that women's representation in the house of parliament is 2.3% much lower than that of municipal councils (20% in 1998). These figures contrast sharply as rates of women's participation in the voting process that was almost equal to men.

---

[8] *khul* is a clause in Islamic Sunni law allowing women to end the marriage without the husbands' prior approval. However this law denies women many of the financial entitlements stipulated in the regular form of divorce. The *Mudawwana* is the Moroccan civil family law amended in 2004 granting full gender equality in most clauses. It is considered a breakthrough as it was approved by the King Mohammad VI despite it departing from common directives attributed to Islamic law.

Electoral candidature does not depend on party affiliation. Individual candidates run for the religiously distributed seats and form fluid and contradictory political alliances. The political dimension of religion is prominent in the peculiarity of the political parties structure that are practically closer to a mix of politico-religious movements with patron leadership, rather than distinctive ideologically-based right and left wing parties. Several of these movements exist within one sectarian group. Instead of promoting political vibrancy, they rest on religious identity. These politico-religious considerations and other communal influences would constitute the main criteria for voters' choice, and many Lebanese women voters tend not to particularly run, vote or engage in campaigns of women candidates (Krayem 2003).

Cases of gender-based marital and family offences are partly legislated in the penal code but hardly recognised by religious courts. For instance, domestic violence falls under physical assault crimes of the Lebanese Penal Code (L.R. 18/09/1948, A. 554-559) but is not criminalised in most religious courts provisions (Zalzal 2000). Marital rape is not recognised as a criminalised offence in Articles 503 and 504 of the penal code (L.R. 18/09/1948). Adultery is still penalised more heavily for women than for men in the penal code provisions 478, 488, 489 (L.R. 18/09/1948). Punishment for 'honour' crimes is relaxed in the Article 562 of the Lebanese penal code (R.L. 18/09/1948).

With the lack of reforms in family law in Lebanon, the case allows for drawing links between subjectivity and agency through the exploration of individual and collective agency of women facing family law problems and women groups. The role of secular feminist civil society tends to be widely attributed as a role of resistance, based on the premise of identity politics. The major problems faced by conventional group formations such as women organisations relate to identity politics, where collective action is based on lobbying for particular issues or specific interests while silencing differences (Young 1998). However, when women's subjectivity is destabilised away from the 'womanhood' category, women's agency develops in less linear ways than some feminist readings suggest. Such understandings of the role of women groups is closer to functional notions of social group membership (Conover 1988) and fit more with the definition of social aggregate or category based on arbitrary attributes (Butler 1998; Young 1998). These assumptions also marginalise

different types of women and sets of problems within different power structures (Reagon in Mohanty 2003).

The construction and implications of individual and collective agency on gender equality becomes an important component in the gender governance order. The role of women groups needs to be studied in relation to the complexities of social group formation, the internal and external perceptions of affinity, and the fluidity and overlap of several social groups membership at one time (Young 1998). The case of Lebanon thus helps to redress the secularist bias in relation to studying women groups. In much of the literature, the notion of feminist resistance is attributed to secular women groups and as a result, their subjectivity and agency is little problematised. This contradicts the intense interest in scrutinizing women groups by probing into their subjectivity and agency as well as the direction of the social change they aim to achieve. This discussion feeds into the broader aim of the research in that it furthers our understanding of the nature and extent of the impact of the gender governance order on women's negotiation of their personal rights.

This follows that the Lebanese case provides a dynamic understanding of women's subjectivity and agency construction. It provides a fertile setting for exploring the ways in which women become gendered subjects amid a multitude of conflicting religious and social identities. Such a charged discursive setting destabilises mainstream feminist assertions on a primary womanhood and sisterhood identities. These premises are refuted as subjectivities are increasingly recognised as a continuous and multilayered process of conflicting and ever changing identities (Butler 2003; Castells 1997). In this way, while the thesis adopts a women-centred approach, it moves away from an empiricist feminist approach (Hartsock 2003). Instead, it holds as its starting point the fluidity of subjectivity characterised in multiplicity, complexity and volatility (Butler 1998).

1.7 Organisation of the thesis

The thesis contains seven chapters. Chapter 2 presents the theoretical framework of 'gender governance' adopted throughout the thesis. This chapter outlines the conceptual framework of 'gender governance'. It exposes the limitations of statutory

approaches and builds on post-structural and feminist literature to make the case. It concludes by pointing to the methodological plan.

Chapter 3 discusses the methods used to gather field data. This chapter makes a case for the validity and manageability of the research plan by (i) justifying the approach, methods, and the changes to the fieldwork plan; (ii) clarifying the positioning of the researcher, and the ethical considerations to the respondents, (iii) detailing the data collection and analysis processes, and the limitations of the research.

Chapter 4 is the first of five substantive chapters that present the argument of the thesis. It details the historical developments of the institutional socio-political context of family law frameworks since the Ottoman and French pre-independence rule onto the formation of the Lebanese state.

Chapter 5 elaborates on the policy process of family law frameworks in the post-independence and post-conflict periods. It studies the policy making process in terms of the influence of various discourses on citizenship and gender equality and the power relations between various actors. It analyses the construction of policy episodes, the formulation of the policy problem, the framing of concerned populations, and policy outcomes. The chapter highlights the importance of focusing on the 'enactment' of policies in order to assess the full gendering impact of family law order of governance.

Chapter 6 discusses the techniques of blurring women's legal subjectivity. It highlights the institutional scope of the gender governance order of family law that results in blurring women's legal subjectivity. It argues that legislative inconsistencies define only partially women's legal subjectivity at the statutory level. Women's legal subjectivity extends to additional institutional layers sustained by various actors and disciplinary practices. The chapter concludes by signposting the moralities underpinning these frameworks.

Chapter 7 explores the gendered moralities and the ethics of subjectification. It asserts that women construct their legal subjectivity by enrolling in and contesting the gendered moralities produced by the gender governance order. It unpacks the

gendered moral basis as a collection of intertwined scriptural and modernist secular dominant social norms. It discusses how women construct their personal ethics through negotiating these gendered categories of womanhood ideals. It concludes by drawing links with women's agency at individual and collective levels.

Chapter 8 analyses the governance spaces and women's agency. This chapter contends that the gender governance order fragments women's agency over individual and collective social spaces. These spaces emerge through clashes of the discursive regimes of local family law frameworks on one hand, and universalist gender equality and activism on the other. It also constructs women's agency in multiple directions through contested notions of resistance and freedom beyond the conventional Western perspectives.

The thesis concludes with chapter 9. This chapter sums up the thesis by (i) summarising the argument for order of 'gender governance', (ii) stating the thesis contribution, (iii) discussing policy implications on women's action on family law, (iv) stating the limitations of the research, and the areas of future research.

1.8 Conclusion

This chapter introduced the overall purpose of the research project. The aims of the thesis were specified as researching the impact of family law frameworks on women's subjectivity and agency. The research was justified at two levels. At the academic level, the research questions the fixed analyses of family law frameworks and its statutory uniform effect on women, and aims at dispelling the myths surrounding women's responses to and action on discrimination in family law. It contributes to knowledge on gender equality and personal relations in multi-religious and post-conflict contexts by revealing the complexity of the interplay between legal frameworks of family law and women's experiences within their environment. By adopting a governmentality approach it analyses the styles of an 'order of gender governance' that women are enrolled in through these frameworks. By doing this, it probes into the varied and overlapping forms of subjectivity and agency that women experience in the enactment of family law. Finally, the thesis also contributes to policy on gender equality and family law by providing thorough evidence based research of the lived conditions of women experiencing family law issues. The

argument of the thesis draws on the three elements of governmentality: 1) the production of sovereignty and regimes of truth on gender equality and family law; 2) the disciplinary techniques that control women's subjectivity and agency during their encounters with structures and institutions relating to family law; and 3) the management of social spaces through bio-power that manage women's voice and agency. The research project applies this theoretical framework to the case of gender equality and family law frameworks in post-conflict Lebanon.

2   CHAPTER TWO Family law as an order of gender governance

2.1   Introduction

The examples set out in the introduction reveal the tension between women's lived experiences of gender inequality in family law and the ways in which policy actors understand and formulate family law frameworks. In this chapter, I review the available literature and construct a theoretical framework to bridge this gap and provide a thorough understanding of the issue.

The research question driving this thesis positions the discussion at the heart of these disciplinary intersections of legal, gender, social and political analyses. For this, the theoretical discussion below relies as much on the knowledge specific to family law, as on selectively drawn broader sociological concepts in as much as they inform the conceptual framework. It funnels various analyses into one central concern: to explain how family law frameworks impact on the ways women engage in personal relations.

The starting point of this inquiry is in the next section, which reviews what I refer to as fixed approaches to analysing gender equality. By fixed I refer to approaches that reduce the gendering factors to structural social processes, and confine women's subjectivity and agency to normative notions of 'womanhood'. It argues that, while they provide a valid starting point for analysis, they offer only a partial analysis of the problem. Their limitations are explained in relation to their formal level of analysis and the idealised relations to women citizenship.

The second section attends to the gaps of fixed approaches by drawing on notions of governance, power, subjectivity, and agency. These concepts reveal the social construction of gender equality in family law, the historically specific institutional legal practices, the role of various institutional actors, and the broader institutional forms of gender inequality produced in the process. These dimensions locate gender discrimination in family law in the context-specific, historical, and political dynamics and away from the idealised notions of womanhood mentioned in the previous section.

Finally, the last section presents and discusses the theoretical framework of 'order of gender governance'. This framework is based on Foucault's (2000) concept of governmentality that analyses state policies as a way of 'managing' populations. The concept of governmentality is adapted to gender equality in family law and explained at three levels: disciplinary technologies, moralities of truth, and the management of family law spaces. This framework allows for the analysis of family law in relation to their implications on women's subjectivities and agency. By conceptualising family law as a governance issue, it is possible to understand the kind of agency that is produced in the process. The chapter concludes with a summary of the overall argument.

2.2 Fixed approaches to the impact of family law on women's subjectivity and agency

As a starting point to developing the order of gender governance framework, I analysed the various ways in which gender equality in personal relations has been conceptualised in the feminist literature. I grouped the different perspectives according to the understanding of 'equality' into three typologies -the statutory, structural, and cultural respectively. As I analysed these perspectives, I noted that they fail to capture the complexity of gender equality in family law in two ways. First, they hold a 'static' understanding of equality. Second, they rely on fixed definitions of the 'female' subject. These perspectives are detailed below in relation to their understanding of the problem of gender equality, and their conceptualisation of subjectivity and agency.

2.2.1 Gender inequality in personal relations as statutory discrimination

In western-centred liberal academic thought the gendering impact of family law is considered primarily in relation to the statutory bias it holds against women. With the rise of modern feminism in the 20th century, the uneven formal rights of women in marriage contracts were denounced as the dark side of a gender-blind liberal citizenship that is based on contractual individualism (Pateman 1988).

The liberal model of family law focuses on the divide between the public and private social sphere.[9] As a result, it does not question the compromised position of women in the family, the beacon of individual freedoms.[10] A feminist critique of liberalism challenged the male bias in the private sphere and denounced it as disguised under a 'false gender neutrality' (Okin 1998:120). In many western societies, existing family law frameworks tied women – through marriage- into a 'sexual contract' (Pateman 1988). Inequality lies essentially in the legal texts, as they disowned women from any rights to own property or conduct separate business following the concept of 'couverture' that merges their legal rights with those of their husbands. Gender inequality in the private sphere was mainly translated as formal and statutory bias to be remedied with the acquisition of equal legal rights.

The statutory framework was also adopted by scholars researching religious family law in non-western contexts. It appealed particularly to legal and political research on family law in Middle Eastern and Islamic societies (Esposito and Bas 2001; Sonbol 1996). Statutory equality also led the way for the early elaborations of the 'rights' approach to gender equality that were enshrined in the universalist formulation of the international human rights instruments as early as the Universal Declaration of Human Rights (IDHR) and carrying on to the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).[11] This approach holds several implications on women's subjectivity and citizenship.

---

[9] Brennan and Pateman (1998:93) argues that "women, more specifically married women, constitute a permanent embarrassment and problem" for the liberal tradition based on freedom and equality. Iris Young (1998) noted the misunderstanding entailed in favouring the public sphere as its proponents confuse between plurality and privatisation of issues. In this sense, both public and private issues need to be debated and addressed.

[10] The first generation of liberal feminists sidelined personal gender issues. They turned to the statutory exclusion from the public sphere and lobbied for access to 'public' issues of voting, education, and health (Okin 1998). They viewed the domestic role of women as part of her 'natural' occupation, and sought to reform the legal structure granting them access to the public sphere such as Wolfencroft (mentioned in Tong 1998) Second generation liberal feminists, such as Betty Friedan (1963), showed dissatisfaction with their domesticity as a 'feminine mystique' and turned to joining men in the public sphere, instead of probing into the conditions of their domestic plight (Whelehan 2007)

[11] The rights approach was critiqued for being based on universalist grounds. This point was made by Spivak who still adhered to it as a 'strategic' position despite the many pervasive implications on subaltern populations (Spivak and Harasym 1990)

First, legal provisions are essentialised and considered as a comprehensive and definitive body of legislation that is largely fixed and dissociated from socio-political influence (Amirmokri 2004; Burgat and Esposito 2003; Rehman 2007) This applies to both western (secular) and to non-western (religious) legislation. A central problem here is that secular western legislation is historically influenced by religious moral frameworks especially when it comes to considering men as the heads of the household and attaching women to them as dependents (Asad 2003; Wolfe 2006). Statutory approaches reduce gender equality in family law to a legalistic interpretation of equality that ignores structural and institutional factors and equates entitlement with access to gender equality.

The emphasis on statutory equality also assumes a unitary view of the State. For instance, in the 'Sexual Contract', Pateman (1988:224) called for a new conceptual framework for analysing the state in a way that 'open[s] up space for two figures: One masculine and one feminine'.[12] Brown (1995) critiqued Pateman for subscribing to dominant state configurations, without questioning the make-up, fragmentation, and effect of the state.

Similarly, for non-western contexts, religious provisions such as Islamic ones were drawn as an overarching doctrine that was synonymous with the State. For example Memissi's (1991; 2003) work on the veil carries an essentialist reading of Islam across several countries. In such works Islam is attached to a unified notion of the state, thus erasing any fragmentation resulting from political and historical factors that are related to colonialism for instance (also found in the works of Moghadam in Moghadam 1992; Moghadam 2007; Moghadam, Karshenas et al. 2006). Research on women's position in 'Muslim law', essentialises Islam as a unified set of clear and definitive directives on family law. However alternative views indicated that religious directives vary across contexts and are as much constructed in relation to the local historically-specific social norms (Moaddel 2005).

---

[12] Post-structural perspectives, such as Foucault in the History of Sexuality, also critiqued it further by showing how this 'privatisation' of the 'personal' was constructed as a way to control individuals in society.

In the same vein, the statutory 'rights' perspective holds a legalistic connotation that is analytically and practically separated from the actual materialisation of justice for women (Tong 1998).[13] Statutory approaches tend to de-politicise relations within the family. Gender equality is a 'consumed good' and women as a "consumer subject" (Brown 1995:5). They mask the political and institutional dimensions of sexual violence and practices of family law.[14] The liberal overemphasis on "individual culpability" masks "deep political distress in a culture" (Brown 1995:27).

The 'rights' approach was also considered "reactionary", providing a "mirror of reversal" which are framed around the enemy (Brown 1995:8).[15] The concern with 'rights' through identity politics serves as "mirroring" of a state of "injury" which focuses on individualised blame (Brown 1995:27). The mirroring process reinforces the category of injury attached to the subjects and legitimates the need for protection by protectors such as the state, thus compromising their calls for freedom. The focus on statutory rights is thus inadequate as it allows for the "political ground [to] cede to a moral and juridical ground" and injured identities are imprisoned in a "plastic cage" that is largely invisible and considered "normal" (Brown 1995:27).

Statutory approaches consider women's subjectivity and agency as fixed and based on entitlements. Carole Pateman (1988) provides a thorough analysis of the legal status of women's civic records. These records illustrated a gendered state order as they confined women in the legal category of 'dependent'. Women's statutory citizenship was thus embedded within the primary category dedicated to men. Pateman's analysis sheds light on the importance of linking the individual/micro level to a collective or macro level of gender discrimination. However, it does not explain how this statutory citizenship is translated and contested in practice.[16]

---

[13] Liberal feminists tried to distance themselves from radical feminism which was blamed for too much focus on victim feminism, hostility to men, and emphasis of sexual violence (Bryson 2003).

[14] Phillips calls for distinguishing between everyday politics and formal politics. She supports Elshtain in rejecting the slogan of radical feminists 'the personal is political, mainly because in her view the latter dilutes the magnitude or specificity of formal politics (Phillips 2003:4) .

[15] Dismissing the liberal conception of freedom as an a-historical, abstract notion focused on property and personhood, she charges at the leftist view that is negative and against injustice.

[16] The demise of the statutory approach to gender equality in personal relations is that it buys into the nurture versus nature and the identity and difference debates. While it focused on instating statutory equality and identity, this maintained the binary of absolute and other. Statutory law was considered to entrench sexual social roles or 'gender' roles maintained by women and men across the world, shaping individuals into culturally gendered 'feminine' and 'masculine' roles with distinctive

Women were considered autonomous individuals endowed with agency to automatically benefit from statutory reform of family law.

2.2.2 Gender inequality in personal relations as structural injustice

Another feminist strand turned to women's uneven economic power within the household and society and away from citizenship statutory constraints. The household was considered for long as an economic black box in terms of uneven distribution of resources for women who are unpaid for their contribution to domestic work. Following a Marxist argument,[17] women were considered to be held in uneven personal relationships through their purse strings. The household was the main space for oppressing women through the control of income by the male members of the family (Whelehan 2007). A causal link was drawn between economic independence and gender equality in the family, endowing equality with the meaning of materialist parity. Thus, socialist feminists lobbied for structural changes to economic relations within the structure of the family.

Developmental feminists also raised the economic impact of family law in their critique of economic liberalism.[18] Martha Nussbaum's (Nussbaum, Glover et al. 1995) use of the 'capabilities approach', developed by Amartya Sen is an example of this perspective. The capabilities approach recognises the structural constraints to individuals' freedom and is concerned with providing the basis for individuals' flourishing functioning in various areas of life. In this way, a reform of the distribution of resources was advocated.

The economic approach understood women's subjectivity and agency as part of their free will to make choices. Nussbaum was criticised for conceptualising gender

behaviours and perceptions (Okin 1989). These 'feminine' social roles – or gender as the term was coined- were considered fixed in the sense that women's identity is moulded according specific 'feminine' attributes. This conception relates to the earlier interpretations of the differences brought by de Beauvoir's famous slogan 'one is never born a woman, one becomes a woman'. It was meant to explain the social influences dividing men into 'Absolute' beings and women as the 'Other'. De Beauvoir's critique was to the hierarchy of order, rather than to a questioning of the nature and fixity within the identity of the 'other' (Beauvoir and Parshley 1993)

[17] Marxist feminists also held the bias that the family was a space away from the hegemony of the state. Later on socialist feminists applied the Marxist market analysis to the household as an extension of the patriarchal order – the hegemonic state and capitalist market dynamics (Tong 1998)

[18] Phillips points to the diversification of contemporary liberalism by distinguishing between political and economic liberalism, as one could adhere to the former stream while uphold criticism of the latter.

equality as a choice for accessible possibilities of function. While broadly agreeing on the need for feminists to reconcile with liberalism, Anne Phillips (2001) found that analysing gender equality in terms of choice is inadequate because it understands it as sufficiency rather than substantive equality. It portrayed women as endowed with unconstrained choice and autonomy that would allow them to make use of any opportunities they are presented with (Charusheela 2008).

The theoretical premise of a fixed 'womanhood' identity also underpinned the economic perspective. In this view, women displayed two types of identities. First, they were victims of oppression and thus in touch with their core womanhood. Second, they could be in denial or in 'false consciousness', subscribing to the gendered order of economic domination. However this view provided a fixed and a negative dimension of identity (that is to be differentiated from a relational one), and defined by what it is not, and depicted as injury (Brown 1995).

The structural approach sums up the authority for regulating family relations within a unified state. The state is composed of several exclusionary economic mechanisms that marginalise women and keep them within the grip of uneven household relations. In explaining the impact of family law in non-western contexts, this approach considers religious structures as part of the state hegemonic role. However, there is increasing recognition of the diversified political and cultural role of religion, which makes claims of a unitary state structure more questionable.

2.2.3 Gender inequality in personal relations as cultural subordination

Beyond statutory and economic frameworks, culture was the centre of explanations relating to the gendering effect of societal norms and values. Cultural feminists analysed it from two different angles focused on a fixed concept of patriarchy.[19]

In western contexts, gendered personal relations were exposed by radical feminists using Carol Hanisch's (1969) iconic statement 'the personal is political'. This statement was meant in response to liberal feminists' reluctance to problematise

---

[19] Most of these perspectives are underpinned by the notion of patriarchy. Patriarchy is an institutional structure of fixed traditional male-biased cultural norms maintained through customary and religious influences that perpetuate gender inequality in various areas including family law (Walby 1989) Patriarchy was critiqued for providing a fixed and essentialist view of gendered norms and values.

private personal relations considered of little relevance to the broader experiences of women. The merits of this perspective is that it located the pervasiveness of uneven relations between men and women in the intimate and sexual realm (MacKinnon 2005). The oppression experienced by many women was primarily sexual and translated in the pervasive power of forced sexual practices whose extreme and common form was rape.[20] This school elaborated the concept of Violence Against Women (VAW) to expose sexual aggression by pinning it down to cultural norms and practices.[21]

The 'personal is political' slogan was also used to different effect by multicultural feminists to contest the essentialist take of culture and religion found in western-centric feminist claims. They considered gender equality in family law as part of the struggle against their disadvantaged position in the hegemonic western frameworks (Narayan 1997). Multicultural and third world feminists problematized racial discrimination in women's personal lives. Starting with the plea of Black feminism in the US, feminists showed that family relations are less uniform and more complex than initially assumed by western-centric feminist views (Hooks 2000). On one hand, the multicultural family was a sanctuary for marginalised racialised women to affirm their identities away from the oppressive white hegemonic society. However, it was also acknowledged for its oppressive practices that were legitimised by cultural or religious premises reinforced by colonial powers (Mohanty 2003).[22]

Development feminists also denounced the detrimental effect of culture on women's personal relations. Mainstream feminist development perspectives rejected traditional and 'backward' customs and relied on a universalist understanding of equality. They adapted various ideas from liberal, radical and socialist feminism to back their claims. These claims considered equality within a de-culturalised

---

[20] An opposing view of maternal feminism saw the family as a forum for women to express their innate 'motherhood' abilities and special nurturing gift. The family was seen as the building block of society contributing to its cohesion.

[21] This constituted a revolutionary approach at the time that held support groups for victims of domestic violence and running shelters for battered women. A segregationist approach was the solution for Lesbian feminists who denounced the pervasive patriarchal order and the heterosexual marriage institution calling for 'women for women' support. This school saw equality as independence/disengagement/distinction. The critique for this approach was the essentialist cultural distinctions attributed to men and women.

[22] Multicultural feminists claims are imbued with relativist perspectives.

universalist gender identity. They emphasised a modernist secular–religious divide, translated into a progress-backwardness dichotomy.[23] This mainstream stand on personal relations contrasts with more nuanced and culturally sensitive analysis of gender inequality of household dynamics when analysed in conjunction with economic and reproductive health issues.

In an alternative take on cultural influence, religious feminists considered local cultural norms as a diversion from the essence of equity provided by religion. Religion was seen as an exceptional moral order that had the capacity to provide answers to transcend gender inequality. In this framework equality was understood as equity and fairness that surpasses man-made conceptions of justice (Badran 2009; King 1994). Gender inequality in personal relations stemmed from defective religious interpretation and practice by people.[24] In Islamic contexts, recent feminist scholarship finds that multiple interpretations of Islamic Sharia can provide opportunities for a progressive reading and application of women's rights in the family (Mayer 2007; Mir-Hosseini 2003; Mir-Hosseini 2006).

There are several critiques for the emphasis on the cultural effect of gender inequality in personal relations. First, it operates in a religious-secular binary and creates an artificial schism between the two concepts and conceals their moral and philosophical intertwining (Sharma and Young 1999). Second, it also constructs a false binary between 'script' and 'practice' and portrays it as a clash between 'high' and 'low' religion.[25] This distinction is refuted as the meaning of the 'script' is always subject to the interpretation of the reader (Derrida and Caputo 1997).

These cultural perspectives analysed women as inherently different from men. Womanhood identity was essentialised and fixed. It marked a constitutive positive

---

[23] The modern-backward dichotomy does not apply to issues of reproductive health. Taking the example of clitoridectomy that has been erroneously attributed to Islam, Spivak (1990) draws the attention to the different understandings attributed to the meaning of the operation in different countries and the difference in the cultural relevance perceived by men and women of those communities. Similarly women's veiling in Islam, not categorically imposed in the scripts, has multiple derivations ranging from Judaic and Christian influences, colonial reinforcement, class distinction, and a political affirmation (Hashim 1999)

[24] This latter view relies on a relativist stand, which contests the moral-legal and political framework of secular equality. It relates to other cultural relativist feminists who argue for different frameworks.

[25] An example of such binary is found in Gellner's (1994)'s work on Islam

difference between men and women especially through the views of maternalist and environmentalist feminists. In these views, women held generative and nurturing qualities.[26] As men were considered lacking of these qualities, women were deemed to operate in the special moral framework of 'emotions' that is outside of rigid rational masculinist logic (Elshtain 1995). The perceived abundance of the maternal logic was an antidote to the male oppressive rational logic. From this view, the gender roles involved in personal relations were complementary. It also implied that women had a common core identity of 'womanhood' translated within a sense of 'sisterhood'. These assumptions held problematic claims of homogeneity of women's identity (Naghibi 2007).

This view of a fixed womanhood identity concur with classical conceptualisations of identity as "having a clearly delineated self-definition, a self-definition comprised of those goals, values and beliefs which the person finds personally expressive, and to which he or she is unequivocally committed" (Waterman 1984:331). This view draws a clear definition of the self and one's choices. It was critiqued for portraying women as an "exclusionary category and reveal[ing] coercive and regulatory consequences, even if this construction is for emancipatory purposes" (Butler 1998:6).

2.3 Moving beyond: Enacted freedom and the construction of subjectivity and agency

With the shortcomings of the static approaches, I located alternative conceptions of gender equality and its impact on women's notions of self and their capacity for action. These three notions constitute the backbone of the gender governance framework explained in details later in the chapter.

2.3.1 Equality as enacted freedom

As discussed in the previous section, classical notions of gender equality in personal relations fall short of accounting for the various influences on women's subjectivity and agency. Statutory equality overlooks a whole range of enacted aspects of inequality. Similarly, structural justice does not account for the deeper institutional

---

[26] A celebration of women's maternal identity also extended to drawing a link with the natural powers of mother earth (Tong 1998).

constraints that reproduce inequality in various ways. In mainstream cultural explanations, the norms and values perpetuating inequality devolve are dissociated from the worldviews and lived experiences of individuals. For this, alternative elaborations equality account for these shortcomings.

One contribution to understanding equality as enactment is as Nancy Fraser (Fraser, Honneth et al. 2003) view of equality as 'participatory parity' (Fraser and Olson 2008) that promotes the need to accommodate distribution, recognition and representation. While this notion highlighted the crucial enacted aspects of justice, it however does not account for the politics of access, issue selection, level of involvement and extent of participation (Olson 2008).

These shortcomings of participation featured in the alternative view of equality from a radical democratic perspective. The democratic radical project elaborated by Ernesto Laclau and Chantale Mouffe (1985) places dissent and difference at the heart of equality. This framework allows for engaging with oppressive views and neutralising them. However, this notion of equality, as inclusive as it might be, still holds some statutory biases of liberal conceptions. It still circumscribes the sovereignty of subjects by virtue of state laws and regulations and maintains liberal dichotomy of freedom and responsibility (Brown 1995:11). Second, the normative basis of this idea of equality is removed from historical specificities, or as Brown (Brown 1995:12) puts it "their political ideals are delinked from historical configurations of social powers and institutions". In a critique of the liberal notion of equality, Brown finds that there is an artificial liberal dichotomy between freedom and responsibility which brings in the concept of "liberty as licence" and legitimates discourses of freedom as selfishness and sacrifice as responsibility (Brown 1995:25). These conventional notions decouple freedom from power.

In an attempt to understand equality in terms of historical configurations and power relations, Brown (1995) proposes the idea of equality as enacted freedom. Building on the Foucauldian notion of 'freedom as practice', this view contends that freedom cannot be void of power.[27] Brown considers freedom as a process of "permanent

---

[27] Brown refers to Foucault's notion of 'freedom as practice' originally mentioned in Space, Knowledge, and Power.

struggle against what will otherwise be done to us or for us" (Brown 1995:25). She stressed the importance of "taking full measure of power range and appearances – the powers that situate, constrain and produce subjects as well as the will to power entailed in practicing freedoms" (Brown 1995:25). In Brown's view, freedom becomes constitutive of action and a process. Hence she proposes to pay attention to the "style of political practices" rather than simply the procedures, policies and laws (Brown 1995:8). This notion of freedom is grounded in Foucault's (1980) understanding of the genealogy of knowledge and is pertinent here as it traces the historical crafting and validity of norms around family law.

Applying this notion to gender equality in personal relations, the gendering impact of family law lies in the power dynamics of political practice. Family law produces fluid dynamics between legislative frameworks and socio-cultural norms and practices. These frameworks and practices shape the ways individuals see themselves as gendered subjects and enact their subjectivity through a constructed agency (Mahmood 2005). This perspective adds to the earlier statutory and structural analyses of gender equality in two ways. First, it expands statutory frameworks towards broader normative social influence. Second, it indicates that these multiple normative and legal frameworks bring fluidity to the process of subjectification and construction of agency in multiple directions.

Equality as enacted freedom reconciles family law with historicity beyond the de-contextualised statutory, socio-economic, or cultural explanations. Foucault's (1980) notion of genealogy of knowledge is pertinent here as it traces the historical crafting and validity of norms around family law. Touraine's (1988:40) notion of historicity also provides a dynamic understanding of culture. Historicity is unpacked to imply more than the "historical nature of a social phenomenon". In Touraine's view it means "the set of cultural, cognitive, economic, and ethical models by means of which a collectivity sets up relations with its environment [...and] produces [...] culture". It is a "set of instruments, of cultural orientations, through which social practices are constituted". It also draws attention to the role of historically bound social institutions – values and norms in a society – that shape individuals and animate power relations. Based on this view, it is important to bring historicity to law

and understand it as a historically located, changeable set of enforceable socio-cultural norms that constitute social-cultural practices.

This view also highlights the political aspect of family law as a dynamic set of power relations between different actors. Extending beyond statutory rights and fixed conceptions of the individual, this Foucauldian approach focuses on the practiced aspects of family relations. Thus, statutory rights are one aspect of broader power relations. They classify people into certain statutory categories and manage their actions through particular 'codes of legal conduct'. As the power dynamics between different individuals are constantly changing, the negotiations within family law are more complex than the formal understanding assumed earlier. This also means that these power relations are not unidirectional. They can be positive as well as negative as power is a productive force (Foucault 1980). This view allows us to analyse gender equality in family law within a more open frame of analysis.

2.3.2 Constructing Subjectivity

With the understanding of gender equality as enacted freedom, there is a need to problematize the way women engage in these power struggles and what effect it has on their own perceptions of themselves as social beings. This raises questions as to the validity of the fixed womanhood identity conceptualised by the static approaches to gender equality discussed earlier. In those views women's subjectivity is essentialised and fixed. While liberal feminist views separated subjectivity into a statutory and social divide, socialist and multicultural feminism bridged the two and questioned the shared basis of womanhood across contexts (Mohanty 2003).

With the diversity in experiences and social influences, it is not possible to define subjectivity in relation to physical sexual attributes. Women's selving was acknowledged to be formed on the basis of differentiated social roles attached to sex in a dynamic process of 'doing gender' (West and Don 1987). Women were recognised as bearing a gendered 'identity' holding positive or negative socially constructed gendered attributes.

This perception of a gendered identity fits with broader structural and interactionist perspectives on identity formation that acknowledge the role of complex mechanisms

47

of social forces. Pierre Bourdieu (1994) proposed the notion of relative positions where individuals and groups are located in the social field of forces. People's perception of the world, or their social identity, is socially structured rather than detached, in combinations whose probability varies widely.[28] Applied to women, Hartsock (2003) claims that the structural inequalities women are subjected to endows them with a particular worldview that is expressed in terms of a 'feminist standpoint'. The limitations of this view lie in that individuals hold a singular position even though this position is plotted by several structural factors. It does not explain the shifts in identity that individuals display while in different settings and under different influences.

In order to fill the gap of single positioning, Castells (1997:7) proposes a conception of plurality of identity that is a process of conflict, negotiation, and internalisation:

> [I]dentity, as it refers to social actors, [is] the process of construction of meaning on the basis of a cultural attribute, or related set of cultural attributes, that is/are given priority over other sources of meaning. For a given individual, or for a collective actor, there may be a plurality of identities. Yet, such a plurality is a source of stress and contradiction in both self-representation and social action. Their relative weight in influencing people's behaviour depends upon negotiations and arrangements between individuals and these institutions and organisations. Identities can also be originated from dominant institutions, they become identities only when and if social actors internalize them, and construct their meaning around this internalisation.

This definition brings in a multifaceted view of identity. Identity takes shape through socio-cultural constructions of meaning, the plurality and conflict of these meanings and a mechanism of exchange and negotiation with surrounding factors. Various socio-cultural attributes affect the ways individuals appropriate multiple and conflicting identities. These conflicting identities affect the way different women perceive and handle their experiences[29] (Hartsock 2003:396).

---

[28] This perception results from previous symbolic struggles and expresses the state of symbolic relations of power. These symbolic relations of power are acquired through different sets of capitals (cultural, social economic etc) that people acquire through their life. Their perception of social identity is the sum of their overall capital.

[29] Haraway considers this as a justification for adopting a feminist standpoint theory. This theory however still assumes an essentialist view of women's identity even if multi-dimensional.

While these views acknowledge the construction of identity, they still conceptualised it as a 'status-like' nature, and thus failed to account for the dynamics and action oriented processes that make up subjectivity. Although identity was changeable, it still referred to an 'attribute' that is 'acquired'. Alternative understandings of identity saw it as a fluid relational construct. Haraway (2003:396) proposes that individuals engage in multiple and shifting 'located positionings', which are defined as

> A commitment to mobile position and to passionate detachment is dependent on the impossibility of entertaining innocent "identity" politics and epistemologies as strategies for seeing from the standpoints of the subjugated in order to see well. One cannot "be" either a cell of a molecule-or woman, colonized person, laborer, and so on- if one intends to see and see from these positions critically.

In her argument, Haraway (2003) considers that identity is a fluid process that is always in the making and incomplete. Selving is critically experienced as a state of flux as we constantly move across time and social space and engage with situated knowledges that are produced in lieu of the 'real' world and are based on the power-charged social relation of 'conversation'.

In order to analyse the fluidity of women's subjectivity it is important to understand various subjective and anti-subjective theories of subjectivity (Mansfield 2000). Subjective theories acknowledge the formation of subjectivity as a product or an end result and theorises the process of formation and the effects of this process on the end product. Anti-subjective theories refer to an anti-foundational approach that rejects subjectivity as a concept/product and dispels it as a tool for domination and control of individuals and populations.

Theories of fluid subjectivity move away from this dichotomy and are concerned with understanding different aspects of subjectivity formation. They are concerned with bridging the external and internal influences affecting the formation of subjectivity, the mechanics of subjectivity formation, the process of internalisation of subjectivity, and the effects that this process has on the ways people perceive and act in society.

Psychoanalytic theories from Freud, to Lacan, Irrigaray, and Kristeva elaborated universalist claims to understanding the external influences of subjectivity formation. However, they considered subjectivity within essentialised western-biased notions.[30] They all rely on Freud's foundational notion of the sexual difference embedded in the Oedipal complex. These theories are a-historical and do not account for other patterns of parental structures. The emphasis on sex difference is critiqued by Judith Butler (Butler 1999) as she pushes us to move away from assuming a foundational validity of sex difference. For Butler, the very emphasis on sex difference is in itself socially constructed and given validity in various cultural contexts. In other words the difference in sexes is constructed as a political category of segregation that is used for gender discrimination.

Subjectivity formation was also found to be historically grounded. Foucault considered that the process of subjectification was a contextually-located tool to control individuals (Burchell, Gordon et al. 1991). Gayatri Chakravorty Spivak argued on the need to analyse subjectivity in non-western contexts within the nuanced multitudes of specific historical processes of colonialism (Spivak and Harasym 1990).

With this shift, identity was considered as part of a broader notion of subjectivity. Identity (including gender) is unstable and multiple, constructed differently and given particular pre-eminence and meaning in different contexts by different forces (Butler 2003). The interest in the concept of subjectivity as a historically bound social construct rose with Foucault's seminal works such as the 'History of Sexuality' and 'Discipline and Punish'. These accounts provided insights about the process of people's self-awareness. They informed us on the ways individuals acquire norms and values and a sense of presence. For Foucault (2000), individuals are 'historical subjects' whose awareness is constructed by the interplay of power relations between the institutional discourses in society.[31]

---

[30] Despite Irrigaray's refutation of Freud, she was critiqued for operating within and maintaining the same 'sexual' bias.

Focusing on the womanhood category as basis for women's subjectivity is problematic because it assumes a fixed understanding and value of the 'sex' category. As Butler explains, the relevance of sex as a marker for difference between men and women is only validated when special attention is attributed to it and thus becomes relevant in different forms, in certain contexts and not others (Butler 2003). In other words if sex has not been identified and reinforced by several power dynamics as a valid category for distinction, it would not have been noticed in the first place. Unpacking sex and gender serves to re-evaluate the feminist unquestioned primacy of womanhood over other identities, in a sense not to consider gender and 'women' as a container where other identities fit (Butler 1999).

Butler (1998) built on this notion and considered that 'women' are not a given category. Rather, it emerged as set of juridical structures that have imposed it and then regulated it. She explains that "juridical subjects are invariably produced through certain exclusionary practices that do not 'show' once the juridical structure of politics has been established" (Butler 1998:274). In considering different contexts, women as a category need to be analytically and politically drawn within the multiplicity of cultural, social, and political intersections and other axes of power relations in which the concrete array of 'women' are constructed (Butler 1998).

Here it is useful to relate the construction of subjectivity to a dynamic understanding of 'legal personhood'. The analysis of legal personhood inquires about the ways individuals are defined in law. Individuals are constructed into legal persons through their legal recognition as 'owners' or holders of specific characteristics such as religious background (Mundy 2002). Various forms of categorisations simultaneously grant individuals several a 'multiplicity' of legal personae in terms of various rights and obligations (Akarli 2004). At the same time individuals can become objects of property through commodified forms of social contracts (Pottage 2004). Applied to family law, these dynamics are traced in the ways individuals are entitled to arrange their family relations, as well as the ways they relate to each other through various forms of entry and exit from marriage. In this sense, family law, like many other law frameworks, blur the boundaries between persons and things (Pottage 2004).

The process of subjectification occurs in two ways. First competing historically bound political and social institutions construct a moral order through a process of governmentality. Governmentality, as elaborated by Foucault (1980), is a system of governance that is aimed at managing populations through regulating their norms and values and actions in the family and society. This order imposes a framework of norms and values that penetrate the individuals' consciousness. Second, 'technologies of subjectification/power' involve a process whereby individuals construct an ethical framework from the broader moral framework that these norms and values propagated through governmentality.

Saba Mahmood (2005) draws on Foucault's conception of ethics to analyse the construction of women's religious subjectivity. For Foucault ethics are a form of power that "permits individuals to effect by their own means or with the help of others, a certain number of operations on their own bodies and souls, thoughts, conduct, and way of being" (Foucault and Rabinow 1997:225). Subjectivity is "not [...] a private space of self-cultivation, but [is] an effect of a modality of power operationalized through a set of moral codes that summon a subject to constitute herself in accord with its precepts" (Mahmood 2005:28). The argument here is that codes of ethics are constitutive of agency.

Mahmood's Foucauldian-inspired ethics framework[32] is useful as it reveals the various ways women legitimise the numerous and conflicting discourses of gender equality in family law and accommodate them with local constructions of womanhood. It focuses on the 'technologies of power' used by various actors and institutions and construct women's subjectivity and agency. Mahmood's framework is composed of four components as follows (Mahmood 2005). First, the 'substance of ethics' pertains to the aspects of the self that matter most to the ethical evaluation. Second, the 'mode of subjectification' refers to the source of authority that incites people to adopt certain ethical obligations and follow a particular ethical conduct. In the case of this research, it is useful to analyse the basis for the arguments used to advocate for or against family law reforms. Third, the 'techniques of the self' are

---

[32] Actor-oriented perspectives point to the fatalistic element of Foucault's view of subjectification that suggests that individuals are passive recipients. These criticisms and the Foucauldian response are highlighted in a discussion of agency in the following sections.

discursive considerations and practices used by the person to shape the ethical self. This aspect is reflected in the research through an inquiry of the constructions by women groups and other actors of notions of right and wrong, and what is permissible or not. Finally, the 'telos' constitutes the ideal conception of the self within a 'historically specific authoritative model'. This aspect relates to the constructions of ideal womanhood that are embedded within family law policy reforms.

While Mahmood's framework is useful to analyse the process of subjectification, it does not account much for the fluidity and multiplicity of subjectivity. Nikolas Rose's (1999:xii) work on mental health explains the permutations of subjectivity formation and enactment. He explains how this process produces four manifestations of subjectivity. The ontological dimension refers to the way the self is understood as a being, as a person within a social setting- in the case of this research, understanding what it means to be a 'wife' engaged in a personal relationship. The epistemological dimension traces how the self is "knowable", manifested or detectable through processes of social validation, such as the normative dynamics dictating the social expectations of family law. The ethical dimension points to the "kinds of selves [people] should seek to be" or what a 'good wife' should be or do. Finally, the technical dimension refers to the practices people engage in to reach their ethical self. I adopt these four dimensions in explaining the process of subjectification.

Rose also highlights two particularly useful components involved in the process of subjectification. Authorities are crucial to the construction and validation of the self. The analysis of authorities includes the identification of "particular personages or attributes of authority" that shape women's selving. It also explores the types, procedures and locales where authority is mediated.

Of particular importance is Hacking's (2007:285) notion of 'making up people' into 'kinds' which refers to "the ways in which a new scientific classification may bring into being a new kind of person, conceived of an experienced as a way to be a person". I expand the understanding of the process of 'kind making' to various legal and moral authorities that construct women into a dominant category of 'wife kind'. Hacking (2007:286) elaborates on this concept by suggesting a process of a 'looping

effect' that refers to "the way in which a classification may interact with the people classified". In this looping effect, the new 'kinds' of individuals alter the political meanings of these categories and redraw it to their advantage. The findings of my research, detailed in chapter 6, contest Hacking's (1995) view and reveal that kind making does not always result in a looping effect.

2.3.3 Agency construction

As women's own sense of their existence is arguably fluid and continuously shaped by normative constraints, their ability to take action and their direction of this action is more complex than fixed approaches suggest. Thus, this section builds on the notion of subjectivity discussed in the previous section and draws the link between women's subjectivity and agency.

The construction of women's subjectivity reflects on the conditions in which women do, or do not, act to improve their conditions. The early notions of fixed womanhood implied that women's agency is manifested in three ways: as passive victimhood, as compliance in false consciousness, or as a feminist rebellion. However, this view of agency is short of accounting for the multidimensional nature of subjectivity argued above. It does not explain how women's agency is initiated, enacted, or directed.

Agency is also conceptualised in relation to the social structure by Anthony Giddens (1984). This theory combines action and structure in a more dynamic way than Bourdieu did. In the theory of structuration, Giddens maintains that individuals display human agency as they shape society around them despite the social restrictions surrounding them. The relationship between agency and structure is thus circular and constantly shaping one another. This view however overlooks the process of agency formation and assumes it as fixed and influenced only by variable external structural constraints. By disconnecting external factors from the individual, it relies on a static understanding of subjectivity.

However, classical fixed conceptions of collective agency are problematic. In the static approaches to gender, equality feminist collective action was justified in the

premise that women hold similar attributes and go through similar experiences.[33] The agency of women groups was preset in a sense of common 'sisterhood' (Naghibi 2007). Sisterhood solidarity informed feminist collective action through the liberal lobbying for legal or statutory reforms such as the women quota in electoral systems or the radical 'women for women' support groups. The idea extended globally and permeated various contexts. Women groups organised by and for women became the typical form of association around women's issues (Mohanty 2003).

An earlier critique of 'sisterhood' assumed unidirectional agency came from within the feminist movement by exposing the conflictual intra-women group dynamics. Thus the fixed understanding of feminist agency was contested as homogenising and essentialising women (Tong 1998). Third world and multicultural feminists exposed the marginalisation of their issues by the mainstream western feminist groups. The 'global' dimension of sisterhood masked a western-centric feminist hegemony in international women's forums (Basu 2003). In these forums, western women's issues were considered as global and those of third world women as local (McCann and Kim 2003). As a result and in response to this division, third world feminists gathered as separate interest groups within or in parallel to international women focused forums (Basu 2003). These developments created a divide between Northern and Southern women. While women's solidarity became more complex, such as geography and ethnicity, it remained within an essentialist framework of a womanhood-based collective action. These divisions resulted in seclusion and an 'ossification of difference' (Reagon 1998).

In order to explain the multidirectional aspect of women's agency, alternative explanations argued for the need to consider women as a 'social group' rather than an aggregate (Young 1998). In this sense, women are not bound by mechanical solidarity, but rather brought together by an internal affinity by which one identifies with one another, in addition to an external affinity by which one is identified by other people. Group identity is composed of multiple affinities that are mainly

---

[33] In this view, women are assumed to have common grievances and interests and by proxy would have a unity and willingness to work on common goals (Elshtain 1995)

55

relational rather than linked to an attribute or an essence.[34] The reciprocal affinity shapes group identity and creates, at least partly, a particular sense of history, understanding of social relations, personal possibilities and other experiences. This relational aspect relies on one's self-perception or identification with the group. It implies that membership is not ascribed nor exclusive, for people can leave or enter several groups and experience multiple group identification. One aspect of the relational affinity of disadvantaged groups lies in the oppression that occurs to all or a large portion of its members.[35]

Young's notion of group agency is helpful to depart from understanding women as social aggregates. However, it does not account for the subjectification process in which individuals engage in. For instance, the subjectification process implies a normative exchange that affects the way individuals identify a 'problem' and the way they relate to other people. Young made a distinction between 'theoretical' and 'realistic' social groups.[36] She recognises situated experience and particular perceptions of social relations. Feminist standpoint theorists also adopted this view and recognised differences in the discriminatory situations surrounding women in various contexts. This approach helped bridge the gap between margin and centre and recognised multiple conditions for shaping agency. It however retained the binaries of margin and centre without addressing the power relations shaping the construction of subjectivity and agency of the individuals and groups on either side.

These gaps were addressed by the post-structural perspectives discussed in the previous section and relating to the construction of subjectivity. Pringle and Watson (1998) argue that women's interests are not fixed. They rely on the discursive practices that produce them as any difference among groups is constructed,

---

[34] Young (1998) bases her notion of social group affinity Heidegger's "thrownness", when one finds oneself a member of a group with one's existence, relations and experience as always already happening.

[35] Young (1998) drew conditions for oppression as follows: 1) Exploitation in work activity, 2) marginalisation from participation in the social scene, powerlessness and submission to others' authority, 3) cultural imperialism when the group is stereotyped while at the same time is prevented to voice its experience, and finally subjugation to random violence or harassment.

[36] Bourdieu holds comparable views as he differentiates between 'theoretical classes' and 'real classes'. They are theoretically constituted of individuals with similar positions in the social field and similar perceptions of acquired capital. The potential for mobilisation is greater when individuals are located 'closer together in the social space and belong to a more restricted and thus more homogeneous constructed class'. His view does not explain the lack of mobilisation of groups from similar positions in the social field. (Bourdieu 1994:114)

articulated and maintained. Groups make these connections using the discursive frameworks available to the time and culture.[37] Interests can be defined as (Pringle and Watson 1998:70, original emphasis):

> [P]recarious historical products which are always subjected to processes of dissolution and redefinition. They are not self-constituted identities but rather 'differences' in the Sassurian sense, whose only identity is established relationally. Subjects cannot be the origin of social relations, but rather, are subject positions in discursive structures. And every social practice is articulatory: it cannot simply be the expression of something already acquired but involves a continuous process of constructing new differences.

As women's subjectivity and interests are discursively shaped, this thesis argues that women's agency is far from homogenous and contests some common assumptions. First, at the relational level, the sisterhood framework is not applicable. The dynamics of women's affinity and alliance around gender equality are complex. Second, as feminist interests are numerous and at times conflicting, the substance or the nature of the issues selected for action is manifold. The feminist agenda (if any) is not progressive and can take different directions. Third, the style of action is also discursively shaped. It reflects the interplay between the collective actors and the institutional setting. Fourth, since women do not necessarily hold common platforms, the issue of representation becomes problematic. These issues resonate with the claims of post-feminism and post-structural feminism.

Post-structural theories of subjectivity, exemplified in the later works of Foucault, recognised the subjects' 'resistance' to the dominant discursive influences (Cosslett, Easton et al. 1996; Lilja 2005).[38] Foucault's view of resistance falls within a structural binary of negative dominance- positive resistance that is uncharacteristic of his call for moving beyond dichotomies (Brown 1995). However, the concept of resistance escapes this binary trap if we go back to Foucault's conception of power that underpins discourses. Power is an enactment rather than a status, and an exercise of discursive influence that could go in either positive or negative directions,

---

[37] A notion of "situated knowledge" recognises the variety of women's experiences (Haraway 1988).
[38] An example of resistance is provided by Abu Lughod's (1998) study of Bedouin women's poetic oral practices allows them to undertake certain subversive acts to express their identity suggests in the most restrictive settings.

depending on one's position on the normative divide. In that sense, resistance to dominant discourses does not necessarily contain a normative positive value.[39]

Mahmood (2005) provides a compelling account of the elaboration of agency beyond the resistance-dominance dichotomy. She contends that formulations of agency in feminist accounts such as Abu-Lughod's (1998) earlier work on Bedouin women's poetry as subversion in the Middle East was useful in moving away from earlier explanations of women as passive or repressed actors. However, Mahmood argues for dissociating women's agency from resistance and subversion. She contends that common notions of agency revolve around western-centric individual autonomy and 'desire of freedom'. Mahmood's (2005:14) critique is expressed in the proposition that the "desire for freedom [...] is not an innate desire that motivates all beings at all times, but is also profoundly mediated by cultural and historical conditions". In other words, motivations for people's actions can emerge from other considerations than subordination or subversion. Mahmood (2005:14) called for dispelling the "progressive nature" of agency and invites us to explore the different ways agency is manifested:

> [I]f the ability to effect change in the world and in oneself is historically and culturally specific (both in terms of what constitutes change and the means by which it is effected), then the meaning and sense of agency cannot be fixed in advance, but must emerge through an analysis of the particular concepts that enable specific modes of being, responsibility, and effectivity.

Mahmood stresses that her view is not that of cultural relativism. It rather allows for a more nuanced and open discussion of agency that moves beyond the teleological notion of resistance.[40] However, her dismissal of Foucault's view of resistance is not convincing because she completely dissociates normative constructions of freedom from non-western contexts. It has been recognised that normative frameworks of governance and subjectification in non-western contexts form an amalgamation of

---

[39] Foucault's notion of dominance and resistance faces a double impasse because it assumes a rebellious starting point. This is problematic in two ways. First, discourses are evaluated not in terms of their content/values, but in the extent to which they are 'dominant'. Second, he faces the charge by Mahmood of esentialising agency into 'a pursuit of freedom'.

[40] Mahmood builds on Foucault and Butler's notions of subjectivisation and performativity to expose the modes of Islamic subjectivication in Cairo women.

normative frameworks that accommodate individuality (Chatterjee 2004). In this sense, Foucault's notion of resistance is useful because it opens up various avenues of the subjectification process beyond domination. While Mahmood elaborates on the various forms of agency found with her case study, she does not look at the processes of their construction.

Building on this view, I approach the formation of agency as a process of 'social construction' and focus on the processes shaping this multi-directional, non-linear agency. Seckinelgin (2008) argues that this complex process of agency construction is based on the notion of 'intentionality'. The process of agency construction relies on rule-imbued meanings. These rules constitute the link between meaning and deciding on taking action. Following Wittgenstein, Seckinelgin argues that deciding relies on 'known' uses (Wittgenstein in Seckinelgin 2008:131). In that sense, the capacity for action relies on the surrounding discursive categorisation of possibilities for action. This is in line with Starr's (in Seckinelgin 2008:131) view that "categories adopted for institutional uses inform action and mark direction and the form of activity."[41] Knowing about possibilities for action thus shapes the intentionality for action.[42]

2.4 Developing the idea of 'gender governance'

2.4.1 What is meant by 'order of gender governance'?

In order to analyse the gendering impact of family law on women's subjectivity and agency, I propose to understand family law as an 'order of gender governance' that enrols individuals in particular gendered norms and practices related to personal relations. I use the concept of 'governance' as elaborated in the post-structural perspective derived from Foucault's work on governmentality (Foucault 2000). In his seminal essay, Foucault explains through a reading of the history of governance

---

[41] Mary Douglas establishes the link between the known uses or categories and deciding on action. She argues that categories extend to people or 'members of classes' (Douglas in Seckinelgin 2008). The categorisation of people (and their agency) results in 'kind making' (Hacking in Seckinelgin 2008). Hacking's notion of kind making is a dynamic process of 'looping effect' whereby classification shapes groups and in turn groups shape classifications (Hacking in Seckinelgin 2008).

[42] This poses the problem of how to bridge the gap between 'knowing' and 'doing'. The link between intentionality and action can be drawn by interpreting 'knowing' as 'legitimising'. People tend to legitimate their actions based on their constructed perceptions of what is possible and what is desirable to them, and to the socio-cultural context they relate to. Individuals place a different value based on a set of social constructions of their perceived ability to act.

regimes in western contexts that the idea of government changed from a concern with sovereignty over the territory towards the 'management of populations'.

This perspective is particularly useful for my research because it places the family at the heart of 'art of government' in two ways. First, governmentality relies on incorporating the rules of the 'economy' or proper management of the family or household into the management of the state. In this sense, the ruler/governor devises certain tools to care for the individuals' well-being in the family. This means that the state became concerned with managing issues of health, security, property, sexuality and so on. The art of government thus relies on drawing continuity between sovereignty and the management of the self. The state became concerned with drawing rules and regulations for the populations to manage themselves.

Second, governmentality transcends the model of governance from the family to populations. With this shift came the concern of gathering statistical information about individuals in every aspect of their lives. This meant statistics elaborated an entirely new rationale of classifying populations into specific governance categories. With this shift, the family lost its centre place as the model of government to an instrument. Yet it remained a "privileged segment because whenever information is required concerning the population [...] it must be obtained through the family" (Foucault 2000:216). The art of government became all about controlling populations and had the family at the heart of this purpose.

From this perspective, controlling the family is the cornerstone in the state's management of populations. This formulation of the 'management of the family' is crucial to my research. Consequently, I consider family law as the key tool of governance that regulates personal relations and preserves of a certain type of family in order to 'manage populations'. Thus, I expand the analysis of family law to include the process of making and enacting family law policies, including the positioning and practices of policy actors. Examples of this control include registration of marriage within a central state authority as a gateway to imposing populations to further laws (Welchman 2004).

My argument is that this governance order relies on a logic of gender discrimination, defined here as a historically specific, dynamic institutional system of differentiation based on sex. As the following chapters reveal, gender discrimination is a constant in the various stages of family law policy making and enactment, going against statutory directives that suggest otherwise. In upholding this argument, I intend to invert the analytical lens away from considering religion as the underlying logic of this order. This goes against mainstream research on religious family law that exclusively focuses on religion as the organising principle of family law and consider gender discrimination as a bi-product. Inverting the focus serves to de-essentialise 'religion' as an exceptional logic (Stack 2007). I consider religion as a dynamic and contextually specific framework of morality that produces gendered socio-cultural and political categories of classification. Thus, religion constitutes the modus operandi of this order and drives its discursive techniques.

The order of gender governance manages populations through controlling and transforming the subjectivity and agency of populations.[43] It is animated by a dynamic conception of power as exercise.[44] Power is a net-like phenomenon that circulates through social relations and is exercised between individuals, groups, and institutional actors. Power is generated by rules and norms and "surmounts the rules of right which organise and delimit it and extends itself beyond them, invests itself in institutions, becomes embodied in techniques, and equips itself with instruments and eventually even violent means of material intervention" (Foucault 1980:96).

The analytical framework of order of gender governance adopts Foucault's (1980) three modalities of power that mediate social relations, and in the case of this research, personal relations. The first modality of governmentality is the establishment of 'regimes of truth' about populations. This includes generating information about populations and constructing them into specific dominant social categories that dictate and legitimate proper ways of behaving. The second modality is establishing a complex web of 'techniques of subjectification' that are aimed at

---

[43] Although Foucault did not explicitly use the term agency when discussing the power of governmentality, his argument has been extended to include the construction of agency in relevant research.
[44] Classical conceptions of power include the one-dimensional and second dimensional views (Lukes 2005).

controlling populations through disciplining them into particular patterns of behaviour and action. These relate to regulating, for example, their contractual arrangements such as family law contracts and their effects. In many western and non-western contexts, family law retains a gendering effect despite reform in legislation. Formalised and non-formalised sets of gendered rules and regulations arrange the populations' legality as subjects (Butler 1998). The third modality is the enactment of 'bio-power' that controls the bodies and movements of populations and organises their social spaces. In the case of the present research, this modality organises the spatial and social avenues and possibilities for women to negotiate their personal relations and advocate their gender equality claims. These three modalities are elaborated on in the following sections.

Family law, policy, governance

The role of actors is crucial in the order of gender governance. Social actors channel the three above-mentioned modalities of governance by enforcing various sets of institutional rules and regulations. Hence, the process of policy making and enactment of legal frameworks needs to be analysed from a broad perspective that accounts for their effects not only at the formal legal-procedural level. It is useful to assess the overarching effect of policies and laws at the level of shaping individuals' life views and actions. One way of bridging this gap lies in considering 'law' as part of the policy process. From a policy perspective, law reflects the formal elaboration of policy frameworks and thus subscribes to the same contextual and ideological premises. Hence, the early dichotomy between the 'policy process' and 'policy content' is rejected as more recent works consider the two to be intertwined by ideological and discursive linkages (Bartley 1995).[45]

The governance approach to policy broadens the understanding of law –in this case family law- to include the set of gendered procedures, institutional frameworks, structures, and practices. Dynamic approaches to policy go beyond defining it as the set of strategies and directives aimed at organising people's lives. They consider policy as a set of discourses and discursive practices that impact the lived experiences of populations and shape their subjectivity (Coffey 2004; Shore and

---

[45] John (1998) grouped these policy schools into four categories: the institutional, group and network, socio-economic, rational choice[45], and the study of ideas approaches.

Wright 1997). Dynamic approaches dissect the discursive practices of institutional actors that promote family law as a beneficial organising principle for populations. Here I am considering family law in a similar way to Foucault's concern with statistics as a tool for controlling the family (Foucault 2000).

In order to assess the full impact of family law as an order of gender governance, there is a need to consider the making and enactment of policies as a dynamic non-linear process. Thus, the design of policy content and outcomes is composed of complex procedures, and practices. [46] Non-linear theorisations of policy making recognise reality as 'messy' (John 1998). McGee (2004:7) refers to the linear conceptions of policy making as "necessary fiction" that needs to be deconstructed. Growing research in the policy discipline aims at breaking this 'fiction' by adopting a 'postempiricist' perspective that removes the policy making process from its technical frame (Fischer 2003) The political influences of policy relate to the recognition, depiction and formulation of social issues (Samson and South 1995).

The dynamic notions of the policy process were expanded to include non-western contexts. They are conceptualised as 'a dynamic process' composed of actors, knowledge, and spaces (Brock, McGee et al. 2004). I formulate a working definition of policy as a collection of multidimensional and multi-tracked discursive interactions between various actors, producing policy knowledges, and steered by underlying power dynamics within a specific institutional context.

Accordingly, the main components of the policy process are problematised from a Foucauldian conception of power as exercise (or enactment). Some perspectives on policy applied the three-dimensional conception of power [47] by recognising that institutional influences or actors' decisions leave some issues out of the policy stream. Policies were thus recognised not to be always sequential nor progressive and

---

[46] The 'stages' and 'problem solving' approaches of design, implementation, and outputs were popular among early works in the fields of public and social policy and are still widely used in instrumental approaches to policy making (Bartley 1995). The shortcomings of these views were widely exposed in later works as holding positivist normative and unsupported assumptions (Samson and South 1995).
[47] The role of power in shaping the social actors was elaborated in several definitions. The earlier conceptions of power were one-dimensional, defined as "behaviour in the making of *decisions* on *issues* over which there is an observable *conflict* of (subjective) *interests*, seen as express policy preferences, revealed by political participation" ((Lukes 2005) Page 15 discussing Dahl, original emphasis).

holding an excluding potential (Fischer and Forester 1993; Sabatier 2007). Policies were found not to always yield any visible outcomes and many were lost in the loop of forgotten initiatives ending up as 'non-policies' (Manning 1985 cited in Bartley 1995).[48] The construction of policy also affects the allocation of benefits and burden for target groups (March and Olsen 1997).

Reconceptualising the role of the state and other policy actors

One common critique to Foucault's concept of governmentality is that it does not elaborate much on the make-up of the state to accommodate the complexity of governance structures in non-western contexts (Burchell, Gordon et al. 1991). While Foucault did not elaborate much on the make-up of the state, he nonetheless argued for moving away from the fixation on the debate on "juridical sovereignty and state institutions" to the "study of techniques and tactics of domination" (Burchell, Gordon et al. 1991:102). Applied to this research, this view adds an analytical dimension to the procedural and legalistic analyses of the state and religious law regulations. The focus shifts to an analysis of informal relations within policies that discursively constructs the subjectivity and agency of women and legitimates certain actors within these spaces.

Brown stresses the importance of redirecting attention to state power and its convoluted link with policy. Adopting a governmentality reading of state power, she conceptualises it as "sites of convergence" or "dense transfer points of relations of power" and "a vehicle, effect and legitimate administrators of power" (Brown 1995:16).

The colonial institutional context constructs these sites of power within historically bound political dynamics.[49] Colonial powers established much of the current post-colonial institutional legal and governance frameworks. Hence, they produced much

---

[48] An earlier two-dimensional view of power brings attention to non decision-making and "allows for consideration of the ways in which *decisions* are prevented from being taken on *potential issues* over which there is an observable *conflict* of (subjective interests, seen as embodied in express policy preferences and sub-political *grievances*" ((Lukes 2005:20, original emphasis).

[49] Despite their different theoretical points of departure, Touraine's critique resonates with Foucault's cautious approach to institutionalism. He warned from a heavy institutional approach because it fixes power relations at this level. He considered that the focus of the analysis should be power relations and any institutional analysis needed to be provided when necessary (Brown 1995)

of today's 'culture' or 'mutant' interpretations and practices of religious texts entrenching women's subjugation.[50] Local political power structures were remodelled through dividing or favouring some groups over others, and creating a pro-colonial elite class to propagate colonial regulations (Spivak and Harasym 1990). Also, discriminatory laws and regulations were entrenched, such as issues of the veil, women's segregation, low access to education, and discriminatory religious family law (Hashim 1999).

The question here is the extent to which it is possible to apply western perspectives of governance to non-western contexts. The reasoning behind this caution is that West European and American contexts have a particular historical trajectory of state formation, make up, and operations that is fundamentally different from non-western contexts. Non-western contexts are considered to have different notions of governance that are largely embedded in local customs and political structures. Often, critics warn of blanket applications of western-centred conceptual frameworks and claim that non-western contexts are constitutively different in terms of make-up and operation (Ferguson 1994).

However, as Chatterjee (2004) and Mamdani (1996) reminds us, there is hardly any context that is not influenced to a certain degree by western frameworks of governance. Various societies operate within "dense and heterogeneous time of modernity in the post-colonial world" (Chatterjee 2004:7). Thus, Chatterjee contends that it is not useful to hold analytical distinctions because "[t]he post-colonial world outside of western Europe and north America constitutes most of the populated modern world [and] is organised around formal western styles of democracy through elections, colonial based government structures, globalised social practices as well as less formal areas" (Chatterjee 2004:8). Applied to this research, it is thus possible to analyse the governance of family law in Lebanon as combining western-style governance structures such as civil legal frameworks and family court systems and include actors, discourses and operations which operate within context-specific power dynamics.

---

[50] Colonial powers have also reinforced their rule through repressing religious practice and outlawing it as in the case in Indonesia, where Islamic religious practice was forced to go underground and was thereby radicalised and insulated from moderate local social influences (Hann and Dunn 1996)

For this, the western and non-western dichotomy does not hold when analysing the effect of governance practices. This is not to say that Chatterjee advocates the use of a westernised analytical lens to non-western contexts. Rather his point, as his work, is an invitation to steer away from a simple indigenisation of non-western contexts and instead recognise the impact of various historical and contemporary processes of colonialism and orientalist exportation of western socio-political frameworks of governance. Non-western governance systems adapted and reworked these frameworks into intricate and dynamic styles of governance. They sustained many of the formal structures of western democracy yet accommodated various less formal forms of institutional discrimination embedded in political and social practices. Colonialism constructed family law frameworks by codifying customary religious family law into 'western' texts (Rabo 2011). Post-colonial states in the Mashreq sustained these frameworks and use it as a form of controlling various communal groups.

With these hybrid contexts, additional players are crucial to the order of gender governance of family law policies. Two main groups of policy actors are of particular interest to this research. The first set is civil society - and women groups[51] in particular – and its role in influencing the policy process. Liberal conceptions of these groups posit them as guardians of freedom, democratic values, and gender equity, a critic of the state, and a catalyst for change (Aubrey 1997; Molyneux 2000; Naples and Desai 2002; O'Neill and Gidengil 2006). However, the role of civil society in the policy process is increasingly recognised as far more complex than their assumed linear emancipatory impact. Another set is those actors commonly referred to as communal or less formal collectivities, such as the religious institution and the family. They need to be recognised as main policy actors who hold substantial influence over the policy making process. Both groups of actors need to be recognised as major players in the policy process, and specifically in relation to their crucial role of 'expertise' (King 1999; Petersen 1999). Expertise can be a claim for legitimation of the self and of particular discourses within policies. These institutional actors have an important role in the construction and translation of social categories (Petersen 1999) and generation of ideas (King 1999).

---

[51] Some groups fall within the broadly recognised category of women groups or women's movements (Molyneux, Razavi et al. 2002) while others have the more organised structure of NGOs.

Foucault's concept of governmentality is often critiqued for endowing various institutional actors with the capacity to devise an overarching and premeditated plan (McKee 2009). Two arguments refute these claims. First, there is a need to differentiate between intention and effect. The critique mainly refers to an intention of planned strategy that Foucault does not uphold. The discourses generated within the order of governance do not stem from a unified body such as the 'state'. They circulate across a variety of institutional actors and spaces that have differentiated intentions, which can sometimes be even contradictory. Various actors might contradict and conflict at time, but they might share a 'temporary discursive affinity' or crossings. However, these varied and incoherent 'projects' by various actors can nonetheless contain some discursive intersections whereby they adopt or share similar institutional norms and values. These nodes of discursive intersections could lead to a compound effect that is dominant and pervasive at various levels. Second, the effect of these discourses is not fatalistic and immutable, but rather changeable and possibly counteracted. As Foucault argues, discourses are composed of building blocks of language to which dominant actors attach particular meanings. Resistant groups can appropriate these linguistic building blocks and endow them with counter-hegemonic meanings. They thus turn these discourses into forms of discursive resistance.

2.4.2 Family law frameworks as policy techniques for 'managing' women

The first modality of the order of governance relates to the political dynamics underlying the design and implementation of various policies. Conventional views of the policy process do not account for these political practices. Technical approaches considered the field of social policy as "a set of policies and practices concerned with promoting social welfare and well-being" (Coffey 2004:2). This early approach was "inherited by the 'social administration' studies of the 1970s and early 1980s, emphasised the study of various political processes that established the legislative framework, implementation and social impact of particular policies ... within the 'classic' welfare state" (South and Samson 1995:1). The problem with these linear approaches is that they consider social issues and contradictions as technical social facts, present 'out there' in society (John 1998). Emerging research argued for the need to move beyond these "conventional" approaches (Coffey 2004:2) that are

concerned with studying technical aspects of social issues towards new ways of thinking about social policy (Petersen 1999).

Policy makers were considered as depoliticised technocratic 'experts' addressing these issues from an objective and disinterested perspective and operating in formal professional policy spheres (Bartley 1995).[52] The 'mixed-scanning' model (Walt 1994 cited in Stone and Maxwell 2005) took the analysis a step further by combining a broad scope of analysis including the macro and micro levels of policy decision making. However, while providing a comprehensive view of policy problems, it does not question the informal dynamics of policy making. This restrictive perspective also excludes non-expert social and institutional actors from the policy making process. In the case of this research, examples of these actors are the family or informal networks that women resort to through their individual action on their family law issues. Despite their important role in policies, these actors do not count in the over-formalised linear approaches to policy.[53]

This approach entrenched the distinction between expert and lay actors. It excludes 'lay' actors in a way that resonates with some techniques of governmentality. In a critique to this view, the interactive model for policy analysis considers policy making a process of "reform-mongering" by political elites who change, block, and modify issues. The policy process is seen as "a series of formal and informal stages, with numerous actors, not as a single point with a single decision maker" (Grindle and Thomas 1991:16). These theories were important to highlight the political dimension of actors. However, they mostly focused on individuals and overlooked the importance of the institutional setting on policy making.

Institutional frameworks of laws and policies drive social and political structures in a particular context. The importance of institutions in public policy is highlighted by

---

[52] These views tend to be sustained in policy making circles as a simplification of reality (John 1998)

[53] This non-progressive notion of policy is far from the incrementalist view proposed by (Lindblom 1979)). It draws the policy process as a series of small attempts containing feasible solutions that do not generally depart much from the current policies. This approach has been critiqued for still implying a rational approach and a positivist outcome, and providing a less ambitious depiction of the policy process. However, this approach has two major contributions. First, it proposed the notion of 'muddling through' casting doubt on the rationality of policy actors. Second, it acknowledged the existing political context that affects the feasibility of policy recommendations.

Ostrom's (2007)[54] 'institutional analysis and development' approach that was later adopted by the New Institutional Economics proponents. A definition of institutions is "the rules, norms, and strategies adopted by individuals operating within or across organisations" (Ostrom 2007:23). Ostrom explains that rules are "shared prescriptions that are mutually understood and predictably enforced in particular situations by agents responsible for monitoring conduct and for imposing sanctions". Norms are "shared prescriptions that tend to be enforced by the participants themselves through internally and externally imposed costs and inducements". Strategies are "regularized plans that individuals make within the structure of incentives produced by rules, norms, and expectations of the likely behaviour of others in a situation affected by relevant physical and material conditions".[55]

This approach mainly focuses on three sets of internal mechanisms of policy analysis. The first is a behavioural take on the institutional context including the general rules and attributes of the community. The second is the 'action arena' involving actors and action situations. The third relates to outcomes and patterns of interactions and evaluation. The policy problem is seen to be at either the operational (outcome) or policy (collective choice) levels (Ostrom 2007:27).

The institutional school developed into two streams. First, the classical 'Bureaucratic Politics Model' defines policy making as the formal procedures of political institutions (John 1998). Second, 'New Institutionalism' emerged in the 1980s and broadened the definition of the policy process. It considers that policy is influenced by both formal (bureaucratic) and informal (conventional values and norms) institutions. The main criticism is that this school tends to have an a-historical approach to institutions considering them as variables that are stable and resistant to change (John 1998:57-58). While this approach is useful in focusing on the construction of 'ideas' as discursive systems, it tends to reify institutions and disconnect them from the social context.

---

[54] The first article dealing with the issue was Kiser and Ostrom (1982)
[55] A critique to this definition is that institutions are largely disconnected from social process and are largely portrayed as owned by individuals on a mutual consensual basis.

Institutionalism also tends to reduce actors to mere bearers or implementers of the overarching institutional setting. Touraine proposes that institution "today must not mean that which has been instituted, but that which institutes, [and] is the mechanism through which cultural orientations are transformed into social practices. In this sense all institutions are political" (Touraine 1988:40). In this sense, Touraine's critique brought forward the crucial element of politics and power.[56]

The post-structural approach also contributed significantly in forming a dynamic understanding the policy process. It was developed by academics who adopted a Foucauldian understanding of discourses as part and parcel of the policy outcomes (Petersen 1999). This shift reflected on a broader and multilayered view of social policy at the levels of conceptualisation of policy actors, issues, settings, and processes. As Samson and South (1995:3) explain, "policies are not simply unambiguous mandates that lead to courses of action. They are also symbolic gestures, channelled through the legislative process and amplified in political rhetoric."

The conceptualisations of the policy process further developed into combining several theoretical strands of institutionalism and construction of ideas. Thus, institutions were considered to be constructed by social meanings:

> [L]ife is organised by a set of shared meanings and practices that come to be taken as given for practices which are socially constructed, publicly known, anticipated and accepted. Actions of individuals and collectivities occur within these shared meanings and practices which can be called institutions and identities (March and Olsen 1997:141)

From this perspective, the enactment of policy becomes a continuous policy making process that builds on changing social norms and practices of family law. Fischer and Forester (1993:2) explain policy making in line with Foucault's governmentality discussed in the earlier part of the chapter:

---

[56] Tourraine's critique however sustained a separation between the actors and the institutions. A point reconciled by Foucault through the concept of subjectification.

> [P]olicy-making is a constant discursive struggle over the criteria of social classification, the boundaries of problem categories, the intersubjective interpretation of common experiences, the conceptual framing of problems, and the definitions of ideas that guide the ways people create the shared meanings which motivate them to act [...]. The institutionally disciplined rhetorics of policy and planning influence problem selection as well as problem analysis, organizational identity as well as administrative strategy, and public access as well as public understanding.

Hence, policy making also includes informal aspects of conceptualising and implementing policy issues. This reveals the 'lay', everyday, or informal policies that are developed and generalised in the informal arena through the repeated relations, and propagated norms of family law.

As legal frameworks are conceptualised as part of policy, it is important to address how they shape the legal personhood of individuals. I adapt the view of Pottage and Mundy (2004) in understanding how Lebanese family law frameworks 'personify' women into legal persons and how they 'reify' family relations. As a lens to analyse the complexity of family law I adopted Griffith's (1986:39) definition of legal pluralism as

> [T]he normative heterogeneity attendant upon the fact that social action always takes place in a context of multiple, overlapping, 'semi-autonomous social fields', which [...] is in practice a dynamic condition. [...]. Law and legal institutions are not subsumable within one 'system' but have their sources in the self-regulatory activities which may support, complement, ignore or frustrate one another, so that the 'law' which is actually effective on the 'ground floor' of society is the result of enormously complex and usually in practice unpredictable patterns of competition, interaction, negotiation, isolationism and the like.

This definition expands the understanding of law to include the social rules and norms that do not fall within 'official' or even 'codified' regulations. This is particularly useful to analyse Lebanese family law frameworks that combine governmental and non-governmental codes.

In order to analyse this complex legal context, there is a need to probe into a working definition of the state. One way is to decouple 'law' from 'state' and adopt a non-

essentialist approach to legal pluralism that "recognizes forms of law that may have little or no connection to the state" (Tamanha 2000:318). To assert his point, Tamanha (2000) gives the example of religious law that can be identical to state law in some cases such as Iran, while being unrecognised in other situations such as Canon law hence providing "a competing source of legal authority for the populace". However, this perspective remains state-centric as it conceptualises the state as a unified legislative body that is opposed to other forms of legitimation. In this thesis, I push the argument beyond the state and non-state dichotomy by unpacking the state and drawing it as a web of ramifications of legal power nodes (Foucault 1980). In order to carry out my analysis within historically grounded processes, I understand add to the definition of legal pluralism that law is a 'dynamic condition' in both space and time.

2.4.3 Family law norms as 'moralities of truth'

Another component of the gender governance order is its effect on generating moralities of truth (Foucault 1980). The argument is that knowledge generated in and about family law constitutes a set of moralities about gender equality and personal relations. It is important to scrutinise how policies are constructed: what constitutes a policy problem, how it is mainstreamed, what effect it has, and what roles actors hold in the process. The process of knowledge production on family law affects gender equality at three levels. First, it shapes the framing of gender equality in family law as a 'social problem' and constructs its validity and urgency as a policy issue. Second, it constructs the rhetoric power of particular views of family law as more valid then others. Third, it shapes the subjectivity and agency of policy actors and in particular women.

The construction of the 'social problem' is a dynamic political process that relies on broadening definitions of the 'social'. "[S]ocial policy has been reconceptualised – both in terms of 'what counts as social policy', and in terms of the tools for social policy analysis" (Coffey 2004:3). A wide range of issues started to be considered as part of social policy, such as those relating to the environment and racism (South and Samson 1995) to bio-technology and genetics (Petersen 1999) and not least issues that were previously excluded to the 'private' domain, such as sexuality and the body (Twigg 2002). These accounts emphasised the ways in which research and policy

making 'think about' setting social policy (Petersen 1999). Policy content related to policy making in three ways.[57] First it was considered a social construction of 'policy problems' (Fischer and Forester 1993). Second, it was analysed as 'ideas' composed of policy discourses and narratives (Clay and Schaffer 1984; Leach and Mearns 1996; Roe 1991; 1995) or 'received wisdom' (Leach and Mearns 1996). Third, it was considered as arguments (Juma and Clark 1995). The discursive power of knowledge has language as its building blocks. Language strikes as constitutive in shaping meanings, and the positivist view that language is a passive vehicle of non-descript information forming 'truth' is outdated (Seckinelgin 2008).

The legitimation of the social problem relies on the juxtaposition of seemingly contrasting knowledge claims that look disconnected and contradictory. Mosse (2005) argues that there is 'coherence within fragmentation' that results from various segregated claims which coexist. The process of constructing social issues was acknowledged to be constitutive of the policy process "most often in an unintended way" (March and Olsen 1997:141).

King (1999) stresses the importance of scrutinizing the ideas and debates that policies seek to influence. In this process, ideas are central to the formation of the discursive make up of policies, and are considered as both legitimators and stimulants of policies (King 1999).[58] Samson and South (1995:3) argue for examining "not only the substance of policies, but also their ideological intentions and linguistic presentation" (Samson and South 1995:3).

Particular claims are legitimised by building 'compelling interpretations', sustaining them as 'key representations', and 'enrolling a wider network of supporters' (Lewis

---

[57] Rein and Schon (1993:146) found that policy making goes through a process of framing which is "a way of selecting, organizing, interpreting, and making sense of a complex reality to provide guideposts for knowing, analysis, persuading, and acting. [It ...] is a perspective from which an amorphous, ill-defined, problematic situation can be made sense of and acted on." This is done through "generative metaphors which link causal accounts of policy problems to particular proposals for action, linking accounts of "is" and ought". Frame analysis is complex because it is difficult to distinguish between disagreements within a frame, and conflict and controversy across frames.

[58] Value-laden meanings are constitutive of social issues. For some, a distinction was drawn between the "discourse on the existence of the problem as 'fact claims-making'" that related to whether the issue exists, and "the moral discourse as 'values-claims-making'" that related to the desirability of the issue. (Bartley 1995:18). Although this view reveals the importance of values and discourse, it is however underpinned by the objectivist premise that does not problematise the values around the existence of the problem.

and Mosse 2006:158-9). This alteration of knowledge production is circular. It is a 'dynamic process of looping effect' whereby produced knowledge constructs actors who then produce new knowledge (Hacking 1995). For the legitimation process,

> a form of entrepreneurialism is required before findings become facts. First, findings must be promoted as 'knowledge-claims'. In order to become either 'scientific fact' or 'policy-relevant' knowledge-claims must then attract the assent of a number of groups, a network, which will pick up and pass on the claims intact to a wider audience

> (Bartley 1995:18).

In terms of constructing the rhetoric power of the problem, Fischer and Forester (Fischer and Forester 1993:7) consider policy analysis and planning as "argumentative practices. [...] always these arguments make claims that can be criticized by others or can subtly shape their attention to issues at hand". The symbolic interpretive perspective focuses on the construction of the problem as a legitimate and convincing plea (Fischer 2003). In this sense, social problems derived of social meanings. However, this perspective fails to address theoretically the make-up of policy actors. It adopts an actor-oriented perspective that does not tell us how some actors at a particular moment in time manage to occupy the centre of the policy stage. [59] The interpretive view also does not elaborate on the informal power dynamics that drive these arguments.

The normative component of argumentative practices remained unexplained. The discursive power inherent in ideas and language drew on the specific contextual linguistic and knowledge repertoire (Wittgenstein 1953 in Seckinelgin 2008). For instance, a particular image of the problem is constructed once it is accepted or 'understood' in the context (Linder 1995 in Fischer 2003) . In addition to the construction of meaning and ideas, the narrative power is important in 'dramatising the problem in symbolic and visual terms' (Hannigan 1995 cited in Fischer 2003) . This involves the nature of argumentative appeals and warrants, in addition to how scientific claims are treated in the controversy (Linder 1995 cited in Fischer 2003).

---

[59] Some common public policy perspectives are critical of the view of policy analysis as argumentative exercise (called advocacy) and claim that it needs to be "held to a higher normative standard" that is related to ideals of democracy based on counsel and consensus (Jennings 1993:103).

One criticism directed to the interpretive perspective is that it places too much emphasis on rhetoric and ideas and therefore risks creating a rift between ideas and the historically grounded social construction of meaning. Hajer (1993:45) considered that "social constructs do not arise from historical vacuum. They emerge in the context of historical discourses which contain knowledge of how similar phenomena were dealt with in the past". Language is channelled through narratives which "configure the particulars evoked by our literal and figural talk ... [and] establish the context within which tropes gain meaning and power" (Throgmorton 1993:122).

The concept of narratives is useful to ally action and context because "a flow of utterances, replies and counterreplies can be emplotted as a flow of action (as a narrative) which can be turned – through the use of particular tropes by particular characters at particular times and places – in a different direction" (Hajer 1993:47). However, this criticism created a false schism between rhetoric and ideas on one hand, and historical and social context on the other. As Derrida (Derrida and Caputo 1997) pointed out, social practices are mediated through text, and it is not possible to escape it. Hence, social practices translate into linguistic categories and contribute to classifying individuals and issues (Hacking 1986).

Applied to family law, (Dupret 1999) contends that norms draw on a pool of discursive resources that link to particular meanings in a particular contexts. In that sense, norms are linked to "authorized languages" and form normative repertoires that "disregard their own underlying muyltiplicity and rivalry and engage in holistic and exclusive self-affirmation" (Dupret 1999:34-35).

Regimes of truths and the construction of subjectivity

The role of actors in knowledge production is also crucial. Policy discourse is conceptualised as "the interactions of individuals, interest groups, social movements, and institutions through which problematic situations are converted to policy problems, agendas are set, decisions are made, and actions are taken" (Rein and Shon 1993:145). Action and power were reconciled as "all relations bring together unequal actors by the very fact that any relation, directly or indirectly, relates actors who is directing this intervention with one who is on the receiving end of it. All relations

include power relations. There is no purely horizontal social relation" (Touraine 1988:49).

Policy discourses shape the subjectivity of populations at two levels. First, "discourse structuration" occurs when a discourse starts to dominate the way a society conceptualizes the world (Hajer 1993:46). Second, "discourse institutionalisation" is the process whereby a discourse is popularised and would "solidify into an institution, sometimes as organisational practices, sometimes as traditional ways of reasoning" (Hajer 1993:46).

The power of ideas also lies in constructing a particular image of the public underlying the rhetoric (Linder 1995 cited in Fischer 2003), as well as the construction of social groups (Fischer 2003). The framing process of individuals involves turning them into 'target groups' or 'beneficiaries'. Recent analyses of construction of target groups combines actor-oriented (initially located in the interest group pluralist theory) and broad institutional theories (including cultural and knowledge constructions). Through social construction of target groups, policy design plots citizens into uneven political power positions in society which dictate them their perceived entitlements (March and Olsen 1997:141). Ingram et al. (2007:93) find that "public policymakers typically socially construct target populations in positive and negative terms and distribute benefits and burdens so as to reflect and perpetuate these constructions". These constructions are "important political attributes that often become embedded in political discourse and the elements of policy design" (Ingram, Schneider et al. 2007:94). This approach adopts a broader notion of power than that conventionally associated with material welfare.

Policy constructs citizens four categories according to their positive or negative portrayal as citizens and their high or low power (Ingram, Schneider et al. 2007:101-103). The four groups are: 1) advantaged (positive perception, high power), 2) contenders (negative perception, high power), 3) dependents (positive perception, low power), and 4) deviants (negative perception, low power). In this sense, target groups move across the power and favourability grid "in transit" or gain emerging power positions in the policy space. Hence, the position of women as social and

policy actors depends on the policy constructs generated by the interaction of institutional discourses and other policy actors in the policy space.

In addition, language plays a crucial role in constituting subjectivity. Rather than seeing rhetoric as "the use of seductive language to sway or manipulate others into embracing a speaker's preferred values, beliefs and behaviors", Throgmorton (1993:11) finds that "[r]hetorical persuasion is fundamental to, and in deed constructive of, central features of our social life, in particular character, culture, and community". As rhetoric is central to meaning, it is important to "examine how some situation or condition is asserted to be a 'social problem', and how collective activity is organised around these definitions and assertions." (Bartley 1995:18). Policy analysis is a "rhetorical trope" that has a constitutive role:

> [O]ur rhetoric has the potential to create new characters for ourselves and others as well. We could, for example, work with politicians and advocacy groups to construct models that explicitly account for their ability to influence [target groups'] behaviour. Any trope, any rhetoric, is constitutive: it can recognize or transform the characters that populate our world. (Throgmorton 1993:122)

Seckinelgin (Seckinelgin 2008) explains how language constructs meaning and action. Language produces the power of defining, categorising, and 'describing' leading to 'kind making'. Concepts are defined by drawing frames around particular attributes mirrored against their general uses (Hampshire 1960 and Wittgenstein 1997 in Seckinelgin 2008). They are categorised according to their interpretation from the actors' point of view. They go through a process of 'description' that refers to ascription of meaning and 'putting a name to it'. The meanings generated through this process are legitimated into 'rule following' (Hare 1963 in Seckinelgin 2008). These rules become the basis for action on a "logic of appropriateness associated with roles, routines, rights, obligations, standard operating procedures and practices" (March and Olsen 1997:141). The constitutive power of language results in constructing the agency of actors.

2.4.4 Social spaces and the management of actors

The third modality of the gender governance regime relates to the ways in which the order of gender governance positions women as social actors and 'manages' their agency within feminist policy spaces. I focus my inquiry on the intra-dynamics of feminist collective action because there is little critical research available in the area of family law. This inquiry is important to understand the full scope of the gendering effect of the order of gender governance. As legal frameworks and moralities are constitutive of fluid subjectivity, it is no longer possible to assume that women necessarily exercise a unified agency that is directed towards eliminating gender discrimination. In this third modality of governmentality, Foucault (1980) explains that the power of norms, frameworks, and practices is embodied in populations. This power affects the ways people access and use social spaces. Thus, power dynamics affect the positioning and scope of participation of actors in the policy making process.

The concept of social spaces was elaborated in relation to the nature of actors (whether individuals or groups), the arrangement of spaces (physical or social), and the positioning and agency of actors in relation to the institutional setting. In the early notions of social space, such as in Durkheim's notion, actors were considered as independent from their social space, which had a separate physical dimension (Claval 1984). Inhabitants in this space had to accommodate their lives to its demands.[60] Recent notions recognised the role of power relations in constructing the social space. Hence, the social space was a social product valorised through the relations of (mainly economic) power between individuals, groups, and structures (Harvey 2001; Lefebvre, Brenner et al. 2009; Soja 1989). Moving away from physicality, the space emerged from the social networks and relations generated between social actors in their capacity as individuals simultaneously belonging to different institutional groups.[61] The emphasis turned to the 'social architecture' of society and the heterogeneity of the relations between social actors. With the work of

---

[60] Such as in the work of Lauwe (1904-1905) on "the double morphologies of the Eskimos societies" cited in Claval (1984).
[61] Claval explains the difference between Anglophone and Francophone usage of the concept of social space as social networks. The Anglophone theorists use the term 'map of action space' to indicate networks and use social space to identify the "area from which people get information"

Etzioni and others social spaces were perceived to represent the social networks of struggles and power that social actors engage in (Claval 1984).

Later conceptions of social space were developed through the disciplines of sociology (Bourdieu 1994; Foucault 2000) and human geography (Massey 2005), and queer theory (Bell and Valentine 1995). In these accounts, the early focus of human geography on physical/material spatiality has given way to more symbolic and metaphorical spaces that account for institutional and discursive influences. In complete dissociation from physicality, interactionist and phenomenologist theories conceptualised social space as an abstract system of meanings and values generated by individuals' performative roles. The focus here is on the individuals and the different social roles they play in various social settings.

In his work, Bourdieu (Bourdieu 1994) integrates structural and interactionist views. His critiques the interactionist school for focusing on the subjects and neglecting of the structural elements underpinning their interactions. For Bourdieu, the social space was a "symbolic space, a space of lifestyles and status groups characterized by different lifestyles" (Bourdieu 1994:20). In this social space, the structural setting of social actors equips them with differential capitals, which spread them over hierarchical capacities.[62] These differences are translated into 'social distances' that agglomerate "agents, groups, or institutions" closer or segregate them from others (Bourdieu 1994:16).

My concern here is to explain the conditions managing the ways actors act in policy spaces. Actor-Oriented approaches (Olivier de Sardan 2004) place actors at the core of social action.[63] This formulation acknowledges the capacity of individuals (and groups) 'agency' to act on changing their social situations, and the lack of action results from a set of oppressive 'interactive' mechanisms depriving them from 'voice' (Chambers 1997; Holland, Blackburn et al. 1998). This strand of actor-oriented approaches was rather 'instrumental' or 'ideologically populist' because it undertheorised the position of the 'locals' (Olivier de Sardan 2004; Mosse 2005; Lewis 2008). Other elaborations of the actor-oriented approach were linked to

---

[62] The others are economic, cultural, social, and symbolic
[63] This is differentiated from a liberal understanding of 'individual' preferences or rational choice

Giddens' (1984) concept of 'agency' whereby action is the result of intentionality and knowledgeability of actors.[64]

This approach has two sets of weaknesses. Olivier de Sardan (2004:12) finds early advocates of this school to rely heavily on an interactionist tradition that is restricted to "a formal set of rules governing interactions, or [...], restricted to situations of interaction".[65] Touraine (Touraine 1988) considers that this approach (proposed by early works of Norman Long 2001) is tainted with "methodological individualism" that is another side of simple liberalism and proposes instead to focus on social relations.

An opposing view of social action was proposed by post-structural or radical thinkers such as Ferguson (1994) and Escobar (Escobar 1995) who applied it to development theory. Dominant global development discourses produced dominant western knowledge claims, negated local non-western knowledge, and ultimately operated as governance regimes. Actors formed their agendas in a way that concords with the dominant regimes and distorted local social life. The critique of this view related mainly to it too deterministic trajectory. Actors were reduced to automated plots in a bigger machine-like discursive scheme, especially in the earlier works such as Ferguson (Mosse 2005).

Recently actor-oriented and radical approaches were reconciled by acknowledging the importance of power relations and knowledge. Actor-oriented approaches recognised the importance of knowledge, power, and discourses. Olivier De Sardan (2004:12) elaborated the 'entangled social logic' approach which is "centred on the analysis of the embeddedness of social logic, [and] studies the relationship between both universes...". Long (2001:17) recognised that actors "engage in or are locked into struggles over the attribution of social meanings to particular events, actions and ideas". He considered that "agency (and power) depend crucially upon the

---

[64] This view is echoed in some public policy works. Fischer and Forester (1993:6) consider that "policy analysts and planners do a great deal more than they have been given credit for doing" as they primarily engage in "argumentation" for their agendas.
[65] Touraine also stresses the need to move from studying society or 'actors' to focusing instead on social relations. He warns from reducing social relations to 'social interactions' which "takes the actors as its point of departure before examining their conduct toward one another" (Touraine 1988:49). The study of interactions should not be underestimated but it needs to be researched within "recognition of the field of relations".

emergence of a network of actors who become partially, through hardly ever completely, enrolled in the 'project' of some other person or persons. Agency then entails the generation and use or manipulation of networks of social relations and the channelling of specific items [...] through certain nodal points of interpretation and interaction".

Brock et al (Brock, McGee et al. 2004) drew closer links between policy actors and policy spaces. Policy spaces were considered sites that hold actors' relations and knowledge production (McGee 2004). This approach is derived from conceptions of citizens spaces of interactions produced through political processes, or within civil society or broader social spaces. McGee (2004) follows Cornwall's (2001) definition of policy spaces as "sites in which different [...] discourses and policy actors interact, [...] permeated with power relations and bounded by forms of discourses used within and about them, raising questions about who participates, with which views of poverty, and to what effect" (Brock et al 2001:7 cited in McGee 2004). In order to locate them in a historical context, policy spaces were further defined as "multiple points in time or space in a policy process and, as well as sometimes signifying transformative potential, are actual observable opportunities, behaviours, actions and interactions" (McGee 2004:16). This definition goes in line with that of Grindl3e and Thomas (1991 cited in McGee 2004:22) that considers policy spaces as "[...] moments in which interventions or events throw up new opportunities, reconfiguring relationships between actors or bringing in new ones, and opening up the possibilities of a shift in direction."[66]

The dynamics within policy spaces were elaborated by McGee (2004:19-21) as spaces in a framework of six dimensions. The nature of the spaces draws spaces as closed (i.e. restricted to state actors); invited (i.e. including non-state actors); and autonomous (i.e. entirely run by non-state actors).[67] McGee's conception of policy spaces recognises the role of power relations but does not explicitly feature in her

[66] While McGee (2004) warns from the overreliance on the 'temporal' dimension of policy spaces that gives a floating and ungrounded conceptualisation, I argue that a temporal dimension through historicity is crucial to policy spaces. It reflects the dynamism of the construction, inhabitation and the disintegration of policy spaces. In addition, it connects it with a temporal rather than a fixed view of institutions.

[67] The other five dimensions include history, access, mechanics, dynamics and learning possibilities. McGee et Al recognised the limitations of this conception after their field research on poverty policies in Nigeria and Uganda. However, they did not provide alternative conceptions of policy spaces.

analytical framework. The framework fixes the relationships between spaces and actors as it compartmentalises them into clearly demarcated sub-spaces. It does not account for the institutional blurring between various policy spaces and actors or the 'cross over' of actors across spaces, such as governments or NGOs (Lewis 2008).

An institutional view of policy spaces bridges actors and discourses through the notion of "interpersonal discourse" raised by Rein and Schon (1993:156). The concept of discourse was elaborated from its early meaning of "interpersonal conversation" to its recent academic meaning, as "dialogue within and across institutions is a metaphoric extension". The interpersonal discourses are located in an "institutional locus" that is located "within some larger social system". Different discourses run in parallel in different settings creating several discursive arenas, which contribute to a different framing of issues. The frames of discourses mean that "policy forums have their own rules" (Rein and Shon 1993:157). Part of the rules is to determine the legitimacy of participants – or their "standing as participants in the policy conversation".

Actors and discourses interweave to form "discourse coalitions" that consists of "a group of actors who share a social constructs [...]. It is the ensemble of a set of storylines, the actors that utter these story lines, and the practices that conform to these story lines, all organised around a discourse" (Hajer 1993:47).[68] The power of these coalitions to dominate the policy process relies on two premises. First, they dominate the discursive space, i.e. when "central actors are persuaded by, or forced to accept, the rhetorical power of a new discourse (condition of the discourse structuration). Second, their discourse is translated in the "institutional practices of that political domain; that is, the actual policy process is conducted according to the ideas of a given discourse (condition of discourse instituionalization)" (Hajer 1993:47-48).

Persistent discourses are structured and institutionalised through story lines that change but remain in the same discursive logic in what Hajer (1993:47) calls

---

[68] Hajer defines story lines as "the medium through which actors try to impose their view of reality on others, suggest certain social positions and practices, and criticize alternative social arrangements" (Hajer 1993).

"discursive affinity" as "arguments may vary in origin but still have a similar way of conceptualizing the world". An example of the power of discursive coalitions is provided in international policy contexts where "collision of knowledge" takes place where dominant expert "speculative" knowledge clashes with local knowledge and dismisses it as 'anomalic', 'problematic' and 'not fitting' with the 'right' dominant knowledge (Seckinelgin 2008). These discourse coalitions also form 'moral communities' who propagate particular policy moralities and in turn shape the agency of actors.

Knowledge and agency are further linked as knowledge constructs a context-specific agency for policy actors that influences action (Seckinelgin 2008). The capacity for action depends on "values and meanings [that] allow this space to be created in particular social settings" of which knowledge production is a crucial component (Seckinelgin 2008:58). As policy actors experience socio-cultural institutionalisation, they develop a multiple agency in various policy spaces. The example of NGOs working on HIV/AIDS in Africa reveals that "rather than having a generic organisational agency NGOs have varied agency depending on the social contexts within which they are located" (Seckinelgin 2008:47).

Actors are also dismissed based on the de-legitimation of their experiences in the policy spaces. Some forms of knowledge (such as local socio-cultural expressions in the case of African HIV/AIDS interventions) are disregarded as 'contextual obstacles' or 'externalities that need to be eliminated' from the broader knowledge framework (Seckinelgin 2008:107). These findings indicate that policy actors are far from 'interfaces'. They sometimes construct an exclusionary framework of knowledge that negates existing local knowledge as a misfit to the mould of expert knowledge.

This view is useful to apply to actors involved in family law policies, and problematize the role of women as social and policy actors. One way that women's social action was conceptualised in the gender-focused development and policy literature is through advocating empowerment both in its individual and collective forms. While empowerment is linked to action it still uses "undeconstructed subjectivity that risks establishing a wide chasm between the (experience of)

empowerment and an actual capacity to shape the terms of political social or economic life" (Brown 1995:23). Empowerment also places the burden of emancipation on women, assumes a liberal notion of a 'decontextualised subject', and focuses on emotional self-perception which might mask domination (Brown 1995:23). Thus, collective action needs to be questioned as it

> could harbour the same injustices or power relations than hegemonic institutions, it is important to question other claims of political solutions when they codify and entrench existing social relations, when do they mask them, and when do they directly contest of transform them (Brown (1995:9).

This implies that women's collective action could take various directions, which are sometimes unfavourable for gender equality depending on the constructed discourses of its actors.

2.5   Conclusion

This chapter has selected and analysed key literature relating to gender equality in family law. It provided an inter-disciplinary approach by reviewing and linking various sub-disciplines of social sciences, mainly studies in gender, subjectivity, and agency; legal studies in family law in multi-religious settings; literature on collective action and activism; as well as social policy, and research on governance and power.

The chapter presented in the first section the fixed approaches to analysing gender equality and argued that they were insufficient in providing a thorough analysis of the problem. Their main limitations included the formal level of analysis of family law and the fixed notions of women's subjectivity and agency.

The second section addressed the gaps of the fixed approaches by drawing on notions of governance, power, subjectivity, and agency. It highlighted the usefulness of deconstructing gender equality in family law as a set of historically specific institutional legal practices. It also stressed the importance of expanding on the analysis of the role of various institutional actors in terms of informal power dynamics, as well as revealing the broader institutionalised forms of gender inequality produced in the process.

The final section presented the theoretical framework of 'order of gender governance' proposed by this thesis and that is adopted from Foucault's (2000) concept of governmentality. This conceptual framework is useful to understand how gender equality in family law persists at the three levels of disciplinary techniques of legal frameworks; moralities of truth, and the control over family law spaces. This framework allows for a thorough understanding of the implications of the enactment of family law frameworks on women's subjectivities and agency. The next chapter draws the methodological plan adopted for conducting the field research.

3 CHAPTER THREE Methodological approach to addressing the research project

3.1 Introduction

One always derives a sense of pride when things go according to plan. In my doctoral apprenticeship, the reverse was true. What started as a neatly drawn plan turned out to be a stimulating – if challenging – dynamic process of matching the evolving theoretical insights with methodological complexities. These complexities mainly related to researching a sensitive topic with vulnerable respondents in a volatile context. I endeavoured to balance my passion for the research topic with academic distance and ethical rigour and ensure the validity and manageability of the research plan within these constraints. In response to the learning curve that is the PhD process, the design of the methodology evolved dynamically across the three phases of pre-fieldwork, fieldwork, and post-fieldwork.

Throughout this process, I engaged four methodological concerns discussed below. The first concern was to match the methodological approach and methods with the research problem and the conceptual framework adopted in chapter 2. The second concern is to adapt research methods and tools to the specific contextual needs of the fieldwork setting on one hand, and the politically volatile context of Lebanon on the other. The third concern is to devise and adapt a methodological strategy to accommodate my personal involvement with the topic and the research setting, and its sensitivity in relation to the negotiation of access and relationships with respondents and gatekeepers. The fourth concern is about tying these complex strings of field research into a coherent analysis and triangulation of findings. The chapter is structured accordingly and concludes by signposting the main sets of findings of the following chapters.

3.2 Matching the methodological strategy with the research problem and conceptual framework

The methodological approach of the thesis developed in close relation with the conceptual framework of the inquiry. It draws on the philosophical stand driving the

research. The selection of the methodological approach was subject to several epistemological considerations related to the research topic.

The main drive for my inquiry into methodological approaches is to find one that accommodates the complexity of the theoretical layers of analysis. The type of knowledge that I am interested in gathering relates to the less visible side of social relations. My research interest lies in studying the styles of enactments or the 'conduct of conduct' of family law frameworks and the underlying ways that they shape the way women think and act on their personal relations. Thus my concern was to detect discourses, power relations, institutional norms and values, informal processes, marginalised experiences that relate to the personal, gender, and religion.

For this, I considered three options of methodological approaches. Grounded theory was a strong contender because it moves away from the straightjacketing of positivist approaches and allows for opening theoretical options and interpretations. I had to opt out of this approach because it presupposes an objectivist value free normative stand of the researcher when engaging with design and implementation of the field research (Creswell 1998).

Another plausible option was the phenomenological approach because of its commitment to revealing the intricacies of the lived experiences of research subjects/respondents. This approach however was limited in the extent to which it questioned the accounts of respondents. It primarily recognised their responses as valid accounts of their own worldview. While this perspective is valuable for prioritising people's concerns and issues, it did not allow for much analysis of the discursive constructions of their views and experiences.

Finally, I opted for the post-structural approach because it accommodated my theoretical concerns stated above. Of course, this approach is not without its limitations. While it provides a perspective for revealing the underlying tensions of communication, it can convey the illusion of distance and lack of theoretical bias. One way to remedy this is to clarify the theoretical positioning of the researcher and maintain a sense of reflexivity as to the process and findings of the fieldwork. A related issue is to account for the bias of my feminist political stand in the process of

academic knowledge generation. One way to counter this limitation is to adopt a post-structural feminist approach in research practices that acknowledges the multidimensionality of gendering processes and the fluidity of subjectivity and agency of women.

Within this approach, my main concern was to select the suitable methods for my research questions. There was a need to go back to the basics of epistemology and understanding the 'use' of methods as an investigation tool that allows researchers to answer their conceptual queries. As the primary location of this thesis is within the social policy study area I had to problematise the prevailing methods used in social policy that hint at deep-seated traditions of formal inquiry. They tend to rely chiefly on surveys and quantitative methods, or more recently on formal interviews and focus groups. As my research aims and questions became more discernable, I opted for qualitative methods that are more suited for a post-structural methodological approach and the interdisciplinary nature of my research. These methods had to reconcile the interdisciplinary intersections of social policy, anthropology, development, and gender studies, which characterize this research. Thus, I moved away from a heavy emphasis on inquiry methods such as structured interviews– a popular research tool, and incorporated other methods to complement the research aims.

The qualitative research framework adopted in the thesis draws on three methods. First, an ethnographic approach focusing on 'a description and interpretation of a cultural or social group or system' (Creswell 1998:85). The cultural context is explained as 'an amorphous term, not something 'lying about' (Wolcott 1990) but rather something the researcher attributes to a group as he or she looks for patterns of daily living' (Creswell 1998:59). A loose form of direct inquiry method complemented this approach and allowed for probing formal accounts and revealing underlying meanings.

Second, to account for the post-structural approach, I used the lens of discursive pragmatism that 'acknowledges, given the plasticities of language, the multiplicities of meaning and complexities of social practices, but still aims to say something about broader patterns in the interface between language use and discourse-constituted

patterns of meaning" (Alvesson 2002:76). This choice is sought because "what (possibly) exists 'out there' (e.g. behaviours) or 'in there' (e.g. feelings or motives) is complex and ambiguous, and can never simply be captured, but given the perspective, the vocabulary and the chosen interpretation, 'reality' emerges in a particular way" (Alvesson 2002:3). In this way, my methodological perspective is language-conscious. It inquired into the meanings of language – in both written texts and talk, and was used appropriately when needed depending on my research goals. Ethnographic and discursive approaches are reconcilable because discourses construct the very social realities and patterns of relations that constitute the interest of the ethnographic approach (Miller 1997).

In my research, I strived not to develop a tyrannical approach to research methods. A near obsession with the details of the method design, collection, and processing of information could lead to an emphasis on form over substance. One way of addressing this issue was to make sure to specify broad anticipated research guidelines of my investigation and carefully plan to identify information sources and informants who would relate to the theoretical premises of my research.

3.3   The learning loop of the fieldwork: Adapting research methods and tools to theoretical and contextual shifts

I encountered four significant theoretical and contextual shifts in planning, implementing, and analysing my field research that brought significant and substantive changes to the project. They reflect the intricate and continuous process of calibrating the theoretical framework and the odd twists of contextual circumstances.

First, I adopted a broad take on field research that was not useful to the purpose of the research. Naively aiming to analyse the political dimensions of the gendering effect, I initially adopted a comparative thematic approach by comparing gender equality in the issues of women's political representation and in personal relations. I moved away from the first case due to two realisations. First, this comparison answered a different research question than the one with which I was concerned. Analysing the two issues of political representation and personal relations drove me away from studying the gendering effect that any of these issues have on women.

Another practical reason also related to the fact that the researched population would have been too large to manage single-handedly by an under-funded doctoral student. As this comparison did not add much value to the research problem, I dropped it early on in the fieldwork process.

Second, my initial engagement with gender equality and family law was fixed. It primarily examined various religious family codes to trace and compare the various types of gender inequality rather than the different processes sustaining it. My initial understanding of religion was an essentialist and fixed one. I considered it as an exceptional social institution that operates in a unified and different logic both across other institutions and within the different religious doctrines. Following this bias, I designed my fieldwork to focus on the frameworks of two religious doctrines, the Maronite Catholic, and the Shiᶜa Muslim sects. My essentialist standpoint of comparing both doctrines crumbled halfway through my fieldwork.

A twist of fieldwork fate changes this. As I could not find enough women respondents belonging to these two doctrines at one NGO support centre, I resorted to interview women from other doctrines. Two sets of findings were particularly striking. First, beyond their scriptural and structural differences, the gendering effect of various family codes displayed significantly comparable normative and operational logic across various denominations. Second, this logic shared many commonalities with secular gendering institutional processes.

This realisation significantly influenced my understanding of religion and institutional gender relations. Thus, I came to problematise the fixed conceptions of religion, the secular-religious dichotomy, and the fixed nature of women's subjectivity. Thus, the difference between religious codes and frameworks did not add any substantive conceptual dimension to the analysis. My theoretical lens shifted instead to focus on the enacted aspects of religion as an institutional social construct. For manageability purposes, I retained my focus on Maronite and Shiᶜa legal codes and structures but repositioned them to represent snapshots or examples of the numerous codes present in Lebanon. The selection of my respondents followed this decision. Women respondents shared commonalities in their experiences beyond their ascribed sectarian affiliation. I realised that as I categorised women respondents

according to sectarian categories, I was confining them to a 'description' effect and fixing them under a particular sectarian identity. Thus, I removed religious affiliation from the selection criteria of women respondents.[69]

A third shift relates to the spatial focus of the fieldwork. Drawing on the assumption of religious essentialism mentioned above, I initially limited my fieldwork geographically to two neighbourhoods in the Southern suburbs of Beirut, namely Bourj Barajneh, and Ain Rummaneh, respectively populated by Shiᶜa and Maronite inhabitants. The assumption was that the women are restricted to their locality. This distinction soon became secondary to the research design. One reason was that women effectively had a broader mobility map when negotiating their personal relations with religious courts, their families, and support centres. Another reason was that the services provided for women in these areas were scarce and did not attract many women. The main pool of respondents had to be drawn from the main national women groups located in central Beirut and specialising in advocacy and support for women suffering from domestic violence.

In a final shift, my analytical focus moved from national policy makers to front line encounters between women and service providers. Initially I was well positioned to conduct the research at a national policy making level. I was well acquainted with the country context and language of the research as I had lived and worked in Lebanon for most of my life. In addition, my political and social familiarity with the Lebanese macro and micro political social and cultural situation is well developed. My previous professional experience in gender and development secured my access to national policy makers.

However, nothing prepared me for significant unforeseen political circumstances preceding the start of my fieldwork. One month before I travelled to Beirut to start my fieldwork, the then Prime Minister Rafik Hariri was assassinated on 14 February 2005. This significant political incident induced a major political shock that deeply reverberated on the political, policy, and civil society scenes, as well as the general

---

[69] Carter and Green (1995) critique a similar 'race thinking' process in social research in the UK and the USA. The primacy of the 'sectarian' category in my research design was similar to the way research in the US focuses on 'race' as a primary analytical lens, hence fixing social issues under the foundational category of 'race thinking' or in my case 'religion thinking'.

national 'mood' for more than a year. With these changes, the importance and urgency of my topic, as with many other social and political issues, became marginal. Top-tiered policy makers such as parliamentarians and politicians become unavailable due to security concerns and a shift in their priorities. With such a volatile environment, a plan B materialised. I drafted two lists of participants – a main and a contingent one. The evolving political situation implied a change in my research themes and I prioritised the respondents on the two lists accordingly. This practice also helped locating several alternative respondents – and in many instances less vocal or visible. As I gradually identified contingency respondents, my theoretical and methodological frameworks adjusted accordingly.

This shift turned out to be a blessing in disguise as it allowed me to focus on the enacted aspect of gender equality in personal relations, subjectivity, and agency. The lack of access to politicians and top NGO leaders allowed me to dedicate most of my fieldwork to observing the dynamics of women's lived experiences and their interactions with the legal system on the one hand, and front line workers at the support centres on the other. This shift brought me closer to prioritising the heavily under-researched dynamics at the level of 'ordinary' women rather than the high profile macro analyses of policy processes.

3.4   The politics of positioning and representation

My positioning as a researcher in the research context is drawn around the dynamics of three circles of research populations: 1) Policy makers and service providers including women groups, ministries, and religious leaders; 2) women who were experiencing personal relations problems, 3) my informal circle of family and friends. These dynamics can be summarised at the level of politics of positioning – or how various respondents perceived me; and that of the politics of representation – or how I perceived them.

3.4.1   The politics of positioning

My engagement in the fieldwork can be summed up as a tension between the insider/outsider dilemma. My interactions with various respondents brought with it the theoretical conundrums relating to multi-faceted and temporal subjectivity. A

clear-cut distinction between insider and outsider research collapsed. The challenges outsider researchers face are widely documented in relations to treading in 'foreign' field terrains and thus facing issues of access and building rapport. Being an insider researcher is increasingly problematic. It significantly reflects internalised biases resulting from too close a connection to the research subjects and topic, and the ethical issues about the challenge of weeding out data from informally disclosed information. In the fieldwork, I found these distinctions hard to maintain. The social setting and the research topic were more complex and sensitive than this dichotomy allows for.

In many aspects, I qualify as an insider. I was an insider to the country of the fieldwork. As a national of the country and a resident of the area I was researching, I was well acquainted with the language and the local socio-cultural and political context. However, my insider position was especially complicated during my interviews with religious leaders at two levels. First, my ascribed sectarian categorisation was a prominent factor in negotiating and running interviews and it worked both ways. My religion of birth – although I am not adherent to it, located me at an advantage that can be described as a socially translated religious capital (Bourdieu 1994). I was more familiar with the details of the practices, terminologies, and meanings associated with Shi^{c}a family law. In that respect, I was an insider to Shi^{c}a religious leaders, but an outsider to Maronite ones. As I was negotiating access, both actors informally sought to check my affiliation. These checks are subtle and are not restricted to religious leaders as often assumed. They generally emerge in various aspects of any new daily encounters. They usually start with the inquiry about the family name, place of birth, and place of residence – in that order. In my case, while my family name was cross-sectarian, inquiry into my place of birth and place of residence, both in a predominantly Shi^{c}a-inhabited part of the capital, provided respondents with the necessary framing tools. While both groups granted me interviews, they dealt with my questions differently. Maronite religious leaders tended to be careful not to disclose some 'inside' stories about family law practices and issues in their community.

In their accounts, Maronite religious leaders were careful in disclosing any unfavourable information and often strived to come across as holding more

favourable religious views, norms and practices than those of Muslim communities. On the other hand, Shiᶜa religious leaders opened up in informal discussions, considering me 'one of them', for instance by referring to ill practices and to competition between various intra- Shiᶜa religious powers. However, in some aspects I was also an outsider to the Shiᶜa pool of religious leader respondents. They realised that I was not religiously adherent or affiliated to any Shiᶜa political or religious leadership. Some of them tried to bring me closer to the Shiᶜa community by trying to convince me to wear the veil for instance.

My activist, researcher, expert positioning was also very complex. At many levels, I was an insider to women groups. I came from a practitioner/activist background and knew many of the respondents within women groups from that time. My personal views were also in concordance with broad feminist principles that made me generally accepted by the feminist circles. The social and professional familiarity with the context brought great advantages in terms of identifying respondents and gaining access to them. However, being an insider brings with it some disadvantages. First, as I broadly related to the women groups' circles, I found myself entangled in the underlying tensions of inter-NGO politics. In this sense, I was an insider for some activists and an outsider for others. I had to resist profiling by feminist activist respondents as being closer to one group of activists rather than the other. Second, half way through the fieldwork, two of my key persons had some disagreements and I was inevitably drawn into the internal politics within some women groups. Although I tried to distance myself from the tensions, I provided professional advice on the LWNGO's board's strategy, only one member to consider me as part of the 'establishment'. Third, during my interviews several women respondents using the services of these groups considered me part of the organisation and asked me for services or advice on their issues. These examples raise the need to reflect on how to navigate the insider position in socially charged settings.

Most respondents did not comment on my positioning as a western-trained academic. However, one Shiᶜa religious leader alluded to the role of western-based researchers as intelligence agents and requested to know the details of my research. He was concerned with any misrepresentation of the Shiᶜa doctrine that this project could hold.

3.4.2   Politics of Representation

Qualitative research based on ethnographic methods will always be intrusive (Creswell 2003). In addition, the focus of the research topic is very sensitive. I had to be especially considerate when dealing with respondents who are experiencing family law issues. This task is most crucial because it rubs against the biases and assumptions that the researcher holds towards the research topic and the respondents. These biases and assumptions are ideological and relate to the researcher's worldview. While reaching objectivity is impossible, there is constant need to focus on clarifying one's own personal and academic assumptions and balancing them towards knowledge generation. In short, the purpose of interviews is not a love affair with, nor or a criminal investigation against, respondents. This issue also has repercussions on the interpretation and analysis of the findings. It is crucial to strive for faithful inferences, representations, and conclusions because a failure to do so can seriously reduce the quality of findings and the depth of the analysis.

Some of the pitfalls in this area have to do with jumping to conclusions, labelling respondents and wrongly assuming root causes of behaviours or situations. From my field experience, it was easy for me to sympathise with women with family law problems during interviews. I was able to have several layers of questions and some careful interpretations of their actions.

It was more difficult for me to get to the same level of understanding when researching and analysing women groups. Influenced by my political and practitioner background, I used an evaluative frame of analysis that revolved around outcomes classifying NGOs into either saviours or culprits. In this steep learning curve, my supervisors provided continuous support inviting me not to be 'angry with NGOs' but to focus instead on 'researching them'. Similar insights came during a methodology seminar with anthropologist James Scott at the LSE Centre for Civil Society. When I asked him about this issue, he explained faithful representations of respondents in the endeavour that "they don't have to agree with you, but they need to see themselves in what you say about them" (Scott 2008). In order to minimise the impact of these biases, I strived to undertake a systematic review and analysis of field notes in parallel with the theoretical framework. I kept a daily journal of activities and impressions. I also discussed issues with a multitude of third parties

such as my supervisors and fellow local and foreign researchers working in similar fields in Lebanon from different theoretical and ideological stands.

The positioning of the researcher also depends on the extent to which their presence as an 'expert' is noticeable in the field. As my research draws on a broad ethnographic approach, I endeavoured to tone down my researcher profile by blending in as much as possible with the organisational setting, ensuring cultural sensitivity to the local setting and relying on non-obtrusive methods of inquiry such as participant-observation. While these methods do not completely erode the role of the researcher, they can however minimise its threat. Following this, much effort was put in clarifying my own biases and assumptions, and conveying a clear idea of my research to respondents.

This issue is further complicated if the researcher constructs their research field within a myth of untapped resources and considers respondents as virgin research populations waiting to be discovered. In many research settings there are so many research initiatives taking place that respondents can experience research fatigue. This was the case of my research. My fieldwork revealed that several of my research subjects previously took part in various forms of research conducted mainly by non-academic parties such as the media, multilaterals in partnership with ministries, international NGOs, consultancies and few academics. In most of these activities, they were not clearly informed of the purpose of the research and the outcomes. I made sure not to consume much of my respondents time and be as little invasive as I could, in addition to extensively sharing my research objectives. I did not have the chance to formally disseminate my research findings, but I am planning to do so at a later stage.

Another level of managing relationships with respondents relates to the personal side of research interactions, mainly managing expectations and terms of personal relationships. Several ethical considerations relate to the blurred lines between formal research and informal interpersonal relationships. This is prominent in ethnographic research when the researcher tends to spend considerable time with respondents. Researcher-respondent relations develop into various personal forms of friendships. As professional and personal relations overlap, issues of privacy,

relationship framing, and uneven power relations inevitably arise. For instance, questions crop up as to the extent to which both parties are willing to open up about their personal lives, political views, and social practices. In the case of my research, I noticed that the power balance was inevitably skewed towards the researcher as I asked respondents to divulge the most intimate details of their personal lives. In return, I shared some details of my personal life and had to face the occasional comments about my marital status and the peculiarity of my childless marriage for instance, which is not common practice in the local context. Similarly, this type of research draws extensively on respondents' time and energy. The challenge was to frame them beyond their respondent role and account for their preoccupations and lives as individuals and social actors. This example and other instances led me to clarify the extent, depth and longevity of the relationship in order to mitigate any unmet expectations and minimise their consequences on the research while carefully considering entry and exit plans.

Several steps were used to facilitate the process (Creswell 2003): 1) verbal consent was sought from respondents and verbatim transcriptions and written interpretations and reports were made available to the informants on demand; 2) their rights, needs, interests and wishes were considered first in relation with reporting; and 3) the final decision regarding informant anonymity rested with the informants.

3.5 Validity of the research: Data collection, analysis, and triangulation

3.5.1 Research Tools and Population

Life histories, semi-structured and informal interviews

The research tools selected to match my qualitative methodological framework went through a transformation throughout my fieldwork. My fieldwork consisted of a two-week onsite planning phase in December 2004, followed by a six-month residence in Beirut between April and October 2005.In the planning phase, I adopted life histories as a primary tool for data collection. This phase was aimed at collecting a large amount of topic-related information and probing into specific issues of relevance that develop during the research plan, while minimising the overflow of information to be processed. In the actual fieldwork phase, life histories proved hard to apply for two reasons. Mainly they were extremely time-consuming, as they usually require at least

three to four hours of flowing discussion. Usually women engaged in problems relating to personal relations juggled the various pressures of their family lives and had limited time to spend in support services. In addition, the traumatic nature of the topic made it hard for them to discuss at length. In a concern for their emotional wellbeing, I opted to switch to another tool of informal interviews that lasted for about one hour.

The interviews were complemented with participant observations. While interviews gave me important insights into respondents 'formal' opinions, participant observation was very useful in watching the dynamics between various actors. The main advantage for observation is that it allowed me to observe the interaction of women respondents with secondary subjects without being intrusive on such sensitive encounters (Yin 1994).

I also relied on other tools relating to content analysis of written documents. They proved to be crucial in revealing the underlying tensions in the institutionalisation of gendering practices and translations of meanings of family law frameworks. This included the review of policy, legal and historical documents, and newspaper clips.

Primary Respondents

As discussed earlier, the selection of my respondents diverted from my initial fieldwork plan In the span of six months of fieldwork. I broadened my geographic catchment area from the two neighbourhoods of the Southern suburbs of Beirut - Bourj Barajneh and Ain Rummaneh - to include women residing in any neighbourhoods of Greater Beirut. Thus I opened up the selection to include respondents from all sectarian backgrounds with a single criterion of seeking the services of support centres. By doing this, I shifted the unit of analysis from a geographic-religious focus to an organisational-social one. This shift allowed for a consistent selection process that granted a more coherent research corpus. The group of respondents turned out to be also coherent in terms of socio-economic class, as it reflected mainly lower-middle class urban-resident women who had the opportunity to learn about and access support services. This provides some limitations to the research in that it does not document the situation involving lack of access, but as the

research did not relate to that issue, this limitation does not compromise the validity of the findings.

The selection of respondents depended on their availability and consent, and an acceptable level of stable mental health. This raises issues of validity as I used my non-expert judgement of what 'acceptable' mental health levels were. Hence, I set it to a certain level of coherence in their narratives. The accounts of two respondents were excluded from the analysis because the content of their narratives was extensively incoherent and hard to follow. However, the observations of their interactions with frontline workers were included in the analysis as they provided valuable academic insights to the tensions between the two groups of respondents.

In order to validate my findings, I relied on a small control group of respondents who did not seek any support outside of their informal networks. The numbers were limited due to the difficulty of gaining access to this group. The topic was considered a social taboo and women who have not 'come out' with their problems of personal relations to women groups were reluctant to discuss it.

Secondary respondents

Secondary respondents primarily constitute three groups: the local branches of women groups providing support services to women, policy makers, including members of the national offices of women groups, in addition to governmental actors at the local and national levels,[70] and religious leaders – including judges and community leaders belonging to the Shiᶜa and Maronite denominations. Police forces and law enforcement bodies were also included at a minimal scale due to issues of access. However, since women hardly relied on them for support, their limited involvement in the study was justified. These subjects constitute the bulk of actors

---

[70] During my fieldwork, I conducted participant-observation in five centres providing support services to women affected by 'domestic violence'. Two of these centres were run by one leading women group on VAW and another radical feminist group The three others were run by the MOSA Community Development Centres in the southern suburbs of Beirut. Apart from the first organisation that provides only specialised services on VAW, the four others incorporated VAW support services within their comprehensive socio-economic, health and educational community services. I included the governmental centres because their teams of social workers were trained by the leading women group on VAW issues. While the governmental centres are technically not women groups, it was useful to compare the gender norms that are enacted across the social workers and their interaction with the concerned population.

99

present in the policy environment related to the primary subjects. Two significant groups were excluded from the study, namely the family members of the women, and their spouses. I decided to exclude these two groups from the study because there were serious issues of access. More importantly, it included the risk of jeopardising the safety of the women respondents. Insights about the roles of these two groups transpired through the experiences of the respondents instead. Since the study was concerned primarily with the discursive rather than the material impact of these actors on women's subjectivity and agency, the exclusion of these actors did not limit the related findings. Interviews reflected the changes in the fieldwork plan and were finalised in Table 1 below.

Type of respondents	Type of activity	Number
Primary subjects		
Women with personal relations problems and who are using support services	Informal interviews, shadowing and observation of their encounters with front line support staff, lawyers, and religious courts	25
Women with personal relations problems and who are not using support services	Focused life histories, group discussions, observation	3
	Subtotal	**28**
Secondary subjects		
Board members of women groups	Informal interviews, observation	7
Religious community leaders	Semi-structured interviews, observation	3 Shi^{c}a 3 Maronite
Religious courts judges	Semi-structured interviews, observation	2 Shi^{c}a, 1 Maronite
National governmental bodies related to women's issues	Semi-structured interviews	3
Governmental support services front line support staff and lawyers	Semi-structured interviews, observation	5
Women groups front line support workers and lawyers	Semi-structured interviews, observation	7
Gender related conferences	Participant observation	3
Police forces training on gender issues	Participant observation in a training workshop	20 officers

Table 1: Distribution of respondents

3.5.2 Data Collection Procedures: Navigating through interviews

The effectiveness of the fieldwork is particularly crucial when it comes to interviews. For an underfunded, novice doctoral researcher, good interviews can be hard to get, and they can be even harder to transcribe. A main challenge was to keep my research on track and harness the fieldwork zeal. The fieldwork experience was quite overwhelming and risked taking on a life of its own. In such an indulgent environment, theoretical blurring risked feeding into infomania, or an urge to gather the largest amount of information with the least critical assessment. With the early symptoms creeping in when I was in the field, I resorted to narrowing down the research topic and the initial excessive list of potential respondents.

A phase of familiarisation was useful to acquaint myself with the broad setting and the various 'players' and issues involved. My main entry point was through a national women group specialising in providing advocacy and support against issues of violence against women. In this phase, I resorted to general participant observation, exploratory informal interviews, documenting, and analysing the map of influences, relationships, networks, and issues at risk. Document review covered legal, official, journalistic and organisational documents that dealt with issues around gender equality and personal relations and was particularly useful in analysing the relationships between different actors.

One of the most important challenges faced in the process was to gain credibility within the research context in order to negotiate access. It relies mainly on the fine line of presenting oneself in a locally acceptable way while maintaining integrity. This implies translating one's research into simple, concise and inviting language that would sustain respondents' interest and invite them to cooperate without insulting their intelligence. A failure to do so results in losing them either due to a too dense, too plain, or too suspicious research topic. That is why the main challenge consisted of the one-sentence question posed by potential respondents: 'what is your research about?' The answer to this question can be a deal-breaker as it is crucial to secure access by raising interest in your topic, and showing the respondents' usefulness to your research without offending them. The only way to get to this confident stage of self-presentation was to practice with family and friends on clearly

articulating how I was to introduce myself as well as my research, clarify the purpose of the interview, and how it fits with my overall research.

Negotiating access and managing relationships is an important keystone in the fieldwork that runs in parallel to 'getting the job [of the fieldwork] done'. It implies several practical and ethical issues relating to the role of the researcher and relations with respondents at the levels of the researcher's position in the research stream, and the management of personal relations. These two issues are important because they establish grounds for the 'working terms' and ensure sound and ethical communication and data collection.

Identifying key respondents was followed by negotiating access, and holding detailed semi-structured interviews with them. These informants were carefully selected according to their positions in relation to the topic and context but also to their availability. I prepared various interview guides to use in each interview depending on the topic and the information gathered at the stage of the research. The main advantage of this technique is that it allowed me to cross-check issues and questions that might be overlooked or contradicted in the written statements of various policy actors (Maxwell 1996).

A contextualisation phase mainly included participant observation of events and encounters where study subjects –primary and secondary- interacted in the context. This phase helped in situating the gathered information into the action process of the various actors, comparing and reflecting on the gathered data, and revising any unanswered issues.

Another important aspect of navigating through interviews was a thorough planning of interviews by conducting background research on respondents. This issue seems obvious; however, under-preparation can lead to some serious practical hindrances and potentially block access. Conducting background research on the respondents and their organisations proved to be very helpful in giving credibility to the researcher and moved the discussion beyond the preliminaries. Background research, however, needs to be reflected delicately during interviews. Showing too much knowledge about the respondents and their organisations could backfire on the

profile of the researcher as intrusive and suspicious. A moderate amount of knowledge needs to be dew-dripped on need basis so that it shows familiarity and interest without too much snooping around. This tip was particularly useful when interviewing religious leaders where I had to be careful about showing enough familiarity in their views and their religious background without overtly pointing to sensitive views in relation to my topic. I rather opted for allowing them to come up with their views and interpretations of issues.

Using culturally sensitive language proved necessary to fruitful encounters with respondents[71]. This issue matters even for the minute details of phrasing questions and understanding local meanings and expressions for social practices[72]. Even with the most familiar research settings there are various constructions of micro-cultural contexts with specific codes of communication that tend to be different from the researcher's own 'informal' code. Socio-economic issues of class, religious affiliation, education and geographic location are important markers in this issue.

My experience in conducting field research reflected this concern. Despite conducting most of the fieldwork in my hometown, I needed to delve into the micro-cultural linguistic constructions of violence against women and NGO work, and adjust my expressions of research. For instance, I incorporated some local language codes such as using 'al-salāmu ᶜalaykum' as a greeting sentence with religious respondents instead of the usual 'marḥabā' or 'sabāḥ/masā' el-khayr' and related terms that link conversations. I also maintained conversations in Arabic yet with a local accent rather than the 'plain' accent that would be acceptable to the local context. In addition, I refrained from usual metropolitan mixing of English, Arabic,

---

[71] In this context I closely associate it to gaining intimate knowledge of the local constructions of meanings and language and making sure to use them appropriately. This skill is specifically important in ethnographic fieldwork as it could maximise difference and allows the researcher to stand out from the researched context. A lack of these skills could convey two sets of detrimental messages. The first is an amateur profile that undermines the seriousness of the research skills. The second message is a perceived patronising attitude towards respondents which can reinforce the image of the 'alien' researcher.

[72] Although these issues seem obviously relevant to a foreign researcher who might be prone to language misinterpretations, it however tends to be overlooked with native researchers. Native researchers tend to have several advantages relating to claims around familiarity with the context. However they still need to account for their own non-researcher codes of thinking and expression and their roles as researchers.

and French as usually parodied in the local metropolitan greeting '*hi, kīfak, ça va?*'. Another example relates to adopting a locally acceptable way of asking questions.

As the interviewing process also largely mixed with participant observation, it brought a certain degree of sensitivity to the encounter. This helped to soften the otherwise invasive topic of inquiry. Much effort was spent knowing about the overall context with its layered micropolitics, developing my interviewing skills to fit the local way of asking questions, and using appropriate language. Thus, this is the importance of questions sequencing. The most challenging task was to handpick questions and ask them in a way that reflects the research and allows for bonding with the respondent.

The interviewing style can also influence the rapport with respondents in several ways. First, a decision needs to be taken on whether to have detailed question guidelines or instead have a rough guide memorised in mind. It is accuracy versus spontaneity. In my work, I adopted different techniques across respondents. For organisational and official respondents, I had a written guide of the questions that I handed to the respondents at the start of the interview. My interviews with women respondents were without written interview guide, and the discussion flowed more in a freestyle unstructured manner. For this it was also more sensible to take notes in the first set of respondents and tape interviews in the second set. Another strategic decision was how to manage the sensitivity factor. I resorted to carefully designing the order and sequence of questions by prioritising and categorising questions in terms of introductions, relevance, and sensitivity. After a warm up with several opening questions and general topics, important questions were discussed, leaving sensitive ones to the end.

Information load and the researcher's mental health usually have an underrated influence on the success of the fieldwork. A less obvious issue is how to deal with the overwhelming amount of information that is generated everyday and maintain the researcher's mental health. My topic was exceptionally charged with a substantial amount of details on gender based injustice and violence, let alone the volatile environment that constitutes undergoing fieldwork in Lebanon with seven political assassinations and more than 20 car bombs in the city during the period of six

months. Information overload can either overstretch the researcher's composure leading to emotional breakdown, or lead to avoidance and withdrawal from the fieldwork process. During my fieldwork, I focused my energy at two levels. First, I ensured that I handled interviews effectively and completed my interview schedule. Second I processed the information as quickly as possible as a way to externalise the ensuing emotional sedimentation. This included taking notes, writing summaries, and impressions straight after the interviews, before talking to anyone. I also planned periodic relaxation/venting out sessions with close friends while maintaining the anonymity of my respondents.

3.5.3 Managing the data, recording, analysis, triangulation, and validity

My data recording procedures were devised in a way to ensure validity of data. For observations, I used an observation protocol to note down descriptive and reflexive notes. This consisted of drafting several criteria for observation and amending them as I went along. For interviews, I used an interview plan and an interview protocol detailing the questions and answers of the interviewee as suggested by Creswell (1998). The use of tape recorder depended on the situation and the sensitivity of the topic discussed. The ease of the interviewee was the primary criterion in deciding when to use them. If recording was not suitable, I made sure to record substantial notes and report on the discussion immediately after its end, in addition to keeping a detailed journal of notes and impressions.

Data analysis was maximised by acknowledging that it is a continuous process involving continual reflection on the topic (Rossman and Rallis 2003). The main feature is the use of open-ended questions tailored to the qualitative approach methods. The interpretation relies on a description of the setting and individuals followed by analysis of the data for themes or issues (Stake 1995). The following steps were used for analysis: organising and preparing the data for analysis, getting the main sense from the data, coding, description, organisation of the data representation, and interpretation (Creswell 2003). At a rather later stage of my thesis, I relied on the Nvivo qualitative data analysis software as I found it exceptionally helpful in coding and extracting information. It particularly helped me keep a healthy distance from the findings and made easier to part with bits of information that were retained due to their sentimental rather than academic value.

In terms of validating findings, generalisability and reliability tend to be blurred in qualitative research (Creswell 2003). As a way to effectively analyse my data and ensure validity of findings, I resorted to a continuous process of matching theories with methods during the analysis and writing up phase. The process was convoluted with a looping effect combining writing as an analysis process. The initial impressions made immediately after interviews were very useful in providing striking and emerging patterns of analysis. A later reflexive exercise categorised information into themes, patterns, and key words. Triangulation was effectuated during the fieldwork where I crosschecked information with various actors. Also, information saturation was another indicator for validity both during fieldwork and in the later analysis phase. Other ways to ensure validity include prolonged and repetitive observation, peer review and debriefing. These tools helped to clarify my research bias by specifying my positioning, and producing a rich description and documentation (Creswell 1998).

3.6 Conclusion

This chapter described the research plan and reviewed key methodological issues. The first section discussed the challenges of matching the methodological approach and methods with the research problem and the conceptual framework detailed in chapter 2. The second section covered the concern for reconciling the research methods and tools to the specific contextual needs of the fieldwork setting with the politically volatile context of Lebanon at the time. The third section discussed the need to accommodate my involvement as a researcher with the topic and the research setting, taking into account the sensitivity of negotiating access and relationships with respondents and key persons. The fourth section covers the challenges of deriving a coherent analysis from field material and the process of triangulation of findings. The next chapter recounts the findings of these efforts.

"In the name of God, we, Muslims and Christians, pledge that united we shall remain to the end of time to better defend our Lebanon".

(Tueini 2005)

4.1   Introduction

This quote was delivered at a one million strong rally on 14 March 2005 denouncing the assassination of the then prime minister Rafik Hariri. It exemplifies the long-standing anxieties about what it means to be a Lebanese. It reduces the population to two conflictual sectarian groups who rely on a unified religious authority to find common ground for co-existing on one territory. This quote is part of a meta-narrative widely used to explain the make-up of the Lebanese society and the ongoing 'impasse' of the country. This chapter provides an alternative account of the historical developments of the Lebanese legal and socio-political context.

The main purpose of this chapter is to explain how the order of gender governance extends from the period of Lebanese state formation. Historical – and competing-colonial powers and local elites were crucial actors in installing this order. These actors installed religion as the primary technique of control over populations in Lebanon. They formalised the category of 'sectarian' affiliation at both levels of political representation and family law. The chapter thus posits that the interplay between legal, political and social categorisation of populations shaped feminist spaces for action and produced particular gendered norms of womanhood.

Through an analysis of the available literature, I trace the evolvement of family law frameworks in the formative years preceding the establishment of the Lebanese state (1840-1943). This analysis is focused on the interplay between the colonial official discourse, and political, civil, and religious actors in shaping the legal structure of Modern Lebanon. It traces the ways in which these relations were continuously redrawn to include 'sectarianism' as the formal categorisation principle in Lebanese and family law. The next section reviews the classical explanations of the formation of the Lebanese sectarian system. The following section highlights the historical

developments leading to installing the religious category within the administrative and institutional framework of state formation. The penultimate section details the role of various actors in promoting specific policies entrenching this system. The final section reveals the impact of these policies on women's subjectification and collective agency in the period leading to the independence.

4.2   Genealogy of the Lebanese system of governance

4.2.1   Classical explanations of the Lebanese sectarian political system

This historical review is important because gender equality in family law essentially relates to the way groups and individuals were regulated in the evolving legal-political system of citizenship. In the books of liberal political analysis, Lebanon went from being the example of a consociational 'success story' to a notorious 'failed case'. For example, in the 1960s Lijphart (quoted in Hudson 1988) included Lebanon within the list of typical 'consociational democracies' around the world. This section explores the various historical analyses explaining the complexity of the Lebanese political system from the establishment of the semi-autonomous entity of Mount Lebanon in 1860s until the breakout of the civil war in 1975 when the alleged myth collapsed.

Four schools of thought elaborated on the construction of religion as an organising principle of the Lebanese state structure. First, a primordialist view of social groups acknowledges a fixed racial or ethnic difference between religious groups in the country. This perspective is reflected in the Syrianist/Lebanist[73] political projects that were popular between 1912 and 1920. This project aimed to give platform to the Christian communities in Lebanon. It portrayed them as descending from historical Phoenicia[74] and holding an altogether a culturally and racially distinctive heritage from Muslims who were attributed to the Semitic race (Firro 2003). The Lebanists' discourse strategically followed the geo-political changes occurring in the region at the turn of the century. They moved from advocating an independent historical Syria,

---

[73] Syrianist ideology was popular at the turn of the 19-20th centuries as a local alternative to Ottoman rule. It advocates a nationalist framework based on an ethno-political specificity to the populations in the territory comprising modern Lebanon and Syria. Later on Syrianist ideologists such as Michel Chiha modified their views and advocated a Lebanist ideology that focuses on the specificity of the Lebanese populations residing within the Lebanese territories that were part of the French Mandate over Lebanon and Syria (Firro 2003).

[74] Historical local civilisation of the region traced back to 4000 BC

writings started to claim a greater Lebanon limiting themselves to the historically independent governorate of Mount Lebanon and the annexed provinces of the coast and the Beqaa plains. This shift strategically allowed for a more even proportionality between Christians and Muslims. The sectarian legal and political system that carried on from the late 19th century aimed to guarantee the privileges of the Christian communities.

This perspective relied on combining religious and geographic narratives such as the divine attribute of historical Lebanon in the Old Testament and the uniqueness of the plentiful land. Politicians and academics advocating this version of the Lebanese identity heavily used "ancient materials to construct invented traditions of a novel type for quite novel purposes" (Hobsbawm quoted in Firro 2003).

With the formative years of modern Lebanon in 1920s, a milder primordialist reading of sectarian collective identity was elaborated by Michel Chiha, the architect of the Lebanese constitution and a major actor in the formation of the consociational political system. His views mapped sectarian groups as socially and culturally different, but able to form a patchwork country united by a mercantile culture (Firro 2003)[75]. The Lebanese political and legal system is self-explanatory and beneficial to the communities as it provides equity and recognition of these entities. The later failure of the system is not attributed to the system itself, but to the inability of certain 'greedy' groups to enter modernity and engage civilly in the system (Khalaf 2002). This view was later challenged by focusing on the similarities of cultural traits among different sectarian communities (Sayigh 1993).

However, Arabist scholars contested consociationalism and promoted a common cultural Arab identity. They contended that Phoenicians and other ancient civilisations melted within the Arab expansion through Islamic conquest. Common language, cultural traits and traditions supported their arguments to construct this Arabist discourse. This view, was similar to Geertz (1993) cultural notion of

---

[75] Contemporary Lebanese scholars Antoine Masarra and Eliya Harik based their views on those of Chiha, viewing Lebanese religious groups as a collection of religious minorities – Christian and Muslim- who have distinct scriptural, historical and political trajectories and who ended up seeking refuge or settling in Lebanon under various circumstances.

ethnicity as the expression of cultural givens[76]. Thereby minorities were required to recognise their Arab heritage and the majority was invited to lead 'a democratic and rational arrangement' to reassure minorities (Firro 2003). However, religion has a more of an ambiguous explanation. For Arabists, Islam is perceived in its broader sense as having strong cultural manifestations that are integrated within Arabism to form an overwhelming Arabo-Islamic culture, while Christian groups are perceived as religious doctrines in the strictest sense. These views have been criticised as containing a primordial unquestioned view of an Arab civilisation (Firro 2003).

Despite ideological differences, both Lebanist and Arabist discourses converged on annexing ethnicity to religion as a way to legitimise sate formation. Initially the early Lebanist discourse contested the perceived religious harshness of the Ottoman Empire as a hegemonic Muslim state that historically repressed Christian communities. Subsequently, it added the ethnic element by identifying with Phoenicism as a different ethnic origin. The discourse of Arabists focused on the ethnic dimension of pan-Arabism in their opposition to the Ottoman Empire linking it to the cultural dimension of Islam. Both views have perceived their identity as a combination of religious-ethnic components that created this irreconcilable breach.

Structural political economy theorists rejected any inherent religious or ethnic difference between social groups. They blamed the feudal political elite for entrenching sectarian affiliation in order to dominate the working class and profit from the system and its failure[77]. Similarly, a dependency approach explained sectarian differentiation as a result of the tension of modes of production and the hegemony between the centre or western forces and the periphery or the Arab world (Kawtharani 1976). Sectarian identity was thus considered to be historically constructed and attached to economic capitalist systems and the class divisions. However these views failed to explain why sectarian identity was chosen by this elite as a basis of their dominance (Firro 2003).

---

[76] Firro (2003) mentions that contemporary Lebanese scholars such as Al-Solh and Shalak have opposed consociationalism and have advocated an integrationist approach into building an Arab state.
[77] Sectarianism was considered as a stratification tool operating within an Asiatic mode of production. Authors suchas Masud Dahir considered it part of the means of production, while Mahdi 'Amil criticised sectarianism as a stand-alone concept away from the capitalist state structure and emphasised the responsibility of a bourgeois political elite (Firro 2003).

A fourth explanation emphasised colonialism as having a major role in constructing sectarianism as a divisive marker. Variants of this view trace sectarian primacy back to early Islamic expansion in the 10th and 12th centuries until the Ottomans *Millet*[78] (communitarian) system (Ḍāhir 1981). Western colonial powers in the 19th and 20th centuries used sectarian identity to polarise local elites into different sects and create cultural pockets within the Ottoman Empire. The primacy of sectarian identity and the ensuing political tensions in Lebanon did not result from differences in ethnicity or even socio-economic classes, but rather by the sole competition of external powers on Lebanese soil (Corm 1988: 261). Sectarian identity was imposed by colonial powers in order to fragment the Arab state in a divide and rule policy.

These various readings of historical accounts and ideological points of departures have been used to prove and capitalise on each discourse and craft identity narratives. Despite their differences, most of these approaches used a religious lens in their analysis. As Firro (2003) mentions, despite many of them opposing sectarian affiliation, they still adopted a religious logic by including sectarian affiliation as the defining analytical category. Their conceptualisation of religion, ethnicity and identity held an essentialised and linear direction. In addition, many of the authors have been unable to outline concepts of state and state formation effectively. They used a unified abstract notion that was separate from the other blurred notions of sectarianism and political elite. Within these accounts, historical moments surrounding much of the developments around sectarian affiliation and state building were omitted. The historicity and genealogy of laws and structures were overlooked. Finally, the impact of colonial rule on the issue have been confined in related accounts to the physicality of colonial presence but not much in the discourse of these powers and their interrelated and conflicting power struggles and their participation in a general discourse of sectarianism.

4.2.2 Historicising governance frameworks in Lebanon

In order to present an alternative dynamic reading of the Lebanese governance framework, it is useful to contextualise the historical sequence on the formation of

---

[78] This system was practiced by Ottoman governors and consists of delegating daily law order to different communities through recognising religious representatives and by their own personal status codes, and French mandate installed the political system on the basis of religious power sharing.

modern Lebanon. The power dynamics between various actors at different historical moments continuously set and rearranged laws and frameworks.

The post-colonial Lebanese state emerged from a melange of geographically dispersed territories hosting a mix of populations belonging to various religious denominations with different historical identities. Before its independence in 1943, modern Lebanon was part of larger colonised territories including more than four hundred years of Ottoman rule (1516-1918) and around 25 years of French colonialism (1920-1946). During this period what became modern Lebanon belonged to four governorates. The north and the east belonged to the Aleppo and Damascus governorates in modern Syria respectively and the south was attached to the governorate of Akka (in Ottoman Palestine), and all parts consisted of Muslim majority. In the centre, Mount Lebanon enjoyed an autonomous status and special protection from both colonial powers, mainly because it hosted Christian and Druze[79] religious minorities. Ottoman and subsequently French colonial rule operated through a double strategy. They reinforced one set of general codes regulating economic and security issues, but delegated personal status issues to the discretion of religious institutional leadership or *Millet* system (Salibi 1988). More importantly, they have reinforced segregation among different religious groups and entrenched their conceptions of group identity through the writings of orientalist travellers, and the coaching of implanted missionaries (Makdisi 2000; Salibi 1988).

Three historical moments shaped the Lebanese political and legal system under the influence of multiple power conflicts between various actors. The first historical moment represents the period leading to the 1860 Christian-Druze war in Mount Lebanon. Mainstream accounts use this period to stress the primordial and conflicting nature of sectarian identity among the populations belonging to the various religious communities. It is also often referred to as a precursor to the 1975-1990 civil war. Makdisi (2000) interprets these clashes as a result of the destabilisation of power vacuum and restoration politics that followed the occupation of Mount Lebanon by the anti-Ottoman Egyptian governor Mohammad Ali and the

---

[79] The Druze community is included under the overall Muslim community. However, it is a sectarian community formed five centuries after Islam and relies on a different set of religious scripts, rituals and family code.

fall of his ally and prince of Mount Lebanon Bashir al-Shahabi in 1940. Following this moment, Ottoman administration and European missionaries and powers competed over alliances with local notables and elites who also fought over resources and taxation benefits.

These events marked a shift in the meaning of religion by adding the political dimension to the meaning of sectarian identity as the only viable marker' (Makdisi 2000: 2). The meaning of religious affiliation shifted from a mundane identity that was subordinate to other identities based on socio-economic stratification such as family, social rank, property ownership. Religious affiliation was endowed with a new prominent political dimension. In this sense, this shift constituted a process of subjectification of populations towards religious identification.

Colonial powers were concerned with insuring control over colonies. Far reaching pervasive interventions altered the self-perception and subjectivity of the colonised populations and impregnated the orientalist discourse in the written and oral history of the region (Said 1979). Colonial powers primarily viewed the inhabitants of the region as primordial ethno-religious groups, as documented in various accounts from travellers and missionaries to diplomatic reports that held religious labelling of the population (Makdisi 2000).

The second historical moment occurred in the period following the colonial handover from Ottoman to French. Gender anxiety expressed in a crisis of paternalism took place at the wake of the First World War due to the power vacuum left by the disintegration of the Ottoman Empire and the weakening of men's role in the political and public sphere (Thompson 2000). This crisis festered due to the desertion of Ottoman state apparatuses during 1919-1920 and the massive losses that accrued to the local soldiers forcefully conscripted in the Ottoman army. As the French mandate took over the area, it held inconsistent internal politics and annexed Muslim parts to the new Christian numbered Lebanese state to make it more viable (Ziadeh 2006). This power readjustment reinforced the political dimension of sectarian identity in Mount Lebanon, and led to a crisis of paternalism and repression of women's rights in Lebanon and Syria.

The third historical moment relates to independence struggle between the 1930s and 1940s in the later mandate period until independence. During the quest for independence, various geographic, economic and political factors reordered the legal and political system according to the sectarian category. In an orientalist take on the region, the French mandate entrenched the sectarian element of the political sphere by ignoring rural-urban tensions and highlighting instead the religious primacy of local populations.

4.3 The continuum of legal, political and social categorisation

4.3.1 The colonial bargainings and the construction of 'sectarian' political groups

These three historical moments repositioned local elites and religious leadership and altered their hierarchy in the local power map of the region. In this sense, the sectarian legal system was a fluid manifestation of this interaction rather than as an inevitable and invariable result of primordial 'historical communities' or a master plan by one party involved. The impact of colonial powers in shaping the Lebanese state's sectarian system of governance can be analysed following Mamdani's (1996) notions of direct and indirect rule. In his research in British colonialism in Africa, he noted two different types of strategies. Direct rule was applied in urban areas imposing modernity and civilisation on citizens, forcing them to conform to these norms while at the same time excluding them from the decision-making. On the other hand, indirect rule was applied to the rural areas where the population was perceived as 'savage' and uncivilised and was subsequently left out from direct rule with the instalment of indirect customary local authority. It is possible to say that the colonial rule in Lebanon followed this division. The Ottoman rule sought direct relation with citizens, reducing the power of the tribal and religious leaders, while French rule acted indirectly and mediated through the existing elite (Takieddine 1977).

However, separating the ruling styles of the two colonial powers overlooks one main complexity in studying the Lebanese case. Throughout time, direct and indirect rule effectively existed within the strategies and practices of each of the two colonial powers. They organised governance in two layers, one of direct rule through colonial

structures, and another indirect one through the production of a class of local elites. From the second half of the nineteenth century and until the end of the mandate, urban Lebanese port cities were governed separately from Mount Lebanon and included a stronghold of urban Muslim and Christian merchants who were closely tied and incorporated within the structure of the administration. Many of this mercantile class held functionary positions, including women who held supporting administrative positions of secretaries and translators especially during the French mandate (Thompson 2000). On the other hand, the rural population of Mount Lebanon was subcontracted to the local notables and namely Princes of the Maan and Chahab families governing the area (Choueiri 1988). However, beyond the distinction of direct-indirect rule, colonial powers competed over controlling urban and rural areas through informal linkages with the local elite. Indirect rule included tight infiltration, control and re-engineering of the local political and socio-economic processes in colonial Lebanon by using the marker of sectarian identity.

Power balance among local elite was adjusted by fragmenting the cohesion within the ruling families in Mount Lebanon. Ottomans decapitated the Emir of Mount Lebanon, Bashir al-Shahabi, after his rebellion and alliance with Mohammad Ali, the anti-Ottoman governor of Egypt, and instated his second cousin Bashir Qasim. As France increasingly backed the Maronite communities in the area, some branches of the Druze ruling principalities such as Chehabs and Abi Allamah converted to Christianity (Abou Nohra 1988). As a result, the political power and economic balance between the two population groups was altered adding a religious meaning to the political rivalry over the reign of Mount Lebanon. Colonial powers fuelled this rivalry further by holding promises of additional privileges to each group in return for allegiances.

During Muhammad Ali's invasion of Mount Lebanon in 1830, Egyptian troops and French powers supported Maronite peasants promising to save them from the Druze landlords and Ottoman domination. On the other hand, the Ottomans allied with the Druze landlords and notables who have fled the region and were keen on preserving their privileges. The British colonial authorities strategically supported the Druze landlords in an effort to destabilise the French infiltration of the region. The result was a series of allegiances aimed at creating sectarian pockets into the Ottoman

Empire. The alliance map between the colonial powers and the local notables brought together the French and the Maronite, the British and the Druze, the Russians and the Greek Orthodox populations (Firro 2003). With the end of the Egyptian invasion and the restoration of the Ottoman reign over Mount Lebanon, grievances and frustrations resulted from these un-kept promises. Various colonial powers resorted to installing a sectarian legal structure as a way to settle these grievances and maintain special ties with the local leaders.

Internal competition within colonial powers endowed the religious institution with political authority. During the French mandate, French governors from opposing political parties continuously altered the political legitimacy of local elites and religious leaders. Right-winged governors Gouraud and Jouvenel allied with feudal landlords and religious leaders, installing the official status of the Maronite Church (Ziadeh 2006). Leftist republican governors such as Weygand and Sarail endeavoured to crush religious and tribal leaderships through claims of secularist rule, appealing instead to the merchant and middle-class notables (Thompson 2000).

In the process, the role of religious leaders drastically changed. They became undeniably prominent and autonomous actors able to tip the power balance. Previously their role was restricted to legitimising the notables through educating their children and mobilising the masses around them by acting as mediators between notables and the population. Prior to these changes, notables were primarily dependent not on their religious affiliation, but on local alliances and imperial patronage networks (Makdisi 2000: 35). Gradually religious leaders gained influence and reversed the power hierarchy. The Maronite Church gained influence with the Maronite community's affiliation to Catholic Rome in 1584 and the establishment of the Lebanese Synodus in 1736. Subsequently, the leadership of Maronite populations developed into two competing strands. Traditional feudal lords controlled them, and religious leaders catered for them.

The political power of the Maronite Church was also boosted by economic appropriation. The Maronite church prospered as it managed, together with European

missionaries,[80] lucrative silk factories and gaining popular support by employing commoners (Choueiri 1988). It played a key role in introducing employment of women in their communities through long underpaid hours in their silk factories (Thompson 2000). The power of the notables over populations decreased as they lost their workforce to the Church's factories and their economic prosperity to the newly established class of urban traders. They were forced to sell their properties to pay taxes, and were further marginalised when the Maronite church bought their lands and further expanded its power. The Maronite Church increasingly gained influence later on during the French mandate (Ziadeh 2006). When the French governor Weygand planned to abolish sectarian quotas from the established administrative system, the Maronite Church refused and turned to Rome who offered to beatify eight Maronite priests (Thompson 2000). The propositions were subsequently withdrawn.

In contrast, Muslim and Druze religious leaders did not benefit from such foreign support and were unable to form an autonomous formal political platform. They kept their traditional roles as mediators between notables and commoners until late 19th century. Furthermore, late Ottoman education policies introduced modern schooling reforms (Rüşhdiyye schools) that took over the traditional religious schools (medreses) led by mid-level Ulemas (the religious learned). Religious leaders were thus confined them to the management of religious endowments and a few religious laws (Somel 2001). The Islamic religious authority grew strength only after the abolishment of the Ottoman Empire, benefiting from the rise of the Arab nationalist movement under French nurturing. For example, the Muslim Council, the main platform for the Sunni religious leadership in Lebanon, was established in 1928 as a civil society organisation and was much later incorporated in the Lebanese state structure as an official consultative body including Dar Al Fatwa (Sunni Jurisdiction Council) in the 1950s.[81] The Shiᶜa council was only formalised much later in 1967.

---

[80] Prior to the mandate, missionaries established their power in the region due to tension with the western governments of the time. French religious missionaries fled France to Lebanon awaiting the return of the 'ancien regime' and did not have any links with the official representatives of the 'republique' (Makdisi 2000). With time, Western missionaries like the Lazarites became the backbone of social provision of the country and established themselves as vital religious institutions until present-day Lebanon.
[81] This highly contrasted with Egypt's experience of installing the Azhar as the official Muslim Council in the 1920s.

4.3.2 Formalising sectarian administrative governance structures

The colonial power bargainings and secterianisation processes influenced the political governance structure of the modern Lebanese state. The seeds of this crucial tension appear in the 1840s between Ottoman secular reforms and the European sectarianisation policies of the region and local populations. In 1841, British diplomat Richard Wood suggested the formation of a council that would include "three members 'elected' by Maronite, orthodox, and Greek catholic patriarchs [...] and one Druze, one Sunni, and one Shi^{c}a to strike a communal balance.' (Makdisi 2000: 61). Leaders of both religious communities refused this proposal and went into contentious positions eventually leading to the 1860s clashes. On the other hand, secular Ottoman reforms also known as *Tanzimat* (directives) or the Gulhane Edict were issued in 1839 and devised as efforts for modernisation facing Mohammad Ali's threat and the pressure of European powers after the Paris agreement. These reforms included equality of all citizens regardless of religion, insuring their security and property, and reorganising equitable taxation according to means. A series of policies were put in place to implement these reforms in Lebanon and the region. Most significantly one policy attempted at curbing the power of the religious elite and subjecting it to the control of the governor (Makdisi 2000).

These comprehensive Ottoman secularisation processes did not reach Lebanon. Instead, in 1845 the Ottoman foreign minister Shakib Effendi issued what became known as the *Reglement Organique* (Firro 1992). This plan instated the Lebanese *Mutasarrifiya* (district), a semi-autonomous entity in Mount Lebanon based on a communitarian sectarian ruling system starting in 1861. In order to ensure a geographic repartition segregating Druze and Maronite populations, Article 5 clearly stipulated the creation of religiously homogenous administrative units. In order to carry out this division, Article 17 ordered a census "place by place, sect by sect" (Makdisi 2000:82)[82].

---

[82] The secular *Tanzimat* and the sectarian Reglement marked a contradiction in the Ottomans strategies. This contradiction has been attributed to unclear implementation mechanisms, and the clash of modern concepts of citizenship with the reinforced status of the sultan as an equitable source of legitimacy (Makdisi 2000). However, these weaknesses might not have been enough to block an attempt to secularisation in Lebanon, as they constituted the foundations of the Young Turks revolution and the later establishment of modern Turkey.

As a result, the Ottoman secular reforms were not implemented in Lebanon. This crucial shift in the Ottoman's agenda from the *Millet* (communitarian) system to secular frameworks was overlooked by mainstream historical analyses of the formation of the Lebanese state. It however is crucial in understanding the power dynamics over reforms at the time because it constitutes a discontinuity in the mainstream narrative that attributes the later Lebanese system to a plain sectarian Ottoman legacy entrenching the sectarian Millet system.[83]

Under the *Reglement*, the region was divided on a sectarian basis into six sections with the main two distinct northern Christian and southern Druze parts. A multi-religious administrative council in each district was set to include one judge and one advisor from each of the Maronites, Druze, Sunnis, Greek orthodox, and Greek Catholics. Shi°as were granted one advisor but were represented by the Sunni judge. The sectarian aspect of the administrative structure was defined in Article 11 and stipulated that 'all members of the court and administrative assemblies will be chosen and appointed by the leaders of their sect in agreement with the notables of the sect' (Makdisi 2000: 162). The *Reglement Organique* reaffirmed religious and sectarian identities at the expense of the traditional class structure.

This new dimension was reaffirmed through a decree by the foreign minister merging the notion of race with sect and limiting the role of the notables through a set legal structure (Makdisi 2000:81):

> Each district of Mount Lebanon was to be governed by a qai'm maqām or governor, and small regions were to be maintained by the traditional autonomy of notables as muqāta°jīs or local administrators responsible for maintaining law and order. Wherever the notables and the population were of different "race" and "sect" (hemcins ve hemmezheb), a wakīl, or representative of the same "race" of the population, would be appointed to oversee the administration of the notable. In case of a petty dispute

---

[83] This system was historically implemented under the successive Islamic empires, the latest being the Ottoman rule (Joseph 2000). This system adopted the Muslim doctrine as the official state religion to organise issues of public, penal and economic regulation while allowing religious minorities to apply their own religious directives for 'private' issues such as family law. This system clearly delineated the public and private spheres within religious and gender frames. However, colonial strategies modified and even overruled these laws at different stages under political and economic circumstances of the era. Most importantly, these strategies changed due to swinging internal power dynamics between different elements within each regime.

between two people of the same "race" and "sect", and of the same sect as the notable, then that notable would adjudicate. If they were of the wakīl's sect, then the wakīl would settle the dispute. However, if it were a mixed dispute, then the wakīl and the notable would work together, and if they couldn't agree, then they would submit it to their respective qai'm maqām or the same sect (hemmillet). If they still couldn't agree, then the Ottoman governor of the Saydon (Southern adjacent governorate) would have the final word.

This structure also included a twist. For each district, a certain number of councillors from different sects were allocated. They were 'elected' by sheikhs who would be in turn directly elected by the communities in each village regardless of religion. In practice, the sheikhs were elected according to the most prominent religious sect in the village. Consequently the councillors –even if belonging to different sects – needed the approval of these sheikhs and by proxy the religious community to be elected by them (Akarli 1988). This decree is an example of the importance that Foucault (2000) places in his work on governmentality on the census as a technique for controlling populations.

This decree specifically contributed in installing the sectarian dimension within the governance system. The newly formed administrative council gained strength by acquiring new capacity to overrule the decisions of the Ottoman governor (Akarli 1988). The aforementioned sectarian-based administrative council that was in place between 1861 and 1920 formed the nucleus of the later representative council at the start of the French mandate between 1920 and 1926. It also extends to the present-day Lebanese parliament. In order to be included within this new structure, notables strategically shifted their sense of religious group identity from a social to a political one. They re-aligned their stands within their own religious group and actively repressed intra-sectarian family and class rivalries in order to promote unity (Makdisi 2000). With this transformation, the class of notables was not abolished. It was rather modernised and reshaped according to the sectarian logic of the *Reglement*.[84]

---

[84] During the independence era, these laws were again modified according to different political considerations and alliances. The current Lebanese electoral law is crafted on similar power bargaining instated in the Reglement and the later French mandate. Nowadays, gerrymandering is practiced since Ottoman and French fluctuating repartition of Mount Lebanon. With the application of the election structure of the Reglement, electoral dynamics lack party politics and rely instead on volatile alliances.

Family law frameworks also followed these colonial bargainings. In 1917, the Young Turks briefly implemented two contentious Ottoman reforms strongly opposed by religious leaders. In the first, they granted themselves the power to approve the appointment of the Maronite patriarch. The second aimed at unifying various family law provisions into one Western-inspired civil code known as the Ottoman Law for the Rights of the Family (OLRF 25/10/1917).[85] In this code, two articles were of particular relevance. Article 130 gave the state direct power over the court system as it provided for state-appointed judges to regulate them. Article 4 set the marriage age for women to a minimum of seventeen, a provision that the French mandate later upheld but failed to implement.

This reform was short lived. As the French mandate (1920-1943) took over the area, it cancelled the Ottoman Law of the Rights of the Family and absolved themselves from the right to appoint the Maronite patriarch (Thompson 2000). However, this entrenchment needs to be analysed according to multiple interactions from different parties. In the 1920s, the early French mandate cancelled state involvement in divorce for Christians and Jews after pressure from patriarchs while keeping it for Muslims with the backing of the Beirut Qadi and Mufti (Thompson 2000). This French policy was part of their larger effort to contain and formalise the growing independent power of religious leaders.

The French colonial rule 'established' religious courts through instituting structures like the Muslim Council, the official body representing Sunni communities in Lebanon. As the Muslim Council started to claim representativeness over all Muslims in Lebanon, Shiᶜa clerics organised their separate religious courts in 1926 (Shanahan 2005). Subsequently, the French mandate entrenched religious family law through a string of manoeuvres. In 1936, French officials proposed a religious-based family law that provoked complaints from Muslims who saw it as levelling their status with other religions by allowing Muslims to convert to Christianity through marriage (Decision 60, 13/3/1936). The French governor Puaux reiterated in

---

[85] Beyond the several reforms stated in the OLRF, the code is organised according to a communitarian logic granting clauses for Muslims (including polygamy in Art. 14 for example), Christians, and Jews.

proposing a civil family law in 1938 (Decision 146, 18/11/1938).[86] As Muslim religious leaders went into huge popular demonstrations, Puaux withdrew the decree and kept the exceptional status of the Muslim religious family law (Decision 53 L.R, 30/03/1939).

This colonial strategy largely shaped the political and legal state structures of the post-colonial Lebanese state. French colonial powers imprinted this formula into the foundations of the modern Lebanese state, through basing the political system on an informal agreement of religious power sharing allocating presidential, executive and legislative authorities to Maronites,[87] Sunnis, and Shiʿas respectively. In addition, they drafted the election law to represent religious communities by a proportion of 6 to 5 between Christians and Muslims, privileging the urbanised Maronite slight majority.[88] This arrangement carried on throughout the young statehood and the civil war (1975-1990). Politico-religious powers, taking the shape of multiple militias from every sectarian community have been the de-facto military, political, and organisational powers in the neighbourhoods or territories under their command. This power structure continued after the war where warlords accessed state structure and were granted total amnesty for their war crimes (Khalaf 2002). However, during the war and post-war times the effective balance of power shifted between these groups. Benefiting from a demographic boom of Shiʿa populations, Muslim communities slightly outnumbered Christians. Shiʿa communities gained wealth and political influence, while Christian communities noticed a sharp rise in immigration to western countries. This resulted in an amendment of the constitution curbing the powers of the Maronite president of the republic and bringing religious quota in the parliament and other state appointments to an equal ratio of one to one.

4.3.3 Extending the legal sectarian category and gendering social spaces and issues

The colonial competition further reordered the social space by extending the sectarian category to social policies. This resulted in further gendering of collective

---

[86] This governor also belonged to the right-winged government, so these changes were not much of an intra-colonial power struggle.

[87] Maronites constitute a Christian sectarian community specific to the Lebanon and Syria region (with a minority in Cyprus), It is affiliated to the Catholic Church.

[88] The last official Lebanese census was conducted in 1932 and is still relied upon until present day despite demographic changes and immigration outflows (Salibi 1988).

action in Lebanon, the formulation of the problem of family law, and the moralities of gender equality.

Constructing sectarian differentials and the gender remodelling of social space

Colonial powers implemented these strategies by competing over social services provision, primarily education and health. French and protestant missionaries targeted Christian communities of Mount Lebanon and used these particular social services as part of their 'civilising' mission to these groups in the eighteenth and nineteenth centuries (Makdisi 2000).[89] This infiltration was facilitated by the Ottomans' indirect rule and the delegation of social issues in Mount Lebanon entirely to local notables (Ziadeh 2006).

In urban areas, early Ottoman social policies remained minimal and under-budgeted due to financial constraints and war priorities. Education was left to local *Ulemas* who ran traditional religious schools. Later on, the Young Turks took to 'modernising' the urban population –mainly inhabited by Sunni Muslims. They increased the number of state schools and introduced public education for women. Health was also addressed through modernising hospitals and establishing medical schools without investing much in Mount Lebanon.

However, with the weakening of the Ottoman rule, missionary schools grew in numbers. The social policies of the newly established French mandate were skewed towards Maronite populations and favoured Lebanon over Syria. In 1935 it heavily subsidised private missionary or local Christian schools by one third of their costs reaching 25,000 LLS while limiting subsidies to Muslim foundations by only 1,900 LLS (Thompson 2000). At the same time, the mandate reduced support to existing public schools inherent from the Ottoman rule and catering for urban Muslim areas and froze the establishment of new ones. This policy clearly favoured Christians who

---

[89] In the early phase of colonial competition, missionaries acted as an independent order from French and ottoman powers, facilitated by the Ottoman indirect rule. After the failed reinstatement of the French monarchy in 1876, missionaries stopped competing with the French government and became the main apparatus of official French infiltration during Ottoman rule and subcontractor of social services provision later on during the mandate. As a result, local religious leadership was strengthened in the social sphere, with its decision making power legitimised through the social services provided by the missionaries, and the ensuring admission of religious leaders into citizens' daily circles.

constituted 54% of students while forming 23% of the entire population of Lebanon and Syria.

On the health front, policies were also unevenly distributed. During the mandate, twenty five out of thirty hospitals were private in Lebanon, compared to around half of the twenty-seven in Syria although the Syrian population was more than twice the size (Thompson 2000). The French rule thus prepared a class of mediating agents that later constituted the basis of the clientelistic political elite, dramatically increasing the gap between Christian and Muslim populations. The impact on women was particularly relevant. In addition to women's economic activity in the silk industry, women's education in Lebanon rose to 41% in private schooling and 29% in public schools, also implying a clear sectarian gap (Thompson 2000).

Hence, the preferential access to social services created a sectarian power gap between various groups of the population. Colonial subjects were admitted into the 'civil sphere' and were thereby distinguished from the rest of the 'wild' rural population (Makdisi 2000). This social screening added a new meaning to sectarian identity by coupling it with binary notions of civility and incivility of different sectarian groups.[90]

The social space, which includes women groups, was remodelled according to the sectarian-elitist distribution. Historically, Lebanese civil society groups grew out of their earlier Ottoman charitable, leisure and professional character (Thompson 2000). With the French mandate, the number of organisations increased from thirty one prior to 1914 to reach 401 in Beirut and an additional 338 in Lebanon between 1920-1942 (Al-Khatib 1984). These new civil society organisations were mainly concentrated within the urban middle class elite with more than half located in Beirut.

During that period, women organisations also proliferated due to the western and regional momentum of feminist, nationalist and independence movements of the era. Most women organisations that started in Lebanon and Syria were closely related to

---

[90] The collective narrative of civility shaped later discourses of uniqueness and worthiness of citizenship and group identity of Lebanists and most Maronite political discourses until present times. Discourses of uniqueness were used to bargain for the consociational system of governance based on deserved privileges.

the cross-sectarian Arab and Syrian nationalists elites. *Al ittiḥād al-Nisā'ī fī Sūrya wa Lubnān* (The Women Union in Syria and Lebanon), a cross-sectarian Arab nationalist umbrella gathered forty women groups with a broader mission to tackle social conditions and the reform of religious laws (Thompson 2000). It evolved from an informal union in 1921 to a formal one in 1924, established by a core group of women from upper class Beiruti families such as Thabet, Sayigh, Qaddura, Shahfa, Bustros, and Jazairi and al-Hafiz from Damascus. Through funding and patronage from their family ties, private members and religious endowments, women groups were closely tied to bourgeoisie and religious institutions (Thompson 2000). Their activities started as charity during the war and then later on expanded to women magazines and literary salons. Between 1919 and 1930 eight women magazines were established in addition to the three earlier ones.

The colonial policies actively rearranged the collective action sphere in a process of 'collective social motherhood' consisting of appropriating its leadership and attaching it to the local elites (Thompson 2000). The French mandate started by shutting down local women groups such as Abid's school and red star societies. It then installed two charitable and cultural women's organisations headed by the wives of high commissioners as honorary presidents, namely the French-Lebanese Red Cross Commission and Goutte de Lait (Drop of Milk) (Al-Khatib 1984). The leaders of the banned women groups were also related to Arab and Syrian nationalists. First post-independence Prime Minister Riad al-Solh - an overt opponent of political rights - resorted to his wife to advocate economic rights. With her sister and other friends, the wife of the prime minister founded and chaired as honorary president the society for the advancement of Lebanese Industry –*Artisanat* (Al-Khatib 1984). Similarly, the first post-independence president Bishara al-Khouri and his wife represented the epitome of this gendered joint venture, as they were known among public and women's activist circles as the father and the mother of the republic. The president's wife played an active role in diffusing women's groups frustration against her husband's constant deferral of women's suffrage by publicly supporting suffrage demands and promising to hold him accountable to them (Thompson 2000). She also 'nationalised' the previous French-Lebanese Red Cross Commission by founding the Lebanese Red Cross Society and chairing as an honorary president, while the wife of the prime minister acted as honorary vice-chair (Al-Khatib 1984).

Setting family law as policy problem and gendered moralities

At this period, women groups actively engaged with the broader political and social competing norms of the local elite. Between the start and end of the French mandate (1920-1943), women groups changed their priorities in three phases. They gradually moved away from national political issues towards less controversial social issues. They started with voting rights (1920-1923),[91] then moved to unveiling (1923-1928)[92], and later to education and health, as well as family law (1928-1935) (Al-Khatib 1984).

Subsequently, priorities of gender equality were reformulated according to the broader political ideological debates on national identity and citizenship of the time. Women groups allied with various political parties in promoting their issues. These years were formative of the feminist movement in Lebanon. The discourses on gender equality and citizenship set precedent to that of the modern-day feminist movements in the country. In particular, the two issues of voting rights and unveiling set a historical trend in problem setting bearing serious implications on the construction of gendered moralities that are still relevant until present day.

The basis for argumentation on issues of voting rights and unveiling was set in a dichotomy of modernity versus tradition. This dichotomy implied gendered moralities of women's worthiness versus ignorance.[93]

Women groups argued for women's voting rights and later on unveiling by claiming women's worthiness to Lebanese society on two grounds.[94] Women had the right to claim full citizenship through their nationalist stands in the First World War and their

---

[91] Voting rights were initially raised by women groups one month before the official start of the French mandate in April 1920 in the Syrian congress (Al-Khatib 1984), and then again in 1923 at the Lebanese Representative Council before they were dropped.

[92] The shift from voting to unveiling was also influenced by political changes in surrounding countries. Mustafa Kamal's Turkey was highly praised for promoting women's ultimate modernist nationalist profile. Egypt's vocal progressive women's rights activism, led by icons such as Huda Shaarawi, was backed by a decree in favour of unveiling released by the official Al-Azhar religious authority in 1937 (Thompson 2000).

[93] Women's voting rights in Lebanon were established in 1963

[94] In the following years, women activists took every occasion to unveil during their participation in public meetings and demonstrations, such as at the King – Crane committee and political campaigns aiming at freeing nationalist prisoners.

continuous economic activity. [95] Unveiling was also justified to remove the hindrances of equal nation building duties for women and men.

Modernity was also among the claims of gender equality in voting and unveiling. Both issues were branded as a sign of western-inspired modernity based on the need to identify and follow civilised countries (Al-Khatib 1984). At the same time women groups relied on religion to back feminist claims by highlighting the existence of women judges in Islam.[96]

In contrast, politicians opposed gender equality in voting and unveiling by portraying women as ignorant and morally corrupt. Women's right to vote were opposed because women were perceived to hold inherently lower intellectual abilities that would corrupt politics. Furthermore, women were considered prone to moral corruption or degradation. Politicians opposed women's right to vote because it constituted a cascading risk leading to unveiling, the abolition of religious family law, and moral deterioration. They stressed the need to honour the veiling tradition as moral safeguard to society. They also drew on pro-veiling interpretations of religious scripts and attacked women groups on anti-colonialist and anti-modernist grounds.

The discursive negotiations over women's rights constructed women's subjectivity in terms of ignorance and moral corruption. Opponents to the unveiling considered education as the prerequisite for unveiling, without which women's moral corruption would prevail (Thompson 2000). In the later debates, women groups aligned with the opponents' discourses and acknowledged women's shortfalls. Mechanisms to

---

[95] Women actively participated in independence demonstrations and acted as human shields to nationalist men activists driven by accompanying notions of patriotism and heroism (Thompson 2000). Towards the end of the mandate women groups disagreed about the local populations national identity as in whether to have a unified Lebano-Syrian state or divide it into modern Lebanon and Syria. They had to narrow down their commonalities and agreed on a minimalist anti-colonial agenda. Once this compromise was reached, the Lebanese and Syrian women's union agreed on keeping away from politics and focus on social and cultural aspects (Thompson 2000).
[96] Women activists repeatedly drew on stories of famous women in Islam such as the prophet's wife Aisha and Christian icons such as Joan of Arc (Thompson 2000). Traditionalist opponents also constructed religious interpretations to their favour by including historical, national and ethnic (Arab) anti-women dimensions within religious interpretations. From this perspective, religion would be constructed, understood and propagated differently by various actors. Religion, as Bouhidiba (1998) pointed out in the case of Islam would be malleable and made of the particular contexts hosting it.

'educate' women were put in place by expanding the education of women and subsidising women's magazines (Al-Khatib 1984).[97]

As women groups adopted these gendered discourses of women's subjectivity, they projected the solutions on women's agency. They considered veiling as a main contributor to women's ignorance and the under-fulfilment of their roles as mothers. As a compromise, they turned to social policies of education, economic enhancement, and health and dropped voting rights and unveiling.[98] Interestingly, they prioritised family law reforms at this later stage. In their annual forums in 1928, they called for family law reforms fixing women's marriage age to a minimum of 17 years, providing equal inheritance, repressing polygyny, and granting women greater power to initiate divorce (Thompson 2000).

These findings resonate with the Egyptian experience of women groups. Elitist women groups started by advocating reforms in family law in the early 1920, and later on these calls were dropped in favour of political participation in the 1930s (Khater and Nelson 1988). The case of Egypt reveals that a committee for family law reforms was appointed in 1926 and had on board the Sheikh al-Azhar and a host of other Ulamas. The proposed reforms installed popular uproar by conservative groups leading King Fuad to dismiss them in 1929 (Shaham 1999).

4.4 Conclusion

This chapter discussed the socio-political history of the formation of the Lebanese state and the production of the sectarian categorisation of social groups in the political system. It revealed the complexity at three levels. The first level argues for a contextual understanding of the consociational governance framework rather than an essentialist one. This specific form of governance evolved within three historical moments of colonial competition and produced various discourses placing religion

---

[97] Women groups overtly solicited the French Mandate's support through their magazines and were labelled anti-nationalists and modernists. A strong traditionalist pro-veiling movement was stirred by populist religious leaders. Working class men and women organised into moral squads attacking upper-class women with western clothing, especially in Damascus. The issue became linked to the cultural dimension of Arab national identity annexed to Islam, where Arab tradition was emphasised despite the Young Turks' reforms that regulated women's dress code and ultimately coded unveiling through a set of acceptable dress for women employees (Thompson 2000)

[98] Women groups put forward pragmatic arguments such as the bad influence of veiling on women's health mainly associated with difficulty in breathing.

128

and group identity at the centre of citizenship. The second level argues that these institutional structures are not a result of a timeless and fixed 'religious' order. Rather, these structures were produced through dynamic bargaining between various competing colonial and local actors. The third level detailed the formation of a sectarianized civil society space that is influenced by the political bargainings. In this space, women's collective action was part of the political fabric of society. The shifts in women groups' agenda was a result of political bargainings constructing a particular gendered subjectivity and agency. These bargainings formed part of the genealogy of an order of 'gender' governance where policy actors engaged with women's issues are contained within these gendered social spaces.

The prominent role of religion in the politico-legal system and particularly family law was thus contextualised within the power dynamics of the socio-political historical context of the time. By shaking these primordial communitarian claims of religious group affiliation, it is possible to hold a discussion of the dynamic process of gendering effect of family law in the following chapters.

5 CHAPTER FIVE Post-conflict family law policies and the making of an order of governance

5.1 Introduction

> Civil family law [reforms] question the essential foundations of Lebanon.
> [They] target the Lebanese political structure.
>
> (BM1 2005)

This statement is part of a common narrative among policy and academic circles in Lebanon. At the risk of generalising, they frame the issue as follows: gender discrimination in family law lies, essentially, in a fixed sectarian order that confines the Lebanese political structure and blocks the secular potential of the state. This narrative implies a sectarian-secular structural dichotomy. It holds a narrow understanding of the law as dissociated from social and political processes and power dynamics (Mundy 2002).

The aim of this chapter is to contest these claims by tracing the continuity of the dynamic process of policy making of personal citizenship from the formative years of the Lebanese state to the post-conflict period. It seeks to understand the dynamic process of policy making in terms of the influence of various discourses on citizenship and gender equality and the power relations between various actors. It analyses the creation of policy episodes, the formulation of the policy problem, the framing of concerned populations, and policy outcomes. The chapter argues that only when the 'enactment' of policies is taken into account is it possible to assess the full gendering impact of family law order of governance.

The chapter starts by reviewing the configuration of citizenship in the pre-1990 period. Then it carries forward by detailing the dynamics of the policy process relating to the renegotiation of citizenship and family law in the post-conflict period. The third section analyses the formulation of gender equality in family law as a policy problem. The final section revisits policy outcomes in the post-conflict period and their implications on personal citizenship.

5.2 The legacy of legal personhood prior to the post-conflict era

As a start for understanding post-conflict family law policies, the historical development of legal personhood is examined. Crucial developments to citizens' legal personhood occurred in the early colonial era of the Ottoman Empire and continued through the French colonial mandate and the post-independence era. Five key changes compounded legal personhood of personal citizenship in its pre-1990 form and are explained below.

The historical basis for legal personhood evolved within a communitarian framework implemented by the Ottoman rule before 1860. Until that date legal personhood was organised under traditional Islamic rule in the geographic areas comprising post-independence Lebanon (Mallat 2007).[99] As mentioned in the previous chapter, this model of Muslim rule went by the concept of communitarianism (*Millet*) or the political governance of protection of minority groups (*Dhimmī, ahl al-dhimmah*) (Salibi 1988). This system allowed minorities to organise their own social, economic and family affairs according to their religious beliefs as long as they showed allegiance to the state and paid their taxes.[100] Thus, the legal framework of personal citizenship was included under an overarching Islamic framework, or was left to an informal sphere of governance for non-Muslim subjects.

The first change occurred in 1860 when legal personhood in the region was formalised into a communitarian framework. Following the *reglement organique* in Mount Lebanon, subjects were classified according to sectarian categories at all levels.[101] Religious leaders were appointed by the Ottoman governor to oversee the family affairs of populations (Makdisi 2000). This arrangement did not differ in substance from the earlier Islamic *Millet* communitarian framework. It just formalised it by legally classifying all inhabitants, including Muslims, under a

---

[99] These areas were part of four Ottoman governorates. Beirut and the coast followed the Ottoman governorate of Akka. The Eastern part belonged to the governorate of Damascus, or *Bilad Al Sham*, the North belonged to the governorate of Aleppo, and Mount Lebanon was a separate governorate.

[100] In practice, this system was not applied in full to inhabitants circumscribed to religious minorities. In the first half of the 19th century, Muslim inheritance law was applied to Maronite inhabitants in Mount Lebanon, which lead Muslims to protest in 1816 (Ziada 1996)

[101] The codification process was mainly at the levels registering populations according to sectarian categories, electing political representatives based on a sectarian distribution, and appointing a council of religious leaders onto a senate-like board.

religious category (Choueiri 1988). Hence Mount Lebanon became a model of a communitarian system of rule (Makdisi 2000).

The second change in legal personhood was witnessed in 1917 as the Young Turks codified the Ottoman Law for the Rights of the Family (25/10/1917) as part of their effort to modernise the Ottoman Empire (Mallat 2007). This code is considered revolutionary because it is the first legal document in the region to codify family law (Sonbol 1996). It remodelled several Islamic provisions on marriage and divorce and added civil operational structures such as appointing judges (Tucker 1996). One example is that it curtailed the direct authority of community religious leaders over personal status by appointing the district judges to regulate it. It also raised the marriage age of both men and women to 17 years of age. While it retained polygyny, it codified women's right to reject polygynous arrangements (OLRF, 25/10/1917, A.38). In addition, the code kept the communitarian arrangement of the Muslim governance system of *Dhimmis* by codifying the regulations for non-Muslims under the guidance of their religious authorities (OLRF, 25/10/1917, A.40). [102] The subsequent French colonial rule is blamed for aborting it as part of their orientalist project of the region (Thompson 2000).

The third significant shift to legal personhood followed the dismantling of the Ottoman Empire and the start of the French mandate in 1920.[103] The French mandate scrapped the 1917 family code and replaced it by a series of directives that formalised and compounded legal personhood. Decision 60 (13/03/1936) and its amendments (Decisions 146 L.R. 18/11/1938, and 53 L.R. 30/03/1939) were the last in a process of codification still implemented until today.

Decision 60 (13/03/1936) formalised legal personhood and included it under group affiliation in two types of communities: 'personal' or 'common' status. This law accommodated individuals who did not fit in any of these two categories by including them under a 'non-affiliated' category.

---

[102] Thompson (2000) confounds codification with secularisation as she contends that the Ottoman Law of the Rights of the Family followed the secularisation process implemented by the Young Turks, an elite movement who went into power between 1908 and 1918 with the aim of modernising it and bringing it closer to the western European style of governance at the time.
[103] The mandate established the state of Greater Lebanon by adding to Mount Lebanon the areas of Beirut and the coast, the North, the South and the East.

The first category of legal personhood included individuals who were affiliated to communities of 'Personal Status' defined as

> [T]raditional religious communities defined as historical [...], endowed with some 'specificities or some immunity by the colonial or local authorities [...], or those constituting a reality resulting from more of one century-old traditions [...].
>
> (Decision 60, 13/03/1936, A.1 and 3)

The law required the 'communities' to submit a set of organisational bylaws to be approved by legislation (Decision 60, 13/03/1936, A.1, 2 &4). These provisions were significant in two ways. Individuals were recognised as legal persons by virtue of owning particular 'traditions' and simultaneously reduced to a commodity through their commodified contracts with their 'communities'. In this sense, communities became 'collective legal personae' reducing individuals to objects of legal ownership (Mundy 2002:xix).

Another category of legal personhood included individuals affiliated to communities of 'Common Law' (Decision 60, 13/03/1936, A.10). This category of communities was not defined anywhere in the text nor was it drawn in relation to any contextual historical or cultural references. They were officially recognised if their "religious teachings and their moral principles did not contradict public order or morality" (Decision 60, 13/03/1936, A.15). Article 16 of the same code specified the condition for them to "present to the government their bylaws containing a summary of their religious or moral principles and their organisational plan". Most importantly, these 'common law' communities could operate within either civil or religious family law. For instance, they were allowed to appoint "religious leaders", to whom individuals would resort for contracting marriages (Decision 60, 13/03/1936, A. 18, 19, & 20).[104]

A third category of legal personhood recognised non-affiliated individuals who did not belong to any of the two types of communities with no explanation of this category. In these three categories, legal personhood was not fixed. Individuals could

---

[104] Thus contrary to common analyses, the category of 'community of common law' does not strictly refer to secular groups but rather to any communities that are 'untraditional', or that are outside of the historically prevalent monotheist ones in the region.

legally abandon their affiliation to these recognised communities at any time after adulthood (Decision 60, 13/03/1936, A. 10 & 11). Thus, they could follow civil family law as per articles 10, 11, and 17 (Decision 60, 13/03/1936). In this way, the commodified contract between individuals and communities was fluid.

Decision 60 (13/03/1936) granted fluidity to the communitarian legal personhood. Subjects were entitled to rearrange the terms of their family relations by moving across sectarian categories. In the same code, Article 23 stated that the marriage contract of citizens was void if both parties convert to another sect or religion, and instead they are subjected to the family law rules of the new sect. [105]

A fourth shift skewed legal personhood by differentiating between different categories of marital contracts. Under Article 25 (Decision 60, 13/03/1936), individuals registered under traditional communities of personal status could contract civil marriages abroad, register them locally and deal with them in civil courts. However, in 1938, Muslim religious leaders objected to the French colonial authorities and asked to exclude from this article any Muslim individuals who would contract civil marriages abroad (Thompson 2000).[106] In 1939, French colonial rulers approved the request by issuing Decision 53 (30/03/1939).[107] Provisions for civil contracts were thus only applied to couples ascribed to non-Muslim or mixed (Muslim and non-Muslim) communities. [108] Although legal personhood was formulated in communitarian terms, it was also commodified within a civil contract for some individuals.[109]

---

[105] In order to circumvent the restrictive laws of certain sectarian communities under which marriages are contracted, such as the Maronite Church, divorcing couples have been known to convert to other sects where they can get a divorce (LE2 2005). Of course, this practice is subject to financial means as it costs anything around 5000 to 10000 US Dollars to effectuate and requires a good deal of social networking.

[106] It is reported that Muslim leaders argued their case by referring to the Ottoman precedent of associating Islam with the religion of the state. They considered that they were not a 'minority' and that Islamic law could not be dissociated from the state. Sunni Muslim religious leaders claimed during their protests that they constituted the 'people of these lands' (at the time Lebanon and Syria) and that they were not in need for recognition (Khair 1996)

[107] This decision exempted Muslim subjects from all the clauses of the Decision 60 and the amendments to it in the Decision 146 in 1938.

[108] The Christian church made the same request but had to withdraw it after negotiations with the French rule. As the Maronite Catholic Church was institutionally independent from the state, French authorities asked the Maronite leaders to forego their independence in return for banning Christian subjects from the effects of civil marriage. The Maronite Church refused and withdrew the request.

[109] Legal personhood was later further differentiated across subjects ascribed to traditional communities through inheritance laws. Under the legal provisions of the post-colonial Lebanese state

A fifth shift in legal personhood took place in the drafting of the Lebanese Constitution (L.R. 23/05/1926). Paradoxically, the constitution protected both secular and sectarian categories of legal personhood. Thus, the constitution contrasted universalist and communitarian principles of citizenship, and conflicted with the legal provisions on family law discussed above.

Several Articles of the constitution defined individuals as autonomous legal persons with uniform and undifferentiated entitlements. Article 7 (L.R. 23/05/1926) confirmed that '[a]ll Lebanese shall be equal before the law.[110] They shall equally enjoy civil and political rights and shall equally be bound by public obligations and duties without any distinction'.

Article 9 (L.R. 23/05/1926) of the constitution specified that

> [t]here shall be absolute freedom of conscience. The state, in rendering homage to the God Almighty shall respect all religions and creeds, and shall guarantee under its protection the free exercise of all religious rites provided that the public order is not disturbed. It shall also guarantee that the personal status and religious interests of the population, to whatever religious sect they belong, shall be respected.

In this article, religion and belief were considered as commodities. This formulation of legal personhood contradicted the provisions allocating individuals under recognized communities.

When the enactment of this law is analysed, we realise that entrenching a sectarian operational framework is part of the order of gender governance. As we are reminded by Pottage (2004:7), "law is construed as a discourse that consists only in actualisation [...] rather than in substance". In practice, the only category of legal personhood to be enacted since independence is the one related to the traditional

---

citizens ascribed to the Christian communities were granted a civil inheritance code (L.R. 23/06/1959).

[110] Because of the gendered nature of the Arabic language, various articles referring to the equality of all citizens use the masculine form such as 'muwatinin' or 'al-lubnaniyyin'. In Arabic, the male gender is traditionally used as a general category that could equally refer to men or to both men and women. This ambiguity is not a main concern and was only raised by few women group who argued for the explicit inclusion of the female grammatical form such as 'muwatinin and muwatinat' and 'al-lubnaniyyin wa al-lubnaniyyat'.

communities of 'Personal Status'. This is despite the fact that the statutory provisions for establishing common status and non-affiliated legal personae are still in place in post-independence Lebanon. National civic records rely exclusively on sectarian legal personhood as default classification for citizens. As per the directives developed in both colonial and post-independence times between 1924 and 1951, the Lebanese Ministry of Interior keeps citizens' details in civic records organised according to sectarian classification (Fieldnotes 2005). The enactment of these provisions sealed the commodified contract between individuals and sectarian communities. In a recent ground breaking development, Ziad Baroud, the then minister of Interior, issued a ground-breaking Ministerial Directive (21/10/2008) requesting the civic records directorate to 1) accept citizens' requests to opt out of the sectarian classification (*shatb al-madhhab*) in their civic records, and 2) allow citizens not to declare their sectarian affiliation when registering new civic records and replace it with a forward slash "/" in the civic records. However the directive did not link these changes to the national voting system that is based on sectarian affiliation. The power of enactment was once again prominent in stalling this directive. As W26 (August 2011) explained:

In 2009, after we had our [civil] marriage in Cyprus, [the marriage certificate] was sent to the Ministry of Foreign Affairs. Then I went to [my hometown] and got myself de-registered from there and moved my records to [my husband's] registry in Beirut. We then went to the ministry of interior. We told them, "these are our papers we want to remove our sect". [...]. The employee behind the glass called in his colleague "listen these people want to remove their sectarian affiliation, come and deal with it, you know about this stuff". The colleague came and said "each one of you needs to go to their respective Mukhtars because we are not handling these requests here anymore". My Mukhtar said that he could not do anything because I was de-registered from his district. We went to [my husband's] Mukhtar and he said that he said the same [...]. We went back to the Ministry of Interior and said "we were sent back to you". The employee called a colleague again, and he said, "ok give me the papers" and he put them under a huge dusty pile of unrelated documents and said "there is this pile to process before your request [...]. The other employees at the counter were hiding their grins and giggling while we were standing there like idiots. So we left very angry, having been made fun of, and extremely frustrated because they were not helpful. We did not follow it through because we had to travel [...]. In Sept 2010 we asked our family to send us a copy of our civic records, I was still Maronite and [my husband was still Sunni.

5.3 Actors and dynamics of the post-conflict policy making process

This section examines the dynamics of the policy reform process of family law in the post-conflict period. It examines interplay between the 'triangle' of political, social, and religious actors reflected (and) the complexity of multiple sources of authorities on the making of policies of family law (Welchman 2002). The analysis focuses on the negotiating power of various actors in the 'initiation' and 'inhabitation' of various policy episodes (McGee 2004). [111] It combines both perspectives to understand the participation of policy actors in the policy process as a competition between actors over their repositioning in, and the formulation of, the post-conflict order.

5.3.1 Gender-'blind' policy episodes

The post-conflict National Reconciliation Pact constitutional amendment

This section details the first bargaining episode that saw the repositioning of various actors and the renegotiation of family law policies. The negotiation of the Taif peace agreement and constitutional amendments is very significant because it provided the institutional and constitutional basis for the current Lebanese political system.

The Taif initiative consisted of lengthy retreats held in the Saudi town of Taif on 22 October 1989 and aimed at reaching an agreement to stop the conflict between warring parties. As a result, the National Reconciliation Peace Accord was drafted and incorporated into the constitution a year later. [112]

The peace negotiations and constitutional amendments were entirely drawn in an official and closed space. Surviving members of the 1972 parliament and other long-term politicians ran the peace negotiations. [113] They mainly consisted of traditional leaders who were in practice overpowered by a new generation of heavily militarised

---

[111] This framework analyses policy spaces in terms of their access as closed –i.e. restricted to state actors; invited –i.e. including non-state actors; and autonomous –i.e. entirely run by non-state actors. They, however, recognised the limitations of this conception after their research on poverty policies in Nigeria and Uganda. They then hinted to spaces as layered into five components: history, access, mechanics, dynamics, and learning possibilities.

[112] Main Lebanese politicians were invited by French and Saudi mediators to meet in the Saudi town of Taif and agree on a peace settlement aimed at rearranging the power balance between Lebanese sectarian communities.

[113] The last pre-war parliamentary elections were held in 1972 and then resumed after 1992. During this period, the parliament's functions were practically inexistent.

political actors. These parliamentarians acted as representatives of warlords and leaders of religious communities and negotiated the agreement's terms on their behalf (Kerr 2006). The latter two sets of actors were physically absent. Yet, they were included in the discussions by proxy. Similarly, the session for constitutional amendments was closed. On 5 November 1989, the same parliamentarians met and approved the entire agreement, incorporated it in the constitution and elected the first post-conflict president.[114]

The statutory policy outcomes of this episode were promoted as ground-breaking reform of legal personhood by transforming the political representative system from the pre-1990 sectarian consociational power sharing model to a secular basis. Universal secular citizenship became the banner of post-conflict reconciliation. The amended constitution branded it as a national priority where "abolition of political confessionalism shall be a basic national goal and shall be achieved according to a staged plan" (L.R. 21/09/1990).[115] Universalist human rights values featured prominently in the new peace era.

The amended constitution (L.R. 21/09/1990) sustained this tension of personification and reification of individuals and communities. Legal personhood was redrawn simultaneously in relation to family law and political representation in two contradictory ways. On one side, it sustained individuals as uniform and undifferentiated legal persons, yet it entrenched the commodified contract with sectarian communities on the other.

To that effect, a preamble was added to the constitution. It expressed legal personhood in terms of universalist human rights terms and confirmed the non-communitarian nature of the Lebanese state. Four examples illustrate this point:

---

[114] President Rene Mouawad was assassinated on 22 November 1989 and Elias Hrawi was elected on 24 November 1989. These developments took place amid post-conflict political fragility and violence.
[115] This clause was particularly important because it was not included in the preamble of the original text of the Taif agreement, on which the constitution was amended. It even substituted another clause that related to "seeking the realisation of comprehensive social justice through financial, economic and social reforms" (L.R. 21/09/1990). The latter clause exists in the preamble of the Taif agreement but was dropped in the Lebanese constitution.

Clause 2: Lebanon is also a founding and active member of the United Nations Organisation and abides by its covenants and by the Universal Declaration of Human Rights. The Government shall embody these principles in all fields and areas without exception.

[...]

Clause 3: Lebanon is a parliamentary democratic republic based on respect for public liberties, especially the freedom of opinion and belief, and respect for social justice and equality of rights and duties among all citizens without discrimination.

[...]

Clause 8: The abolition of political confessionalism shall be a basic national goal and shall be achieved according to a staged plan

[...]

Clause 9: there shall be no segregation of the people on the basis of any type of belonging.

(L.R. 21/09/1990)

However, in clear contradiction, this universalist configuration of legal personhood was written off. Clause 10 of the amended Lebanese Constitution's (L.R. 21/09/1990) preamble specified that "[t]here shall be no constitutional legitimacy for any authority which contradicts the pact of mutual existence". This pact refers to the historical verbal agreement between the politicians in the era of independence that guaranteed the protection of all religious communities in Lebanon (Salibi 1988). This clause reinforced the power of communities over individuals.

This Taif policy episode produced some other less publicised policy outcomes. A set of constitutional Articles formulated legal personhood in a gender-blind form but with an inherent gender discriminatory effect. The post-conflict constitution reinstated the authority of the religious institution in two ways. First, at the level of national affairs, Article 23 (L.R. 21/09/1990) condensed the authority of religious leaders to an advisory status within a 'Senate Council' where they would intervene in "major national issues [qadāyā maṣīriyya]" that were largely undefined.[116] This

---

[116] It was an old and forgotten arrangement initiated and cancelled under the French mandate in 1926 and 1927. It was brought back mainly for the benefit of the Druze religious and political leaders who

139

council was to be established as soon as the secular parliament would be put in place. To this date, both the secular parliament and the sectarian Senate did not materialise and do not feature in the political agenda of any prominent actors.

Second, another amendment of the constitution commodified individuals further under communitarian legal personhood. The amended Article 19 stated that '[t]he officially recognized heads of religious communities have the right to refer to this [constitutional] Council laws relating to personal status, the freedom of belief and religious practice, and the freedom of religious education' (L.R. 21/09/1990). Individuals thus were commodified under the authoritative role granted to religious leaders.[117]

Here, again, examining the enactment of these legal provisions explains the configuration of legal personhood. More than fifteen years into the post-conflict period, none of these provisions were officially applied to legal personhood both in family law and political representation. The promise to abolish communitarian political representation was never enacted. Legal personhood at this level is still enacted under communitarian terms through the consociational legal provisions of general elections. Conversely, despite the implications of Article 19 of the amended constitution, religious heads of communities did not officially extend their authority over Decision 60 (13/03/1936) recognising civil marriage contracts of Christian and mixed couples.

Both stages of this policy episode were entirely secretive. Details of the negotiations of the agreement and ratification were undisclosed. [118] Meetings ran under confidential terms, and only the final voting session of the peace talks was broadcast live on national television. Similarly, the minutes for the constitutional amendments

---

asked to preside it in a similar way that other larger religious communities headed other key positions. (Maila 1991)

[117] The categorisation of sectarian personhood was drawn as a social and personal one, as it was narrowed down to authority over family law and education. Article 10 of the amended constitution states that "[e]ducation shall be free in so far as it is not contrary to public order and morals, and does not affect the dignity of any of the religions or sects. There shall be no violation of the right of religious communities to have their own schools, provided they follow the general rules issued by the state regulating public instruction" (L.R. 21/09/1990)

[118] To this date, minutes of closed meetings are undisclosed and withheld by the then Speaker of Parliament Hussein Al-Husseini.

sessions were classified. Other policy actors such as civil society organisations, intellectuals, and the media were entirely excluded from any representation (except for the media's basic coverage of meetings). None of the women groups' leaders commented on the constitutional discrimination in any of the several conferences held or reports issued by them during my fieldwork. On the contrary, many feminist forums highlighted the positive role of the constitution in promoting women's rights.

Optional civil marriage law reform campaign

Four years after the constitutional redrawing of citizenship, the Taif promise wore off as plans to 'desectarianise' the political system were dropped from the national political agenda. State actors initiated another policy episode to renegotiate consociational citizenship.

On 21 November 1996, the President of the Republic Elias Hrawi launched an advocacy campaign for an optional family law reform during his annual address on Independence Day. His announcement took the country by surprise, due to his previous role in halting the desectarianisation of the political system stated in the amended constitution. The reform initiative specifically called for an optional civil personal status code. With this prospective reform, consenting citizens would contract civil marriage in Lebanon and organise all related personal status matters accordingly. It reiterated the longest standing debate on family law in Lebanon since 1950.[119]

The proposed reform had three direct implications on the position of the religious institution. First, religious courts would lose their exclusive status as judiciaries on the matter. Second, Muslim citizens would be entitled for civil marriage provisions after being excluded from them since 1939 due to the opposition of Muslim religious leaders (Thompson 2000). [120] Third, personal citizenship would move from an exclusively religious categorisation to an optional secular one. The reform was formally gender-blind. Yet, it was inherently gendered as it considered women as

---

[119] In 1950, the Democratic Party, a small secular political group, drafted an optional secular personal status proposal and submitted it to parliament, but the proposal did not make it to the parliamentary sessions.
[120] According to decision 60/1926 organising family law in Lebanon, civil marriages contracted abroad are valid in Lebanon only if one or both partners belong to non-Muslim communities. Otherwise, civil contracts by Muslim citizens are automatically subject to Muslim rules.

rational actors and exclusively targeted women (and men) who officially identify themselves as 'secular' and/or are willing to contract civil marriages. Thus, this type of reform fails sustains gender inequality in family law for a large proportion of women who, for various reasons, uphold a religious identity and/or contract religious marriages. The implications of this approach on the enactment of gender equality in family law are discussed in chapter 7.

The dynamics in this policy episode dispelled the myth of the unified 'state'. While a state actor initiated this policy episode, other actors within the state apparatus did not endorse it. Prominent politicians refrained from making any comments or endorsing it, with only a handful of politicians belonging to small secular parties openly supporting it. Thus, the initiative was positioned on the blurred boundaries between state and non-state policy spaces.

This initiative sparked one of the most heated public debates in the recent history of family law policies in Lebanon. The initiative enjoyed the support of a vibrant civic movement that characterised the 1990s and which held varied advocacy campaigns ranging from calling for municipal elections to environmental reforms. This policy episode was of an 'inviting' nature as proposed by (McGee 2004). The president invited civil society actors, human rights groups, and lawyers in particular to draft proposals and submit them to a legal committee. They supported the initiative and backed the president for 'shaking off the sectarian system'. A massive number of support letters reportedly flooded the presidential palace during this period.

In other aspects, this space was less transparent. For instance, the process of the appointment of the legal committee and the review process of submitted proposals was undisclosed. The president's own proposal was finally selected to be put forward to parliament.

Despite its inviting nature, this space excluded two major policy actors. First, religious actors were excluded completely from any consultations or debates. Yet, its actors managed to force their way into the space and form a spiralling vocal opposing force. At the early stages, their response was fragmented. Muslim and Christian religious leaders mainly competed against each other and promoted the

merits of their own religious family frameworks in comparison to other religious ones and secular civil marriages (Zaarab and Aqil 1997). Their stance from the initiative differed too. Muslim religious leaders categorically opposed civil marriage, while Maronite religious leaders expressed milder reservations. This difference stems from Muslims' special religious personal status that legally supersedes any other legislation, whereas some aspects of Christian family law, such as inheritance, already incorporate secular civil jurisdiction.[121] As the president insisted on going ahead with the reform campaign, religious leaders united their stance and denounced the 'secular threat' implied by the proposed reforms (El-Cheikh 1998-9).

Politicians, the second group of excluded actors, stepped in at a later phase to back religious actors. Prime Minister Rafik Hariri and the Speaker of Parliament Nabih Berri were among the prominent opponents who condemned the initiative. On 11 March 1998, the president chaired the cabinet's weekly meeting with the presence of the prime minister and all ministers affiliated with his coalition. After discussing all other items on the agenda, the prime minister and his affiliated ministers withdrew from the meeting before reviewing the proposal. The remaining ministers voted the proposal into parliament. Until date, Nabih Berri, long serving and influential speaker of parliament blocked the law proposal by consistently removing it from the working agenda of parliamentary sessions. As the president's term ended six months later, the issue was dropped.

After this defeat, secular civil society groups took the lead in reviving this reform attempt. In 1999, around 70 major human rights and democracy groups formed the Coalition for an Optional Secular Civil Marriage Law. The coalition built on the existing momentum to the now former president's optional civil family code. For three years, civil society organisations launched an advocacy campaign mainly constituted of signing petitions and holding community meetings and cultural and public events. However, as the earlier public and political support waned, the momentum of the campaign also plummeted.

---

[121] The legal personhood of Christians citizens is organised under two secular family codes: the 1951 'Civic Inheritance Law for Non-Mohamadeans', and the law of 1926 recognising civil marriages contracted abroad.

The failure of this reform attempt was not the only policy outcome. It contributed to overwrite the official 'desectarianisation' discourse of the Taif agreement. It repositioned consociational personal citizenship and the secular-sectarian dichotomy as a dominant public discourse and thus contributed to erasing the secular promise of the post-conflict era. As a result, policy actors expressed their conflicting post-conflict national identities through the negotiations of family law reforms in a way that accommodated gender discrimination (Welchman 2009).

5.3.2 Gender-'focused' policy episodes

Global 'Engendering' and Local Gendering of State Institutions

In parallel to the above-mentioned policy episodes, the discourse of gender equality was fast-tracked through the global gender equality agenda of the CEDAW convention and its follow up mechanisms. Accordingly, this policy episode emerged in the first half of the 1990s.

An overlap between global and national events led to the emergence of state actors in the gender policy space. State actors regained political prominence as part of the renewal of Lebanese state institutions at the end of the conflict in the early 1990s.[122] In the same period, global gender equality actors, namely the CEDAW committee, promoted the role of state actors as prominent forces in the Beijing Fourth Summit on Women in 1995. They encouraged the formalisation of representation of gender issues and broadened its scope to include state actors by pushing for the establishment of gender-centred governmental structures.

The focus on the CEDAW convention created new official institutional entities that remodelled the gender equality space. As with the pre-war bargaining discussed in chapter 4, various actors reworked these institutions in a gendered version of the

---

[122] In the early 1990s and with the start of the post-conflict period, the landscape of Lebanese civil society changed. The legalistic human rights approach was gradually enmeshed with a good governance framework. A number of human rights and democracy groups were established in response to the specific post-conflict governance challenges and partly due to western donors' promotion of the good governance agenda. Substantial funding by USAID and other European donors was provided to new groups working on democracy promotion and anti-corruption activities. As this new generation of actors emerged and connected with emerging global discourses, human rights issues were reformulated in broader governance activism. Women groups also engaged with the in-flowing stream of gender equality discourses through a multitude of donors in preparation for the Beijing conference. These new relations with international donors distanced the stream of women and human rights groups and compartmentalised them into two sub-civil society spaces.

current political system in order to assert the power of dominant political and religious actors.

This formalisation of official gender institutions took shape in 1993 over two phases. It was induced by international actors with support from local women groups and official actors as part of the momentum around Lebanon's participation in the Fourth Annual Beijing Summit on Women in 1995. In the first phase, the UN CEDAW committee, in cooperation with UNIFEM and UNDP local offices, invited local actors to form a national delegation and establish a national committee to promote women's rights and mainstream gender issues in national policies. The delegation was established as a first step towards the institutionalisation of gender-focused official bodies. The Beijing Declaration and Platform for Action prompted countries to establish or strengthen official bodies dedicated to advancing women's rights. These recommendations provided general guidelines but left it to various countries to devise their own frameworks:

> a strong political commitment, [to] create a national machinery, where it does not exist, and strengthen, as appropriate, existing national machineries, for the advancement of women at the highest possible level of government; it should have clearly defined mandates and authority; critical elements would be adequate resources and the ability and competence to influence policy and formulate and review legislation; among other things, it should perform policy analysis, undertake advocacy, communication, coordination and monitoring of implementation. (CEDAW Committee undated)

Subsequently, the committee converted into the National Commission for Lebanese Women (NCLW) in 1996, and was officially mandated by a ministerial decree in 1998. It held a three-pronged mandate as follows: 1) to conduct "consultative" tasks on "women's affairs and conditions [...] and to assure them equal opportunities to men"; 2) to hold "correlative and coordinating" tasks "in affairs regarding women's status" with official national and international bodies; and 3) to undertake "executive" tasks such as drafting national strategies "regarding the affairs of Lebanese women" and planning and executing programmes that "benefit Lebanese women in particular" (NCLW undated). This new structure constituted the first direct and formal involvement of the post-conflict state in women's rights issues. It was attached to the Office of the Prime Minister rather than any official body or ministry.

At the initial stages, the commission positioned itself as an independent body benefiting from a "strategic position that separates it from governmental institutions on one hand and civil and private entities, particularly those concerned with women's affairs, on the other hand" (NCLW undated). It further distanced itself by establishing some rules for cooperation where it supported "governmental, civil, and private institutions in as much as they conform with the policy set by [NCLW] in the national Plan for action" (NCLW undated).

The commission's organisational structure was to include "members known for their active and effective participation regarding women's issues and affairs" (NCLW constitution). The selection process of the governing body was not detailed in the by-laws. It was only summed up as "women delegated by the President of the Republic" (NCLW undated).

The enactment of the policy outcomes reiterated the pre-independence gendered spaces discussed in chapter 4. Through customary practices, the NCLW's organisational structure mirrored the formal hierarchy of the political system and expanded the power of state actors over women's issues. The NCLW was presided over by the wife of the president of the republic, had the wife of the speaker as a vice-president, and included the prime minister's wife as a board member.

NCLW also acted as a gatekeeper to women groups' participation in the gender institutionalisation process. Despite the regulations of the CEDAW committee about the advisory role of non-governmental actors, there was no mention of Lebanese women groups in the NCLW's by-laws. Similarly, throughout this episode, gender equality in family law was largely ignored. The official speech of the delegation to the Beijing summit avoided referring to personal rights. Later on, NCLW's mission statement was carefully worded to avoid any specific reference to this area of discrimination against women.

These findings discussed above inform research on gender equality processes and post-conflict state building, such as the cases of Latin America and Palestine (Johnson 2004). Women's spaces for social action increase during war time, yet they

are restricted in post-conflict settings. This trend particularly affects gender equality in family law as political actors, mainly male politicians and religious leaders, hold on to discriminatory provisions through a 'masculanisation' process. However, in the case of Lebanon, the masculanisation of space was enacted within supposedly gender enhancing structures. These findings assert the post-structural concern over the 'sisterhood' concept discussed in chapter 2 and the tokenistic approach adopted by global and local gender equality mechanisms (Cornwall, Harrison et al. 2007).

'Lebanising' CEDAW: The ratification and follow up mechanisms

This policy episode reinforced Lebanon's official commitment to universal gender equality mechanisms including Lebanon's accession to the CEDAW convention and the follow up mechanisms. The episode was entirely of a closed and legislative nature, completely occupied by state actors. None of the women groups or other civil society actors was included in the process. The ratification process was also entirely secretive. It passed on 24 July 1996 with a few reservations that went largely unnoticed and without any public debate accompanying it in the press or by women groups. Women groups considered it a victory in the history of women's rights in Lebanon.

The follow-up phase started after Lebanon's accession to the CEDAW convention. It focused on mainstreaming universal gender equality in Lebanon and eliminating reservations placed by Lebanon on the convention. The follow-up procedures follow the directives of Article 18 of the CEDAW convention requiring state parties to present periodic reports on the progress of implementing the convention (UNO A/Res.34/180 18/12/1979).[123] The CEDAW committee places comments on the national reports and holds meetings with the official delegation to discuss them. In the case of Lebanon, this process is one of the most closed and least transparent ones.

Global actors largely drove the construction of this phase. It involved the CEDAW committee, the NCLW, a few experts drafting the reports, and a restricted number of civil society actors who occasionally participated in the delegation in the UN headquarters in New York. This core circle does not disseminate any of the results

---

[123] State parties are required to submit one report within one year of joining the convention and four years thereafter, or as frequently as the CEDAW committee requires them to.

and updates, leaving many women groups and other civil society organisations, the media and the public out of the loop. The content and outcomes of this process are removed from the knowledge base and practice of women groups. It was not mentioned in any conferences or forums that I attended on the subject during my fieldwork, or any women groups' websites or database, not least the NCLW's.

The follow-up mechanisms included women groups only at a nominal level. For instance, the CEDAW committee did not inquire into participation mechanisms of non-official actors in NCLW, such as the non-governmental committee sitting on the NCLW board. Similarly, their subsequent dispute and separation from the commission did not feature in the national reports and the CEDAW committee's comments on them. Furthermore, the review process does not require the official and non-governmental reports to be synchronised in terms of issues and themes to be discussed, and thus does not receive a comprehensive view of the situation from both parties. Hence, the NCLW and the LWNGO5 jointly drafted a National Lebanese Strategy in 1997. Since then, the NCLW submitted three official reports between 2002 and 2006, while CFLWI submitted two shadow reports in 1996 and 2005. The CEDAW committee met with the Lebanese delegations on three occasions. Summaries of comments, responses, and concluding remarks are published, but minutes of the meetings were not made public.

The gendering effect of family law as a governance order was most pronounced in this episode. On 24 July 1996, the Lebanese government ratified the CEDAW convention and framed legal personhood under the religious category. The parliament placed reservations only on subsections of Article 16 illustrated in the box below and which specifically related to several aspects of gender equity in marriage and family relations (UNO 26/06/1998). Reservations were placed on those clauses that contradicted religious family law, such as gender equality in marriage and dissolution, parenthood, and legal right of care. They also preserved patriarchal traditional norms of acquiring a family name by placing reservation on an Article to that effect.

Box 1: Article 16 of the CEDAW convention and the reservations placed by the Lebanese Government (source: UNO A/Res.34/180. (18/12/1979):

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
(a) The same right to enter into marriage;
(b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
(c) The same rights and responsibilities during marriage and at its dissolution;
(d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
(e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
(f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.
2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

In addition to these specific reservations relating to women's personal rights, state actors used the legal provisions of the CEDAW convention to steer away from international scrutiny. Lebanon went by the subsection 2 of Article 29 allowing states to absolve from complying with inter-state arbitration or recourse to the international Court of Justice as follows (UNO A/Res.34/180 18/12/1979):

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph I of this

article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

With these provisions, the Lebanese state could ignore the Danish state's objection made on 26 June 1998. The Danish government asked Lebanon to lift its reservations, as they were "incompatible with the object and purpose of the present Convention [and therefore] shall not be permitted" (UNO 26/06/1998). This example shows that the CEDAW harmonisation process accommodates some contradictions that affect the possibilities of sustaining activist pressure on states' discrimination against women's rights. However despite these contradictions, the CEDAW harmonisation process provides a room for activists with some room for manoeuver as they can install pressure from within the national frameworks. In her analysis of Arab states, Mayer (1995) explains how the harmonisation process in various contexts has taken different trajectories, with some countries such as Tunisia taking favourable steps despite the reservations initially placed.

Injecting VAW into Personal Rights

A final episode defined post-conflict gender equality in family law policies when Lebanese women groups adopted the Violence Against Women (VAW) approach initiated by the UN global gender agenda after the Copenhagen meeting in 1992. They warmed to this untapped new angle to women's personal rights. They promoted this approach simultaneously with the initiation of the optional civil status law campaign. The two episodes ran in parallel to each other without much intersection. However, this discourse expanded significantly after the optional secular reforms were dropped.

This space was mainly initiated by global actors and catalysed by local civil society. As early as 1993, the UN General Assembly issued the Declaration on the Elimination of Violence against Women (Res. 48/104 of 20 December 1993). The

VAW focus of this declaration did not trickle down to Lebanese women groups until two years later through international donors as part of a regional initiative.

The VAW track diverted from a strict focus on religious family law. For example, LWNGO7 suspended any advocacy on reforming current family law provisions until "the climate would be ready for it". It shifted instead to reforming the civil law such as 'honour killings' and lack of matrilineal nationality transfer (BM1 2005).[124] Their US donors disapproved this agenda shuffle, due to the larger scope of gender discrimination in family law (BM9 2005). This example reveals the complexity of global-local negotiations of agenda setting.

The VAW approach became a dominant discourse used in personal rights debates. It succeeded in steering policy away from the secular/religious dichotomy of legal personal status reforms provided through the presidential initiative in favour of the new VAW paradigm. With this new approach, gender inequality in religious family law was merged with 'violence'. The fusion of the two discourses ultimately led to diluting the element of religious legal discrimination and focusing instead on 'cultural' issues, such as reforming domestic violence in civil law. For instance, LWNGO1 turned to tackling legislative reform of domestic violence through drafting of a civil law against domestic violence with the aim to "unify women from all different sectarian affiliation around a unified law against domestic violence" (BM6 2005). The implications for this new direction are discussed further in chapter 8.

5.4 Post-conflict formulation of the policy problem and the framing of concerned populations

This section focuses on the way the gender-focused and gender-'blind' policy episodes formulated the problem of gender equality in family law and constructed the legal personhood of women with family law problems. Following Lewis and Mosse (2006), I examine how gender-focused actors[125] 'translate' gender knowledge

---

[124] LWNGO7 launched a campaign to challenge clauses granting males acquittal from 'honour' crimes they commit against their female relatives. The campaign also calls for equal sentences between men and women in adultery provisions.

[125] I am using the term 'gender-focused actors' to refer to governmental and non-governmental actors who were involved in gender-focused policy making, such as official governmental organisations linked to the CEDAW mechanisms and leading women groups. Here, I am extending Lewis and Mosse's (2006) notion of 'translation' of (gender) policy discourses from NGOs to also include

by way of 'arranging' their understandings of social phenomena related to the problem. Lewis and Mosse refer to Latour (2005:194-5) view that the 'translation' roles of NGOs are about "proving themselves by transforming the world in conformity with their perspective on the world". I trace how state and non-state actors formulated the 'problem' of gender equality in family law through several interrelated, though seemingly distinct, discourses that closely followed gender-blind governmental discourses. In order to illustrate the power of translation, I will explore this process through a reading of the official and shadow reports submitted by the Lebanese government and LWNGO5 as part of the CEDAW harmonisation mechanisms.

In the transition to the post-conflict period, dominant feminist discourses on gender equality in family law were in line with the secularist stands of prominent women groups. These discourses explained gender inequality in family law as a statutory problem related to the political structure of 'sectarianism' in Lebanon. For example, in 1980, leftist women group LWNGO3 called for "the elimination of any existing discrimination against women in personal status laws and penal codes" as part of its initiative to draft a 'Declaration for Lebanese Women's Rights' (BM2 2005).[126]

Human rights activists working on women's issues also relied on the Universal Declaration of Human Rights (UDHR) to claim gender equality in personal rights. Laure Moghaizel, a prominent human and women's rights activist saw "the need for a secular marriage [code] that brings equality to different Lebanese [groups] and between individual citizens" (Annahar 1995). She proposed "a unified secular code [...] that applies to all citizens with the possibility for citizens who want to abide by their religious doctrines to contract religious marriages too like they do in other countries like France for example" (Annahar 1995).[127]

---

governmental actors in order to show how both actors contribute to mainstreaming gendered discourses on family law.

[126] Although the quote didn't specify 'secular', it was generally understood as implied, as specified by one member of the group. It remains, however, important to note that it was not as easily publicly expressed.

[127] This framework fitted within the overall gender equality claims of women groups of that era. It however remained low on women groups' list of priority issues which focused on 'putting the nation first' during the war period (LLWR 1997)

The first set of Lebanese CEDAW reports mainstreamed the abovementioned discourse. In terms of identifying the problem, the first official report was more vocal in pointing to religion than the shadow report. The official report associated religious family law with a political-religious order of 'confessionalism' seen as "the main cause of fanaticism and war" (CEDAW/C/LBN/1 2/09/2004:12). The shadow report concurred, considering religious family law as 'detrimental' and imposed on the population (The Non-Governmental Committee for Following up on Women's Issues and Lebanese Council of Women 1999). The official report explicitly identified the religious institution as a hindrance or "uncontested authority [...] that is well established. [...] Religion acts sometimes as a brake on the socio-cultural expressions that are in harmony with the changing reality" (CEDAW/C/LBN/1 2/09/2004:33). The shadow report steered clear from mentioning religion and only referred to an undefined order of 'patriarchy' responsible for gender equality.

In terms of policy solutions, the official stance was more ambivalent than the non-governmental one. The first official report did not call for the abolition of confessionalism and adopted instead a primordialist view of a "denominationally-structured society [...] made of 18 confessional groups" (CEDAW/C/LBN/1 2/09/2004:33). It proposed the solution of an optional family law reform. The shadow report called for a universal secular family law and suggested an optional reform as a temporary measure (The Non-Governmental Committee for Following up on Women's Issues and Lebanese Council of Women 1999:96).

In the late 1990s, as the optional civil marriage reform campaign was launched, women groups shifted their stance from a universal statutory conception to an optional communitarian model. Gender inequality in family law was still considered a policy problem, but it was reformulated into a gender-blind lens of absolute communitarianism. The shift was noted among leftist women groups, such as LWNGO3, who used to be early advocates of universal gender equality. They justified their support for optional reform because it 'brought equality without coercion'. As mentioned in the earlier section, the optional reforms were dropped from the dominant discourses on family law as various women groups disagreed on them.

The shift towards consociational reform is traced in the second round of CEDAW follow up reporting. The second official report restricted the problem to the constitutional changes granting religious leaders power over family law (CEDAW/C/LBN/2 11/02/2005:11).[128] It thus completely omitted discussing gender inequality in religious family law at any legal, structural, or institutional levels. It only pointed to discriminatory civil legislation in the section on 'legal equality before the law', such as issues of honour killing, rape and physical violence.

The second official report included concerned populations within an absolutist communitarian order where "Lebanese society is distinct in that its members belong to different religions and in that each religious community has its own interpretations of religion and its own customs" (CEDAW/C/LBN/2 11/02/2005:36). Subsequently, the report (CEDAW/C/LBN/2 11/02/2005:38) shifted the problem of gender inequality in family law from the statutory to the structural and cultural levels

> [T]his position of men as head of household is specifically enshrined in the personal status laws. The authority of men over the family is set against the requirement for obedience on the part of the wife. Until recently, women from the various religious communities were complicit in this requirement. Most Christian communities, however, recently abandoned the principle of obedience in favour of that of partnership between the married couple. In other religious communities, disobedience by the wife grants the husband the right to discipline her, although it is a principle that is disputed in recent interpretations by religious officials.

The second shadow report followed the official line. It moved from a political analysis of religious laws, towards cultural explanations of 'confessional communities' emphasising its impact on norms and values and crosscutting with VAW (The Non-Governmental Committee for Following up on Women's Issues and Collective for Research and Training on Development Action 2005). With this newly introduced cultural understanding of religion, it proposed optional civil reforms alongside reforms of religious courts.[129]

---

[128] In this sense, the CEDAW reports were lagging behind policy momentum and reported earlier policy episodes than the ones discussed.
[129] Rania Maktabi (2009) argues that 'individual-based' civil family law reforms favour more equality than 'group-based' ones. However, the Lebanese case indicates that individual approaches can also be

Cultural explanations soon gained popularity among women groups. They supported it as a concept and added it to the earlier statutory action on gender equality in family law. As LWNGO1 was formed, it assumed a specialist status by exclusively dealing with women's personal rights. Most women groups adopted a supportive stand. However, of the seven studied women groups, only LWNGO2 added VAW-based legal and psychological counselling to its array of other rights-based activities (BM1 2005). The five other women groups added VAW as part of their overall goals or mission in addition to the earlier legal optional reform demands.

The formulation of the 'problem' of gender equality in family law completed a U-turn in the third CEDAW follow up round of 2008. The third official report (CEDAW/C/LBN/3 7/07/2006:11-13) justified the cultural dimension of sectarian identity by locating it at the heart of the political and social system:

> The legislative and judicial pluralism in the area of personal status has a constitutional framework and roots associated with the establishment and stability of Lebanon as a political entity. Accordingly, it is extremely sensitive and linked to the broader political and social situation in the country [...]. The social structure on which the Lebanese political, administrative and legislative system is built is a composite, based upon a sectarian foundation."

Here, the religious institution was re-constructed as the foundation of Lebanese society, and thus gender equality in family law was discussed only within the existing legislation. Secular family law reforms were entirely ruled out as "currently outside the framework of discussion" (CEDAW/C/LBN/3 7/07/2006:12). The report justified this omission from a pragmatic perspective since "the attempt to place all legislation in one basket may hinder the possibility of amending any at all, considering that, based on the experience of previous attempts, certain laws arouse latent sectarian sensitivities within the Lebanese context that cannot be ignored" (CEDAW/C/LBN/3 7/07/2006:13).

---

problematic if they are 'optional' as they exclude women who are not able to voice their preference for this type of reform and thus continue to operate under 'group-based' family law arrangements.

The third shadow report closely followed suit. It largely acknowledged the loss of the battle of optional family law reforms to religious leaders (The Committee for Following up on Women's Issues 2007). It also adopted a similar U-turn by dropping suggestions for optional secular reforms and calling for reforms within religious courts (The Committee for Following up on Women's Issues 2007). This understanding of the problem was echoed in some women groups' actions. The LWNGO4 was the only secular women group to uphold this later approach. It actively engaged with religious leaders to reform discriminatory jurisprudence within religious law. The approach was based on a pragmatic view of the Lebanese system as a fait accompli and "very hard to change" (BM3 2005). Taking an incremental approach to various aspects of discrimination, the group started by launching a campaign calling for greater women's rights over their children's custody. It networked with religious leaders and was about to reach an agreement among most religious leaders on the matter at the time of my fieldwork. However, the president of the group recognised the limitations of such an approach. For instance, multiple jurisprudence in Shi°a jurisdiction offers more selectivity in the rulings of religious judges. Similarly, BW3 acknowledged that there are certain issues that cannot be addressed, such as unequal inheritance within Muslim directives and divorce within Catholic directives.

Through this process of reformulation of the policy problem, women groups also constructed particular assumptions about the concerned populations, women with family law problems. The first set of assumptions relates to the understanding of gender inequality in family law as a statutory problem. In this understanding, women are assumed to have equal access power to legal justice. This assumption also contains a secularist bias as it ignores the institutional gendered influences that can inform the agency of various actors, such as women with family law problems, women groups activists, civil judges and lawyers.

The optional reform approach considers women as autonomous individuals and rational choice agents who decide on their actions in isolation of the institutional influences that shape their subjectivity. These formulations of subjectivity fall within the secular-religious dichotomy where individuals– including women– are assumed to step in or out of clearly delineated secular or sectarian categories. As discussed in

chapter 6, the process of subjectification is multi-layered and fluid where categories are continuously blurred. Similarly, this approach creates a hierarchy of women. A large proportion of 'sectarian' women are excluded from the gender equality concerns of women groups who assume that they are content with the religious laws to which they subscribed.

In contrast, the VAW approach steered the formulation of the policy problem away from the secular-religious dichotomy of family law reforms. It reformulated religious affiliation and linked more closely with the lived experiences of women. While the VAW approach is merited for dealing with a taboo social issue and reaching out to a new target group of battered women (Beydoun 2002), this approach fixes agency as passive victimhood. Women were required to 'break the cycle of violence' in order to move away from their passive state (LWNGO1 2005). This was done by providing professionalised support networks that women can seek for protection, psychological support, and legal backup through the counselling and support services provided to them by women groups.

In this way, the VAW approach also denoted a hierarchy between civil society and communal spaces. It assumes that on one hand women's agency is hindered in communal spaces ruled by cultural biases. On the other hand, women get 'empowered' within civil society spaces with access to professionalised services of women groups. These assumptions are framed within liberal understandings of the associational space as void of institutional gendered influences.

Through my interviews with women group leaders, proponents of both approaches specified that women suffered from 'legal ignorance' and were in need of 'legal education' on their rights (BM2 2005). Whether through legal reforms or service delivery, women groups assume that knowledge is readily available 'out there' for women to grab. In practice, it is far from being accessible, either to women with family law problems or to lawyers who represent them, as discussed later in chapter 8. In this narrative, women with family law problems were assumed to be in a state of 'false consciousness' where they are not aware of their rights and thus accept gender inequality. This approach thus depoliticises the issue into a linear problem-solution or awareness-action continuum, which disconnect women's subjectivity

from their social environment and ignore the influences that affect their ability and willingness to take action and seek support. These issues constitute the core of the following chapters.

5.5 Conclusion

This chapter explained how the order of gender governance of family law policies was underpinned by a concern for gender discrimination rather than the optimisation of communitarian legal personhood. Gender bias was the common denominator that threads through the inconsistencies of the negotiation of policies of post-conflict citizenship.

The post-conflict policy process on gender equality in family law is composed of disconnected policy episodes constructed by an amalgamation of local and global regimes of rights and citizenship. Each of these episodes consisted of nodes of policy tension that simultaneously facilitated and resisted reform of gender equality in family law. Major chords of gender-sensitive family law policies were resisted by minor chords of gender-biased policies. Together they drove these reforms to a standstill. This tension between major and minor policy chords was driven by an interplay between global and local discursive regimes rather than an opposition between them.

The initiation of policy episodes relied largely on favourable 'policy moments' prompted by broader political-historical circumstances. For instance, the inconclusive outcome of the civil war facilitated the constitutional amendment and the Taif post-war order. Similarly, the Beijing summit and the UN promotion of the VAW approach speeded up the creation of women-specific policy spaces.

The boundaries of actors' participation in these policy episodes were often blurred, overlapping, and constantly redrawn. McGee's (2004) categorisation of 'closed, invited, and autonomous' was limited as it confounded the type of boundaries with the nature of institutional actors involved and not accounting much for flexible boundaries within the space. The analysis suggests that more than one type of actor participated either directly or indirectly in various policy episodes. In some cases, various actors were 'formally invited', such as the participation of women groups in

the CEDAW institutionalisation and the VAW initiative. In other cases, actors 'forced' their entry into policy spaces with various degrees of negotiation power. The 'forced' participation provides more nuanced understanding of actors' participation than the 'co-opted' concept used. Similarly, some actors 'delegated' their participation to other actors who acted on their behalf. So their physical absence from the space does not mean that their institutional power is negated. Rather than exclusion, it was an indication of their overarching power over these policies.

The enactment of law further supports the inconsistency of the sectarian analysis of gender equality and family law and suggests that the 'sectarian' parameter is not the defining factor for legal personhood. These inconsistencies were noted in two policy reform attempts in the post-conflict period. The process of these two policies indicates that the common barrier for reforms lies in an anxiety at altering the gendered order of family relations that is in place.

This exploration draws on two areas of analysis. First, legal personhood related to family law is not as fixed as often assumed. Legal provisions and enactment of laws since pre-independence to the post-conflict period show that legal personhood is not entirely circumscribed under sectarian terms, nor are the provisions for religious marriage fixed. Second, the various inconsistencies that spread legal personhood over individual and communitarian realms cast doubt over the usefulness of the sectarian lens of analysis of gender equality in family law. The following chapters explain how the order of gender governance is exercised through the enactment of post-conflict family law policies.

6 CHAPTER SIX Legal frameworks as techniques for blurring women's legal subjectivity

6.1 Introduction

> In Lebanon, family law is the problem of problems. [...T]he essential mentality and make-up of the Lebanese fabric [...] is basically centered around religion. Religion is a problem because once they mention religion, it means that it is with God's hands and cannot be changed.
>
> (BM3 2005)

This quote adopts a fixed understanding of religion as an overarching legal system that exercises ultimate power and cannot be challenged. This quote assumes that law is fixed and unified in one authority in the sense that "law is and should be the law of the state, uniform for all persons, exclusive of all other law, and administered by a single set of state institutions" (Griffiths 1986:3). This view also contains a problematic policy implication on solutions for gender discrimination in family law. It is summed up in this account from BM2 (2005), a board member of LWNGO2, a leftist women group, as she explained their work on family law:

> Our main activity is working with women on raising their awareness to their rights because the woman sometimes doesn't know her rights, or doesn't know how to benefit from them or how to deal with them. This is very much present in our society.

BM2 adopted a common rationale for the policy problem and solution. Women's legal personhood was clearly defined in law. Women's legal entitlements were also deemed to exist in family codes, but women were failing to locate them. Apart from the broader issues of blaming the victim, this perspective assumes that women as legal persons were distinguished from the power of law making. Furthermore, this statement reveals that policy makers consider the 'right' of gender equality in family law, as a 'commodity' (Brown 1995), or a 'thing' (Pottage 2004) that is to be appropriated by women.

Coming from the same activist and practitioner background, I started my research within the same lens trying to 'locate' legal rights of women in current legislation. However, this task was increasingly elusive as I started my interviews with women respondents. As I conducted my fieldwork, it was not possible to trace a unified coherent thread stating 'God made' directives. Also it was hard to pin down one legal administrative authority that manages family law in Lebanon. This meant that as the legal sources and authorities were multiple and blurred, women could not possibly 'know' their rights. I thus dropped the task of 'locating' these rights as if they were a consumers good (Brown 1995), and moved towards considering them as a process of enactment through understanding how the family law framework actually 'works' instead.

The chapter explains how the gender governance is enacted in the legal frameworks and legal authorities. The judiciary system constitutes techniques of governance that are aimed at generating gendered and restrictive notions of legal personhood. These techniques are expressed in terms of legal plurality at two levels. The first level is the multiple layers of horizontal and vertical sovereignties over family law. Second, these multiple realms of authority produce multiple, overlapping, and competing legalities. Thus, legal personhood is blurred and stretched between these various layers and authorities. The disciplinary effect of the order of gender governance lies in this blurring of legal personhood that reduces possibilities for pinning down gender discrimination and contesting it.

This argument is laid out in three steps. In the first section, legal authority over family law is found to be multiple and competing between state and non-state actors. In the second section, the substance of legal directives largely relies on unscripted religious directives that blur legal personhood. The fourth section discusses the disciplining effect resulting from multiple legal authorities and unscripted directives. Finally, the concluding section summarises and reflects on the main argument.

6.2   Multiple authorities and legalities

In this section I explore the various institutional realms of legal authority that 'manage' legal personhood in the sense used by Foucault (1980) to describe how state institutions control populations. These authorities act as multiple overlapping

and conflicting sovereignties that establish particular 'regimes of truth' about populations (discussed in detail below in chapter 7). In the case of Lebanon, several institutions intersect, compete, or run in parallel to legislate legal personhood in family law. These dynamics form a web of 'plurality of legal orders' (Santos 2002). Santos proposes to analyse the various authorities constituting legal plurality in terms of infrastate or suprastate legal orders. This framework is useful to analyse the dynamic layers of legal orders that are formed by various authorities. However, it is limited in the sense that it adopts a western-centred view of the state and places it at the centre of the legal orders. In order to account for this bias, I adapt this framework by using the suffix 'state' in its broadest sense to refer to 'official' institutions, whether civil or religious as stated in my definitions section 1.5.

The main question driving this section is to ask who has what power over shaping legal personhood in family relations. It aims at dispelling the state-religious institutional dichotomy in two ways. It unpacks the state by showing that it is composed of multiple bureaucracies with different interests drawn against an imaginary state (Gupta 2006).[130] It also traces the overlap between civil and religious institutions in various post-colonial contexts and their amalgamation into governance frameworks (Mamdani 1996) that construct the legality of women rights in family law. The analysis mainly relies on the institutional actors that make up the governmental and non-governmental authorities on legislation of family law.

6.2.1 The Lebanese family law judicial system

The starting point is to explore at two levels: i) who actually constitutes the 'heads of recognised religious communities' who hold ultimate authority over family law as per the Article 23 (L.R. 21/09/1990) of the post-conflict amended constitution; and ii) how is their power channelled through governance practices. The officially recognised heads of religious communities are organised in two types of bodies: a

---

[130] In their joint work, Gupta and Ferguson (1997) mention that research contains a significant bias when analysing social processes through a 'vertical slice'. Much research places primacy on the macro structures or institutions at the expense of the bottom end of the slice where populations or research subjects are perceived to be located. In this section, I approach the vertical slice of authority in an onion-like analysis, from the governmental to the non-governmental entities, the non-governmental being the normative-legal authorities that women also engage with in their daily lives. I make the argument that all levels of authority are interrelated and draw a web of legality across which women's legal personhood is fragmented.

collection of Religious Councils for Muslim communities and Patriarchies for Christian ones.[131] At the same time, they oversee the religious courts system. In both these structures, the boundaries between governmental and non-governmental institutions are blurred.

Religious councils

When the organisational make up of Islamic Councils is traced, they are found to combine both governmental and non-governmental structures. On one side, they are directly linked to the state as they are organisationally attached to the Prime Minister's Office and financially included in the state budget (L.G. 13/01/1955; L.R. 19/12/1967). Islamic councils act as a representative and oversight body due to its elected structure while Islamic courts have the legal specialty of implementing family law. [132] These councils benefit from state budgetary allocation for an administrative pool of civil servants while having an independent representative and oversight role. The Sunni Muslim community in particular holds a special status in relation to the state. Unlike other Islamic communities, it was never 'officially recognised' by the state through any laws, which implies that Sunni Islam is considered the default official religion of the state following the Ottoman legacy (Lebanese Republic 1955).

Islamic Councils are also structured as elected bodies formed by 'notable citizens' subscribed under the religious community. Members include current and former MPs, ministers, and professionals who elect a board and a president. There are two main Islamic Religious Councils.[133] The Higher Islamic Judicial Council (*Majlis al-Qaḍā' al-Shar^{c}ī al-A^{c}lā*) is the entity governing the Sunni populations in Lebanon. It was officially established in 1955,[134] after historically being the official council of the

---

[131] The Israelite community is not currently represented by any religious leader. Its members are not openly practicing in Lebanon. Many have either migrated or converted to Christianity after the establishment of the Israeli state.

[132] This also applies to the Druze, Alawi, and Ismaili Muslim authorities in Lebanon.

[133] The Sectarian council for the Druze Community oversees the affairs of the Druze community in Lebanon and is headed by the Sheikh Al ^{c}Aql. The Higher Alawi Council, which represents the Alawi community in Lebanon that is a branch of Shi^{c}a Islam, was officially established in 1998 shortly after the community was officially recognised by the state. It includes current and former Alawi MPs and ministers.

[134] Sunni Institutions were organised through Decree number 18 issued on 13 January 1955 entitled "Jurisprudence and Islamic Waqfs". This decree confirmed the Mufti as the head of Muslim Communities in Lebanon.

Ottoman empire in Beirut (Spagnolo 1977). The council includes all living prime ministers (who customarily belong to the Sunni Muslim sect since independence with the exception of the first post-independence prime minister), Sunni MPs and Ministers, and other officials in the Islamic Council's organisational structure.[135] This council elects the Mufti of the Republic who presides over it. The Mufti has the title of 'religious head and representative of Muslims' and enjoys an overarching status over all Islamic Affairs and an oversight status over all Muslim communities (L.G. 13/01/1955).

The Higher Shi^{c}a Islamic Council was established later in 1967 and includes on its board the living current and former speakers of the parliament (who are customarily elected among the Shi^{c}a community) as well as Shi^{c}a MPs and Ministers (L.R. 19/12/1967). This council was formed after the Shi^{c}a community was officially recognised in 1926 by a French mandate law as "an independent religious community that is subject to the Jaafari Sect family law in matters of personal status" (Decision 3503, 27/1/1926). On 19 December 1967, a law relating to organising the structure of the Shi^{c}a Islamic Sect in Lebanon was issued (L.R. 19/12/1967). The 1967 law established the Higher Islamic Shi^{c}a Council as an official body, composed of an elected president and board by members of the Shi^{c}a community, and administratively and financially affiliated to the state and overseeing Shi^{c}a religious courts (L.R. 19/12/1967. A. 27).

Based on the above explanation, Islamic Councils can be likened to quasi autonomous non-governmental organisations (quangos). Quangos are "organisations which were in no way officially part of government, such as not-for-profit corporations, but which were effectively used by government to deliver public policy" (Hogwood 1995:207). Carsten Greve (1999) found that quangos are diverse and hold variable levels of 'practical autonomy' (rather than formal or legal) from state actors. Thus, religious councils hold a shifting discursive position that bridges between notions of communitarian and universalist citizenship. They act as both as legitimate insider 'community' representatives of citizens ascribed to this sectarian

---

[135] Prime Ministers in Lebanon are customarily appointed from the Sunni community

category, while they enforce legally binding rules of family law on behalf of the state.

The legal bodies organising the Christian and Israelite communities are completely dissociated from state structures. As these communities are historically considered by the state as religious minorities (*Dhimmis*), their structures were completely autonomous from the state and there are no legal directives organising their councils. According to Thompson (2000) the heads of these communities sought to maintain their independence from the state after negotiations with French colonial rulers. Religiously affiliated civil structures are also in place. Leagues such as the Maronite League comprise Maronite MPs and politicians who are closely affiliated to the religious heads of communities and the Patriarchates (LE3 2011). Even if they do not have a direct structural influence over family law issues, they are major actors in disseminating the religious authorities' discourses of the issue and supporting them in the parliament.

Religious courts system

The judicial framework for religious family law in Lebanon is organised through 'exceptional' religious courts established exclusively for this purpose. They constitute the only judicial structure that is based on religious law. They are institutionally and administratively fully independent from the civil judicial system and the Ministry of Justice. Here also there is a distinction between the status of Christian and Muslim courts. Muslim courts were established in 1962 as part of public administration composed of religious judges and administrative staff who are employed as civil servants. Islamic Judicial Courts *(Maḥākem Sharᶜiyya)*, including Sunni, Shiᶜa, Druze, and Alawi courts are administratively affiliated to the Prime Minister's Office. They are subject to formal inspection by the Council of Civil Service only in relation to administrative performance rather than in relation to the religious content of their practice. They all fall under the legal and administrative authority of the Higher Religious Judicial Council.

Christian religious courts are completely independent from the government's authority and most of them have supranational linkages with the primary religious bodies that represent these communities outside of Lebanon. The structures of the

courts and the mechanisms of appointing religious judges is completely independent and left entirely to the directives of each Church (Takieddine 1996). For instance, the Maronite courts follow the Catholic Church and take up appeals or annulment requests to the Rota Court in the Vatican. Similarly, the Appeal court of the Greek Orthodox Church is based in Aleppo or Antioch and their verdicts for appeal are applicable in Lebanon. Hence these courts operate as a suprastate authority that enforces directives on Lebanese territory (Santos 2002).

The blurring between civil and religious authorities is exemplified in the procedures for implementing legal directives issued by these courts. Two types of civil governmental actors are closely associated with the role of religious courts and directly influence legal personhood. The Attorney General at the Ministry of Justice and the Police Forces affiliated to the Ministry of Interior are responsible for enforcing the decision of religious courts and reinforcing the legality of family relations through the civil penal system, mainly within three areas (Zalzal 2000). First in the case of domestic violence,[136] individuals need to file a complaint at the police stations. The police refer to the attorney general of the district to issue arrest warrants against the perpetrators.

Second, in Muslim family law applied in Lebanon, the wife has the duty of being domiciled (musākana) at her husband's designated accommodation.[137] In case the wife deserts the 'marital home', the husband files a case at the religious courts to force her to go back (usually with a very high rate of success) or otherwise she is considered 'nushū (nāshez) and is not entitled to any rights. In case of positive ruling, and until recently, police forces were entitled to physically dragging women back to their marital homes to apply the domiciliation ruling. While this practice was abolished in the post-conflict period, women subjected to such rulings are banned from leaving the country on the basis that they are outlaws. Police forces apply this order in a way similar to a restraining order. Third, the police are also in charge of enforcing religious courts' decisions in relation to child custody disputes or payment of alimony. The executive authority of the civil system indicates while the religious

---

[136] Domestic violence is criminalised in the Lebanese civil penal code (L.R. 18/09/1948) in terms of bodily harm, and excludes marital rape because it contradicts religious family laws operating in Lebanon.

[137] Shehadeh (1998) asserts that this also applies to Christian family codes.

courts are considered as 'exceptional' and largely independent, their legal mandate is recognised at a national level. However, it is important not to overemphasise the structural role of these councils. As in other conflict-affected contexts, the representative power of legal structures is undermined by the failure of the state to cater for its citizens (Welchman 2002).

6.2.2 Unofficial religious 'normative' authorities

In addition to these official religious authorities, legal personhood is also shaped by various non-governmental religious organisations. Their role as authorities contributes to installing a parallel order of legality that intersects with, but does not always coincide with the official circumscription of legal personhood. During my fieldwork, I came across these forms of authorities that rely on a specific form of arbitration recognised by Shiᶜa jurisprudence. From discussions with women respondents, I gathered other religious communities have comparable institutional mechanisms that provide various forms of religious arbitration expertise.

These Shiᶜa organisations are known as 'Religious Arbitration Bureaus' (*maktab al-ḥākem al-sharᶜī*) (RABs hereafter). They are a specific type of Shiᶜa community organisations registered as charitable/non-profit organisations, and sometimes operate as small branches of larger Shiᶜa charities. They are concerned with providing arbitration on daily religious issues ranging from disputes over commercial and land tenure to family law. They provide their arbitration services on a voluntary basis to willing individuals. They were established gradually in the 1980s following the post-revolutionary Iranian model of family law court system, or 'Special Civil Courts' that are headed by religious judges also referred to as '*ḥākem sharᶜī*' and are part of the official legal system (Mir-Hosseini 2000).

RABs constitute an alternative legal system that can be referred to as 'informal Shariᶜa' (Berger 1999). Their authority over legal personhood is related to the Shiᶜa Islamic tradition of emulation[138] (*taqlīd*) (Esposito and Bas 2001). In concordance

---

[138] As the Shiᶜa tradition of jurisprudence (*ijtihād*) accommodates difference in interpretation, religious references are not formalised into any official structure. This means that Shiᶜa adherents, including court judges, are not bound by one religious reference/authority (*marja`*) who acts as a source of religious jurisprudence on various matters expanding from religious rituals to mundane

with Shiᶜa scholarly religious tradition, individuals follow the directives of selected religious 'references' (*marāje*ᶜ) or publicly learned religious scholars (ᶜ*ulemas*), who, alive or departed, have practiced and documented extensive legal opinions on various aspects of social, political and economic life surrounding Shiᶜa Muslims (Kusha 2002). In this sense, their authority is not restricted to family law but encompass any other religious advice they require. They build popularity by the increasing numbers of followers who emulate them and seek their advice. Most religious leaders and judges also emulate religious 'references' to issue their court rulings as they do not enjoy this specific learned capacity.
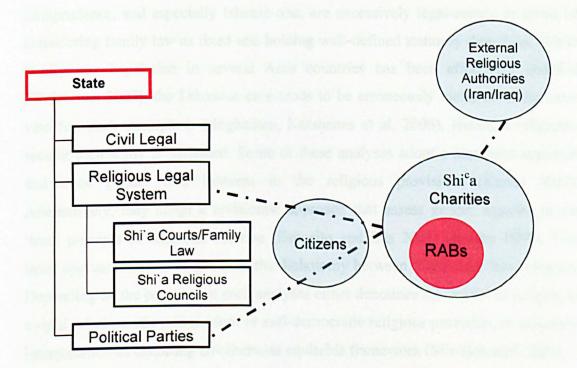
Although there are 'hundreds' of RABs as one Shiᶜa court judge mentioned (RJ1 2005), there are three most popular ones in Lebanon, each closely affiliated to political streams within the Shiᶜa political groups in Lebanon. These RABs are legally and administratively separate from the state and the Shiᶜa religious courts system. They are thus independent religious organisations that provide religious legal advice on all religious matters ranging from questions about proper application of religious directives, personal quarrels, financial disputes, and most importantly, personal status issues. Their main role is ultimately that of arbitrators, which relies on important mediation and counselling abilities. They use a non-official religious judicial framework that is adopted by individuals who seek their services, yet it is not necessarily officially enforced in the Shiᶜa court system.

The 'expertise' of these religious references intersects with Shiᶜa political actors and spreads into a supra national web of legal authority from Lebanon, to Iraq and Iran, who would themselves emulate particular religious references and encourage their followers to do so. Political and religious authorities are intricately linked further as Shiᶜa political parties link with Shiᶜa RABs who dictate their religious legal framework for their followers. For instance, the Imam Khamene'i RAB was established in the mid-1980s. It draws its legitimacy from Iranian religious references and acts as the judiciary branch for Hezbollah. Another prominent RAB was established in 1987 and follows the prominent Lebanese scholar Imam Fadlallah. After being the religious leader of Hezbollah in the 1980s, he branched

---

dealings. They can instead choose to emulate (*taqlīd*) any of the various existing Shiᶜa authorities they most identify with. This creates a multiplicity in legal authority and legal subjectivity.

out, established himself as a moderate religious reference, and enjoys broad following among many observant and moderate Shiᶜas.

Similarly, the Imam Sastani RAB, established in 2001, draws its legitimacy from Iraqi religious references and is closely affiliated to the Amal Movement. [139] This movement is the main Shiᶜa political party that competes with Hezbollah on patronage. It is established for a longer period and thus is well institutionalised within state structures. It is headed by the influential speaker of parliament Nabih Berri, who has been in power since 1992 and reinforced his authority by channelling state funds to his Shiᶜa constituencies by establishing the Council of the South in the early 1990s. Despite the strong alliance of the two political parties, they compete over popular support. These intersections have strong implications on the selection of religious judges. Due to the official political power of the Amal movement and its influence on civil service appointments, it succeeded in appointing most Shiᶜa court judges among its sympathisers.

Shiᶜa RABs- Institutional Perspective - Positioning within State and Non-State Institutional Actor

---

[139] The RAB of the Sastani Office. It is the most recent one, established in 2001 by Sheikh Mohammad Mehdi Shamseddine, the former head of the Highest Muslim Shiᶜa Council.

RABs constitute an authority that is both suprastatal as it could derive its legitimacy from transnational religious judicial networks.[140] It is also an infrastatal authority in the sense that its directives are not recognised by official religious legal structures. However, as Rabo (2005) reminds us, non-legal religious authorities do not construct legal personhood in complete separation from the national legal order. They contribute to an intertwined composite of legal personhood that is mainly framed by state techniques such as civic records and a multi-levelled court system.

This section explained how the order of gender governance is constructed through a web of multiple legal authorities of family law judiciary. The implications of this multiplicity in legality are discussed in the next section.

6.3 Family law jurisprudence and women's subjectivity

This section discusses the way the order of gender governance is enacted through the blurring of legal content of family law directives. Most debates on religious jurisprudence, and especially Islamic one, are excessively legal-centric in terms of considering family law as fixed and holding well-defined statutory directives. While family law legislation in several Arab countries has been effectively codified (Welchman 2007), the Lebanese case tends to be erroneously included in the same vein (on such example is Moghadam, Karshenas et al. 2006). Hence, a religious-secular dichotomy is sustained. Some of these analyses adopt a secularist approach and trace gender bias inherent in the religious provisions (Kusha 2002). Alternatively, they adopt a revisionist approach that assess gender equality in the 'true' precepts of religious doctrine (Esposito and Bas 2001; Hashim 1999). This latter approach further emphasises the dichotomy between 'high' and 'low' religion. Depending on the perspective such analyses either denounce the 'spirit' of religion as a rigid set of mostly non-modern or anti-democratic religious provision, or discounts interpretation as distorting an otherwise equitable framework (Mir-Hosseini 2000).

---

[140] This supra-legal personhood was noted also in other religious groups. The example of W10 illustrates the point. W10 is a Druze woman respondent whose battle for divorce and child custody was bitterly co-opted by her powerful husband. After years of stalled court processes, she sought the arbitration of a highly esteemed and popular Druze religious reference. After assessing her situation, he granted her a divorce ruling on the basis of her grievances. The Druze court rejected it as legally unbinding because the religious judge did not recognise the reference as a valid authority.

Both dichotomies represent one main weakness of the legal centric approach. They take various legal directives, whether secular, religious, in their high or low form as legal 'facts'. The weakness of such perspectives are detailed elsewhere (such as in Santos 2002). In this section, I intend to dispel legal centrism in family law in order to make way to the broader gendering effect of family law that is found in the enactment of legislation (i.e. the substance of religious jurisprudence). I therefore focus on the process of 'fact making' or in this case the process by which legal authorities 'fabricate' the rules of legal directives of family law (Pottage 2004). In short, it explores how various legal authorities selectively legitimate various sources of legislation and regulate the personal relations of individuals.

A starting point is to explore the realm of institutional power of legislation that various authorities have within the Lebanese legal setting. As discussed in chapter 5, the code of religious communities (Decision 60, 13/03/1936) allowed 'recognised communities' to hold full authority over family law jurisprudence and to establish their own religious courts with an 'exceptional' status. As mentioned in the previous section, there is variation between the structural affiliation of Islamic and Christian religious courts to the Lebanese state. Christian courts are completely autonomous and are not subject to any administrative scrutiny by the Lebanese state. In contrast Islamic courts are structurally included part of the state administrative apparatus, in the sense that the Islamic judicial body (judges and clerks) are civil servants. They are subject only to administrative regulation by the Lebanese civil judicial system through the National Audit Bureau (Takieddine 1996).

Here some mainstream analyses consider that as Islamic courts are governmental structures, they are subjected to close governmental scrutiny (Traboulsi 1996). In contrast, Christian courts are often singled out as having full control over the legal personhood of Christian citizens due to their completely autonomous status (Traboulsi 1996).

However, emphasising structural affiliation misses the point. In both cases, the 'state' – or more specifically the civil legal system, does not have any control over the substance of jurisprudence operating in family law courts. The exceptional status of courts grants them free hand in terms of the substance of legislation. Both Islamic

and Christian courts enjoy complete autonomy in relation to the content of the legal provisions they adopt. In fact, the Lebanese state has limited monitoring authority over religious courts restricted only to the form and process of court sessions. The state does not have any jurisdiction power over the substance and content of religious codes which are solely monitored by religious authorities. Articles 95 and 738 of the Guidelines for Civil Trials allow citizens to turn to the civil courts in order to contest the validity of any verdicts made by Shari[c] courts (L.R. 16/07/1962). However, in contrast to Traboulsi's (1996) analysisThis authority is limited to the form and the processing of the court case rather than in the content of the dispute. Furthermore, this civil authority is acknowledged in cases where religious courts do not provide any directives on family law issues, which is very rare (L.R. 16/07/1962).

A closer look at the codes that these religious courts rely on reveals the extent of their exceptional status. Within Christian denominations, the Maronite courts follow the Law on Marriage for Eastern Catholic denominations (L.R. 22/2/1949).[141] The autonomy of the courts is confirmed by (Mallat 1997:31) as follows:

> For non-Muslims, personal status jurisdiction is split: the law of inheritance and wills falls under national civil jurisdiction, while Christian and Jewish religious courts are competent for marriage, divorce, and custody. All these courts have more than one degree, and Catholic communities enjoy a special and unusual extra-territorial right of appeal before the Vatican Rota court.

)

In contrast, Sunni and Shi'a courts follow the Law of Shar'i Courts issued on 16/7/1962. This code organises in details the court procedures and rulings for both courts while specifying any differences within individual articles.

Several studies on Islamic law in Lebanon erroneously mistook this law for a specific codification of Islamic family law (some examples are: El Alami and Hinchcliffe 1996 ; Shehadeh 1998). However, nowhere in the text of the law of 1962 is there any

---

[141] The Eastern Catholic code also applies to Melkite, Armenian, Syrian, Latin, and Chaldanean, Other denominations have their own codes such as Greek Orthodox, Armenian Orthodox, Syrian Orthodox, Assyrian Orthodox, and Anglican communities.

indication to the specific directives for marriage contracts and their effects. In fact Article 242 of the Law of Shar'i Courts (L.R. 16/7/1962) specifies that:[142]

> The Sunni Judge issues his ruling in concordance to the most influential dictations of Madhhab Abi Hanifa except in cases indicated in Law of Family Rights issued on 8 Muharram 1336 and 25 October 1933, so the Sunni Judge applies that law. And the Jaafari Judge issues his ruling according to the Jaafari denomination and in any compatible directives from the Law of the Family.

This article is significant in that it concentrates judicial power within religious judges and does not specify any detailed jurisprudence but opens it instead to a myriad of religious sources.

The multiplicity of Islamic jurisprudence within family law deserves special attention. Contrary to some narrow interpretations, religious judges are entitled to extend their rulings on a vast realm of jurisdiction (*fiqh*) beyond the scriptural dictations of the Quran (examples of these interpretations include Lerner 2000; Shachar 2009; Zahraa 1996). For example, an array of detailed religious opinions relies on the Prophet's attributed accounts (*hadīth*).

Specifically, within Shiᶜa jurisprudence, religious narratives are important sources. As RJ2 (2005) explained in an interview about Shiᶜa jurisprudence, "Our source [basis for judgment] is the prophet's *hadīths* (accounts) as well as his companions (*suhaba*). And these are transmitted through different 'recollections' (*riwayāt*)".

The power of the religious authorities lies in selecting and interpreting these narratives, hence emphasizing specific techniques marking them as 'experts' in the field. Rather than making up a linear theological hierarchy,[143] this expertise relies on "competing values, norms and commands" (Bowen 2003:10). As explained by a Shiᶜa religious judge (RJ2 2005), judges in Sunni courts mainly rely on two jurisprudential practices, the judge's 'preference' (*istihsān)* that involves a process of

---

[142] In this article, reference is made to the Ottoman Law of the Rights of the Family only under the condition that it does not contradict Sunni and Jaafari Shar'

[143] Zubaida (2003) elaborates a hierarchy of sources with the Quran at the top and (reasoning) at the bottom. However, my fieldwork showed that this hierarchy is not used when making legal decisions in Shiᶜa courts. Moreover, it is not upheld by judges because of the contradictions inherent in various directives.

rationalisation, and 'analogy' (*qiyās*) that involves weighing different issues and judgements against each other. In contrast, Shiᶜa judges take it a step further due the open nature of jurisprudence (*ijtihād*). *Ijtihād* is a process allowing learned religious references to build on the narratives and come up with new precedents for rulings (Zubaida 2003). Religious judges are entitled to emulate (*taqlīd*) different religious sources and rely on their jurisprudential interpretation. The practice of *ijtihād* is reserved for the exclusive expertise of learned scholars who gain credibility and reputation for their endeavours:

Shiᶜa rulings are [...] based on ijtihād or jurisprudence on scientific basis, by specifying the source and the source that referred to the source in order to make sure that the ijtihād would not be against al-duᶜā al-ṣāleḥ (righteous call). An ijtihād should be towards a 'rightful' path/cause/purpose and not a 'wrong' one.

(RJ1 2005)

These law making practices imply that Islamic legislation is multiple within Shiᶜa and Sunni Islamic jurisprudence despite the differences in the details of the process (An-Naim 2002). Following from this point, religious judges can rely on various Islamic sources for their rulings. Hence, family law judgements are not based on common legal basis; they are located in a myriad of intertwined religious knowledge:

[For example] [t]here are different stories specifying that in the Shiᶜa tradition, the custody [for boys] is set at the age 2 or 7. So some judges would apply either versions and here where it gets confusing. (RJ2 2005)

Thus, jurisprudence is fluid and based on competing rationalisation and interpretation of clerics rather than on a detailed codification of Islamic jurisprudence. The information on jurisprudence and rulings is dispersed over a plethora of religious books that are not published centrally or systemically, and thus none are legally binding in Islamic courts.

In this sense there is no unified legal 'code' with detailed legal content. It depends on the judge's own validation of particular religious sources over others.

These practices posit religious judges as single nodes of decision making and hence validators of 'legal facts'. As religious authorities produce, use and validate multiple jurisprudence, they assert their position as experts and monopolise legal knowledge as an elusive currency. Judges are at double advantage over lawyers defending their clients. It poses a problem for them as they have no recourse to any unified legal text that explicitly states the rights and duties of the marital couple. Hence, with multiple and competing sources, it is not possible for individuals to 'locate' favourable interpretations of their rights in these codes. Lawyers are trained in civil law and are not usually well versed in such a multiple form of religious jurisprudence. They also have no formal influence over the validation of legal knowledge that the judges might adopt. Lawyers can appeal the decisions of judges, but the same problem arises at the higher levels as rulings are made in concordance to the judges' own interpretations of Fiqh.

The selective validation of legal knowledge also reinforces the status of religious authorities as legal personae and the commodified position of individuals. This is exemplified in the relationship of religious courts and the RABs. The RABs rulings are not automatically validated by religious judges in Shi°a family law courts. For various reasons religious judges might not emulate the same religious references that have issued the rulings and could consider them void.[144] As discussed in the previous section, the political linkages between judges and RABs are also an important factor. It has been noted that as the religious judges in the Shi°a courts were mostly by one party (the Amal Movement) they tend not to validate religious judgements issued by their rival Hezbollah affiliated Imam Khamine'i RAB or Imam Fadlallah's RAB. If a woman is granted a divorce ruling by any of these RABs,[145] this divorce might not take official status. Religious Shi°a court judges might not accept to officially register it if they do not follow the same political and jurisprudence affiliation.

---

[144] The RABs verdicts have religious validity for the party who seeks the ruling of the arbitrator. For instance, let us take the case of a woman who puts a request for the arbitrator to divorce her from her husband without his consent (which is something that is not allowed in Shi°a courts). If the arbitrator approves and grants her divorce, then the husband does not need to agree to the verdict, because the arbitrator has got a higher authority over him. However this divorce has got only a religious capacity and not an official one. In order for the divorce to be validated officially, it needs to be approved by the Shi°a court and this is where the tension lies.
[145] Some RABs are known to be more lenient towards granting women divorce, which in Shi°a law is very difficult to obtain.

175

This situation poses a problem of gendered legal personhood. For example, in the case of divorce, the woman in question would be divorced in the religious-normative (*Shar'i*) non-official realm, but would still be officially married to her husband in the official realm of the religious courts and civic records. As (RCL5 2005) explained, there are many cases of such legal blurring. Here is where an inclusive definition of legal pluralism is needed to accommodate the fragmented legal personhood of women over the official and non-official religious-legal realms. Women usually identify with the non-official categorisation as it presents an avenue for resisting gender discrimination in the official realm. In such cases, women would contract an unofficial religious marriage contract that remains unregistered, mostly under the form of 'pleasure' or temporary marriage (*mut'a*). However, if they have children from their unofficial marriages, they would not able to register them in national civic records because of the issues around official paternity rights.[146] Thus, women may resort to exercise their legal subjectivity within the unofficial realm. However, they cannot fully escape the official framework as their former husbands might accuse them adultery or bigamy. The multiplicity of jurisprudence reflects an interlegality that reinforces the commodification of individuals to be discussed in the next section (Santos 2002).

6.4 The disciplinary effect of legal frameworks and the 'imagined' legal personhood

In this section, the disciplining effect of the two techniques of gender governance is discussed. Through the two previous sections, legal frameworks were shown to draw multiple legal personhood in family law through multiple authorities, and blurred jurisprudence. Santos (2002:97) refers to a state of 'interlegality' to explain the "impact of this legal plurality on the legal experiences, perceptions and consciousness of the individuals and social groups living under conditions of legal plurality, above all the fact that their everyday life crosses or is interpenetrated by different and often contrasting legal order as and cultures." This section explains how interlegality is underpinned by a gendered logic that affects women's legal

---

[146] In Lebanon women are entitled to legally register their children under their own names. However, it is scarcely practiced because of social stigma.

personhood and engulfs women's legal personhood within the patriarchal and communitarian authority as indicated in figure 2.[147]

The gendered logic of legal frameworks is reflected in the ways legal personhood of men and women are commodified differently as 'property' of the collective persona of the 'community'. Women tend to be the weakest link in the 'legal personhood/property chain' as they are deprived of a basic legal capacity (*ahliyya*) in matters relating to family law (Zalzal 2000). All Lebanese religious legal frameworks recognise men as the 'heads of the family' and hence reinforce their authority over women. Women's legal capacity is relegated to their husbands, fathers, or any other male legal guardians. Women have to resort to those guardians to insure entry to marriage, or securing divorce (in denominations that allow it)[148] (Shehadeh 2004). The lack of legal capacity also extends to children's custody. Religious legislation allows women to have custody of their children for a certain time, but she cannot have guardianship of them. In case of the husband's death, some religious regulations transfer guardianship to the paternal grandparents (Shehadeh 2004). This reinforces women's shift from legal personhood to legal property (Pottage 2004).

---

[147] Parolin (2008) describes similar three realms of citizenship in Arab countries (affiliation to kin, religious community, and nation state) but these realms are discussed in relation to various social groups rather than to an overlap of various layers. Also no impact on legal personhood is discussed.

[148] As an example, when contracting Shiʿa and Sunni marriages, women need to delegate a man - usually their fathers or religious registrar- to contract the marriage on her behalf. In the case of dominant Shiʿa jurisprudence, obtaining divorce is the prerogative of men. Women are not entitled to obtain divorce in Jaafari courts without their husbands' approval. Women need to submit a divorce application to a Religious Arbitrator who would look at the case and is entitled to grant them divorce without their husbands' approval. However, in this process, women need to delegate the Religious Arbitrator as their legal guardian who is also religiously entitled to authorise the divorce. In that sense women's legal capacity is mediated as they are not technically entitled to 'divorce themselves', but delegate their legal personhood to the authority of the religious arbitrator (RCL5 2005).

Women's
individual legal
personhood

Patriarchal
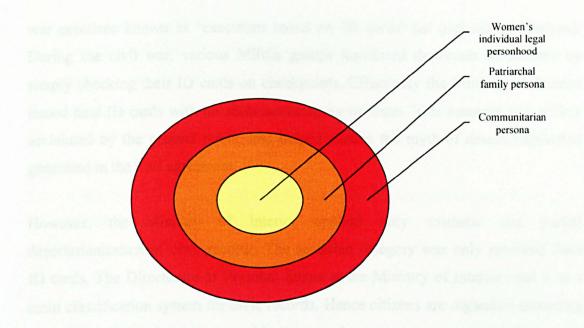family persona

Communitarian
persona

Figure 2: The configuration of women's legal personhood in relation to legal authorities.

Women's legal capacity is also compromised in civil codes through two layers of institutional webs of disciplining. In addition to family law, women's individual legal personhood is confined within the two collective legal categories of the family and the religious communities. As a first layer, civic records classify women's legal personhood under the collective legal category of the patrilineal family (Fieldnotes 2005). By birth, women are registered under the category of their fathers' family civic records alongside their mothers and other siblings. If they get married, women move to their husbands' family records, and in case of divorce, back to their fathers'. In this way the argument of Pateman (1988) on the 'sexual contract' is very relevant here.

As a second layer, the Civic Records Code (L.R. 7/12/1951) also confines women to the religious category. This goes against the arguments claiming secular-religious dichotomy between the state and the religious institution.[149] In the early post-conflict period, the government launched a much-publicised campaign to remove the sectarian affiliation from national Identity Cards. This measure was part of the state's effort to 'desectarianisation'. This measure responded to one of the most traumatic

---

[149] This generalisation is common among Lebanese jurists and academics such as Edmond Naim (1996).

war practices known as 'execution based on ID cards' (*al qatl ala al-hawiyya*). During the civil war, various Militia groups liquidated thousands of citizens by simply checking their ID cards on checkpoints. Effectively the Ministry of Interior issued new ID cards with no sectarian category on them. This measure was widely acclaimed by the general public and helped sustain the myth of desectarianisation generated in the Taif agreement.

However, the Ministry of Interior applied only cosmetic and partial desectarianisation of civic records. The sectarian category was only removed from ID cards. The Directorate of Personal Status at the Ministry of Interior uses it as a main classification system for civic records. Hence citizens are organised according to sectarian categories that are used in the sectarian voting system and family law. As a result, civic records classify women's legal personhood under the sectarian category. Women's legal personhood is mediated through a double ring of legal personae of the family and religion that complements that of the two other legal frameworks of personal citizenship, namely the constitution and family law.

Women go through 'revolving doors' of enactment of legal personhood created by the multiple authorities of the judicial and supra/ultra-legal authorities. I illustrate the argument by explaining the situation of W3 (2005). W3 is a Syrian national residing in Lebanon. She was married for 12 years to an undocumented Lebanese man and thus is legally unrecognised as a Lebanese citizen. However, he is recognised by the '*Latin*' [150] Church as a religious person since he was christened there. He was previously married but could not annul that marriage. In order to be remarried, they did the round of several religious authorities in order to have a marriage contract:

> INT01: At first, when your husband was married and you wanted to elope, who came up with the suggestion, or how did it happen that he converted to become Muslim?

> W3: He went to their Archbishopric, and they would not give him [divorce]. His wife wanted $5,000. He told them "I don't have a single dollar from the $5000, from where do I get them for her?" He went two, three times. According to what he said, they had

---

[150] The 'Latin' Church (*Ta'ifat Al-latin*) is a small Catholic denomination that exists in Lebanon and the Levant that is associated to the Carmelite Order. It was originally founded by Roman papal delegates who settled in Mount Carmel near Haifa.

told her, she was informed and she started screaming in the court, and they kicked her out of the court. They told her "we judge, not you"

INT01: And they did not rule in his favour?

W3: No they did not. She reported first time, second time, third time, and she did not come. The fourth time she did not come, so they closed the issue.

[...]

So then he told them that he will become Muslim and they told him "do whatever you want, there is nothing we can do"

INT01: And what was your opinion?

W3: There was no other way. We went before to the Sayde church in Achrafieh and we told the story to Father Elias and he said "we cannot, his wife is still under his name, we cannot do it"

INT01: The Sayde church is Orthodox

W3: Yes and they too did not agree. Then we went to the Archbishopric, and I went with him to their Archbishopric. Same answer, no way.

[...]

INT01: Where was the Sheikh you went to?

W3: In Jbeil.

INT01: And how was it?

W3: There were witnesses and he told him the story and all. He said okay no problem. So he converted - "istashhad", "Shāhad", I don't know what they say. I did not because I have not been married before. And he gave him the marriage certificate (watheeqat al-zawāj).

INT01: How was the Sheikh? How was he dealing with the issue?

W3: He accepted with an open heart (bi kill sadr raḥb), he did not have an issue (ishkel). He asked him "how long have you been separated?" He told him "It has been 9 years, 10 years since I have been separated from my wife". So he told him "yes it is your right," and it worked out.

Their marriage was never registered in court or in civic records and when their marriage fell apart; they did not go through any legal divorce procedure, although their separation is recognised by her as 'divorce'. Since her former husband is undocumented, her son is also denied an officially recognised citizenship status. Yet, her son is recognised as a Maronite person since she had him christened at the church

to which she is subscribed. The local Maronite church provides him with free education because of her tight financial situation. Because of this complexity, her son is unable to cross the borders to visit his grandparents in Syria because he is undocumented and would limit his life options in the future. At the time of the interview, her family was exploring solutions for her undocumented son by trying to register him in the civic records as her brother. When I asked W3 whether she would marry again, she replied, "it would be only to someone who would accept to register my son under his name". In an indication of how the complexity of legal personhood is affecting her, the disciplinary power of multiple legality is sensed here.

The multiplicity of legal frameworks has also a profound disciplinary effect on the way legal personhood is 'imagined'. It affects the ways in which individuals assess the 'problem' of family law and the implications the system has on them in four ways. First, individuals try to hold on to a state-centred universalist definition of their legal personhood. An example of this is a discussion I had with W4. I met W4 at the office of LWNG01 located in a central part of Beirut. W4 was in her mid-thirties and lived in a lower-middle class suburb of Beirut and has been using LWNG01's legal and psychological support services for a few months. She described herself as a housewife (sitt bayt), marrying young at 18 years old and missing out on higher education. She was fighting a legal battle at the Armenian Orthodox family law court to divorce her violent husband and gain custody and alimony for her two daughters. At the time of the interview, her case was continuously delayed by religious judges and she was worried that they would not rule in her favour.

W4 (2005) came across as an articulate woman who knew a good deal about the complexities of the legal system and was eager to find answers. She welcomed me with this opening stance by way of greeting:

> Where is the state? Tell me? For it to grant me my rights. [...]. The woman is not secured in Lebanon. She does not have rights at all. She is humiliated and beaten up and starved and she is not secured by the state. [...] who do I turn to now? [...] I got this problem (muṣība). I can't get out of it. But I did not get my rights until now.

W4 expressed her legal personhood in terms of expectations from the state. She pointed to the disconnect between the concept of 'legal right' as a commodity and the enactment of norms associated to family relations. She showcased 'rights' against the "self regulat[ed] [practices] of a semi-autonomous social field" (Griffiths 1986:38). Most importantly, W4 did not primarily identify with the religious authority of her religious community under which her marriage was contracted.

Second, individuals tend to identify with an ideal of secular legal personhood despite the inconsistencies of the actual provisions. For example, a young couple subscribed under the Muslim category insisted on contracting a civil marriage in Cyprus because they believed in the principle of secularism. However, they were well aware that this contract does not count because they are both included under the Muslim category. Instead, their civil marriage contract will be converted instead to a Muslim contract as per Decision 53 (30/03/1939). The couple decided not to engage with the religious code despite the implications on their legal entitlements. As they left it for the Ministry of Interior authorities to convert it automatically to Islamic jurisdiction, they effectively subscribed to the multiple nature of Islamic jurisdiction that tends to compromise women's entitlements. Thus, they missed out on the chance to amend the terms and conditions of the Islamic marriage contract that could protect the wife (such as the right to divorce, among others). Their decision is derived from an institutional subjectivity that attaches progressive meanings to 'civil marriage' despite the lack of validity of this contract in the material sense.

Another pattern is to idealise formal religious frameworks as a pure form and denounce its perceived ill 'application'. This could be found with W3 (2005) who reflected on her interlegality:

> I didn't register [the marriage contract] at the Court, only the Sheik signed them If it were registered, the laws would apply. Then they would be able to get me my rights with ease (bi kill tawāduᶜ), but now there is no evidence you see. I do not have papers there with them. [...] If I was married in church (mzawwaje kanā'seh), there is the Spiritual Court (el-maḥkame el-rouḥaniyye) that solves your problems, but with the Muslims you cannot. You can when you are legal/legitimate (Sharᶜiyye), you can get your rights from him. Whether he was working or not working, he must secure your living (yiamminlik maᶜīshtik). But now since I am not registered and I have not

registered my marriage, no one can do anything for me. [...] Even if I want to go to the parish and talk to them, they will tell me "you are not married in church (mkallaleh) here, how can we solve your issue?" So on both sides you cannot do anything.

W3 considers that she is excluded from an idealised equitable legal order. This has serious implications on their agency and how women negotiate their rights. This is discussed in chapter 8.

Finally, individuals weave out various permutations of imagined legal personhood according to the infinite constructions of 'jurisprudence knowledge' on family law. Legal personhood is modelled according to selective validation of various quotes from the Quran or the Bible or attributed narratives of prophets and saints. This mix constructs conflicting views of what a 'legal person is' among individuals in social circles. One example relates to W1's situation mentioned in the introduction of this thesis. At the first instance, when contacted her parents and extended family network about her husband's kidnapping of her children, she was reassured that her husband was at fault because allegedly according to the Shariᶜa, the custody of boys turns to the father much later, at the age of seven. Her mother, a spiritual woman, resorted to reading the Quran and the Bible in order to find 'the true directives of religious legislation'. She often quoted selections from both texts that support women's entitlements in the family in the numerous meetings they had with their lawyers. However, this type of religious evidence does not have any weight in court and eventually the husband ended up winning the court cases based on the political enactment of religious authorities and jurisprudence.

6.5 Conclusion

This chapter discussed the way family law frameworks constitute techniques of disciplining within the order of gender governance. It argued against statutory understandings of religious legal frameworks that essentialise and confine legal provisions and structures into an a-historical fixed construct. Rather religious family law frameworks were developed as "a product of articulations of legal discourse and institutions to varying patterns of society and politics" (Zubaida 2003:1). Thus, the chapter argued that the legal plurality and multiple layers of horizontal and vertical

sovereignties and legalities that form family law frameworks act as techniques of gender governance that shape legal personhood.

These legal frameworks have four distinctive features that contest mainstream academic and policy narratives of family law and gender equality. First, they are crafted by a combination of civil and religious legislation constituting a multiplicity of sovereignties (Santos 2002).[151] Second, the multiple sovereignties of family law frameworks reflect a multiplicity of legality that is incoherent, conflicting, and contradictory. It leads to the fragmentation of the boundaries of women's legal personhood. Third, especially for Islamic legislation, the substance or content of legal provisions in place largely consist, of an uncodified legislative loop where various conflicting legal opinions are in operation. Fourth, multiple sovereignties, legalities, and provisions have a direct and profound gendered effect on gender equality. In this sense, family law frameworks constitute a complex 'system of differentiation' (Foucault, Burchall et al.) that is based on sustaining the tension between the communitarian imaginary and the promise of the fair 'secular' nation-state.

These two techniques include the multiple legal authorities of Lebanese family law legal structures, and the blurred family law jurisdiction. These techniques create a disciplining effect in three ways. First, they confine women's legal personhood into a communitarian category. Second, they also fragment it over official and official realms. Third, they construct usher women's legal subjectivity into constructing an imagined coherent version of legal personhood that is removed from the complexity of the enacted one.

The next chapter carries on from this analysis by elaborating on the 'normative plurality' of current family law frameworks that is reflected in the gendered norms and values surrounding women's role in the family.

---

[151] The post-colonial State is classically analysed as a modern and fixed set of legal structures that operate within universal human rights frameworks (reference). It is assumed to be held back by a static, largely a-historical, and at times pre-modern religious structure of a religious institution. This religious institution is portrayed, as in the quotes above, as gripping the state and imposing a well-defined power over it. This could explain the insistence by civil society activists on locating the problem within women, and calling to 'educate' from 'legal ignorance' about their family law rights.

7.1   Introduction

> As long as my heart beats and I have strength, you will be a queen never to be disheartened
>
> [...] We don't have any girls who work with their degrees, our girl gets pampered and has everything at her service
>
> [...] You'd better get the idea out of your head, why do you have to run after trouble?
>
> I refuse to let you work, what would we do with your beauty?
>
> [...] Women's rights are all fine with me but I wish you would attend to my feelings
>
> Your presence by me gives me strength and this is paramount
>
> [...] Your occupation is my heart, passion, and tenderness, you will have no time for anything else
>
> It is enough that you are the president of the republic of my heart
>
> (Iskandar 2010)

In the summer of 2010, this pop-folk song topped the charts in Lebanon. It was played at full volume everywhere in Beirut, in cafes, bars, and cars. Thousands of wedded couples have danced to it at wedding parties across the country. The song caused a stir, to the delight of the singer who boasted, "no other song ever generated such controversy". A few feminists wrote comments in a handful of highbrow newspapers. In addition, a (woman) singer released a 'feminist' song in response, to a less popular reception.

Apart from its catchy tune, the song's significance lies in its formulation of contemporary Lebanese women as social subjects enrolled in particular gendered dynamics of personal relations. It is also about the enmeshment of conflicting norms and discursive practices that individuals engage in when dealing with personal gender norms.

This chapter explains how the order of gender governance of family law forms 'regimes of truth' about the expected gendered roles of women when engaging in personal relations. It discusses how women shape their understandings of their

personal selves in relation to these dominant norms and how their lived experiences of marriage alter these understandings.

Building on the discussion in the thesis, this chapter goes further to explain how legal categories of personhood extend to social categories of womanhood and wifehood to create a gendered moral order of family law. It asserts that particular moralities around family law construct what Foucault (1980) calls 'regimes of truth' that enrol individuals into their 'episteme' and thus maintain the gender order of family law. The chapter builds on Foucauldian-inspired frameworks of subjectification adopted by Mahmood (2005) and Rose (1999), as well as Hacking's (1986; 1995) conception of 'kind making' and 'looping effect' discussed earlier in chapter 2.

The chapter explains how the order of governance of family law constructs norms regulating women's entitlements and obligations when engaging in a marriage. These norms are drawn from an array of moral authorities, such as religious, folk and modernist arguments. These moralities are disseminated through various institutional moral channels with varying impact and degrees, including the family (both their own and their husbands'), religious actors, as well as support workers. These institutions rework legal norms of family law frameworks and tailor them by retaining gendered aspects and weeding out progressive legal provisions to produce gendered family law regimes of truth. These regimes of truth enrol women in a continuous process of ethical adjustment with dominant gendered moralities of the married self. Women engage in a process of subjectification that is enacted through the repositioning of their own ethics against other moralities. The 'wife kind' acts on the four dimensions of the self, namely ontological, ethical, technical, and epistemological, developed by Rose (1999) and applied to family law.

These norms establish and reinforce a dominant gendered 'woman ideal' that I refer to as the dominant category of the 'wife kind' (borrowing from Hacking 1995). Women engage with these 'regimes of truth' or 'wife kind' through a fluid process of subjectification. They initially incorporate these moralities, then they contest it, and then they replace it with the alternative categories of 'mother kind'.

The two 'kinds' of 'wife' and 'mother' reflect different gendering effects of the order of gender governance of family law. The 'wife kind' is primarily focused on the dominant family law norms of the wife's duty to remain in the marriage and perform marital duties, what I call 'marriage normativity'. This category includes other subsequent or derivative marital roles such as being a good mother, a homemaker and so on. By destabilising this category, women reverse the hierarchy of family law norms. As their subjectivity shifts to the 'mother kind', they identify themselves primarily as mothers, while they forego the imperative of remaining in the marriage. The implications of this shift are that while women resist some aspects of the gendering effect of family law, their subjectivity is still framed within broader gendered notions of womanhood based on procreation.

The chapter unfolds in four sections. The first section discusses how women enrol in the process of 'wife making'. The second section explains how women destabilise the 'wife kind' by questioning the dominant norms to which they subscribe. The third section details how women dissociate themselves from the 'wife kind' as they ethically disengage from the dominant norms of the wife. The fourth section analyses the ways in which this process of making and unmaking the 'wife kind' results in an interrupted looping effect where women's subjectivity is displaced to the 'mother kind' that follows dominant gendered norms to a large extent.

7.2 Process of subjectification: Making the 'wife kind'

This section explores the ways in which women engage with the 'family law regimes of truth'. They do so by enrolling with multiple norms constructing the dominant category of the 'wife kind'. These dominant norms revolved around shaping women's ontological selves around entering marriage, remaining in it, and belonging to a 'marriage unit' that is headed by the husband and requires the woman's compliance to him. The 'wife kind' is constructed through four gendered moralities which are explained below.

7.2.1 Engaging with the normativity of marriage

Marriage has been established as a central institution in women's lives in the Middle East (Abdo-Zubi 1987; Obermeyer 1995; Yount and Rashad 2008; Zinelabidine

2002). This section explains how institutional norms about 'being married' are manifested among women respondents.

From the interviews, women respondents mentioned that being married was central to their ontological self. Several respondents explained that being married was equivalent to a wholesome individual self. W1 belonged to a secular middle class Shi^{c}a family in the Southern suburb of Beirut. W1 (2005) explained how her focus on marriage was formed:

> I was always a 'model' child, always expected to be the top of my class. [...] My mother used to always to tell me: [you get] the [university] degree in one hand, and the groom in the other. That was the goal, to get married. And this is what I did as soon as I got my degree

W1 recounts that when she finished her university degree and considered travelling abroad for further education, her mother told her that she "can only do this with [her] husband". In that sense, marriage was an essential ticket to a promise of a better future life.

Similarly, being married was perceived to bring an emotionally stable self. W2 was 20 years old when she was engaged. She comes from a lower-middle class Shi^{c}a family who migrated from South Lebanon to the Southern suburb of Beirut. She recounts that in her teenage years she suffered from depression and eating disorder. Her mother encouraged her to get married because she thought it would help her feel better (W2 2005).

However, marriage was not expressed as necessarily desirable. It was rather an organising principle that they operated within and identified with as part of their expectations from their social selves.[152] W10 (2005) was a middle-upper class Druze woman in the coastal part of Mount Lebanon who expressed that she "did not 'need' to get married". Her explanation was that she only got married because her family

---

[152] These findings concur with Pankhurst's (1992) interesting study on the varied marriage patterns among Ethiopian rural women. In that sense, the reasons for getting married, and the choice of partner, reflected a broad spectrum of marriage normativity beyond the unitary interpretations of 'patriarchal submission' (one example of this view is Moghadam 2003).

thought that she was 'getting old and had to get married'. W9 came from an upper middle class Druze family residing in Mount Lebanon. After her first divorce, she was pressured into remarrying because her parents thought it unacceptable for her to remain divorced. Both respondents did not particularly feel a special bond to their husbands and explained that it was 'the thing to do' (Fieldnotes 2005).

The normativity of marriage also extended to remaining in the marriage and an aversion for divorce. As W1 (2005) explains:

> I was raised on [the premise] that, in our family, there was no divorce. It always happened to other unknown others who were less fortunate than we were. I grew up in a cocooned household where my parents taught us that the happiest of marriages are those without quarrels. [...]. The irony was that I realised later on that two of my aunts – one on each side of the family- were divorced earlier on in their lives. No one used to bring it up. [...] I also realised that my parents used to fight in private, behind our backs. It was all about preserving this image of a perfect happy family.

These norms were part of gendered discursive practices that encourage women to identify with the category of the good wife. During the period of their engagement, W2 sensed that her husband failed to meet her expectations. She questioned her engagement but ended up going for it

> So I was engaged and one wishes to have the best time during the engagement period, going out, sightseeing, and the man would pamper her. The engagement was not like this. [...]. I would have wished I broke off the engagement.

As implied in the earlier comments, the family was an important source of moral authority in the normativity for marriage. However, while the family sustained the normativity of marriage, there were several considerations as to the choice of partner, marriage age, and general suitability. As W1 mentioned, "it was important that the prospective husband would be 'respectable'". Similarly, although W4, W5, and W8 each came from a different religious background, they faced similar reaction from the families who did not initially agree to their marriage. They raised issues about them being too young (for W4 and W8), or the prospective husband not being suitable (W5 and W8). W12 also mentioned that her father wanted her to continue

her education rather than get married. In this sense, the normative role of the family is more nuanced than some accounts on the Middle East suggest (Joseph and Slyomovics 2001).

The norms of the family were also linked to the dominant gendered norms attached to the legal frameworks. W2 explained that it was difficult for her to take the decision to break off the engagement because of the stigma of divorce. In a practice common within Muslim marriage norms in Lebanon, W2 like many couples actually signed her marriage contract (*katb kitāb*) during her engagement period in preparation for the wedding and the move to the marital home (*na^cleh*).[153] She explained that it would not 'look good' for her to get divorced at that stage, so she opted to go on with her wedding. She mentioned that after her experience, her mother changed her views about this practice and did not allow any of her sisters to do it (W2 2005).

The religious institution was not found to be a direct source of authority to the norm of marriage. As Afshar (1993:13) notes about Islam, and which here I argue applies to various religious categories, religion "is only one of the many contributory factors that shapes the lives of women in the Middle East, and cannot be seen as the primary and causal element in confining them to subjugation."[154] While most women respondents contracted marriages with men from within the religious circumscription, they did not initially consider their marital status within scriptural or jurisdictional contractual terms. Rather, women respondents explained that marriage contracts were only a formality because "when you are getting married you don't think of divorce", or "I didn't know that I would ever need to go back to it" (W2, W9, W10). The marriage contract was just a formality that would get them into the married self. Respondents 'stumbled upon' the unfavourable terms of their marriage contracts - both literally and in terms of their effect, only when they faced marital problems.

---

[153] It is common practice among many Lebanese Muslim couples to contract their marriage prior to the official wedding celebrations. With this arrangement, women are legally bound to their fiancés prior to the actual move into the marital home. Through this practice, women's families relax their social restrictions about free movement and intimacy with their prospective husbands.

[154] Afshar (1993:13) mentions that "when it comes to evidence, Islam proves more elusive and less universal" in a hint that is socially constructed that varies according to the "specificities of women's lives and circumstances".

Moreover, the techniques of making the 'wife' (as a normative descriptive category) complied more with socially dominant norms rather than with religious directives. One example is that in Muslim religious contracts, women are entitled to include the right to divorce ($^c u \d{s} ma$) in their marriage contract. None of the Muslim women respondents included this clause in their contracts because it does not fall within the gendered norms of the 'good wife' that often include renouncing their marriage entitlements.

However, parallels could be drawn between women respondents' ethics of marriage normativity and the moralities propagated by both Maronite and Shi^{c}a religious leader respondents.[155] The explanations they provided relied on scriptural grounds. RCL2 (2005) explained that "marriage was a 'sacrament'" and that "the woman was created in the image of man. Men and women in a marriage are one body, one decision." Similarly, Shi^{c}a clerics explained that "marriage is a holy bond with a contractual pact" and used a well-known Quranic verse to reiterate this understanding (RCL3 2005): "Among His signs is that He has created spouses for you from among yourselves so that you may console yourselves with them" (The Quran surah 30 verse 21). These examples indicate that religious actors primarily rely on doctrinal sources of moral authority to back their claims (Bowen 2003).

7.2.2 Gendered norms of finances and marital rights and obligations

The ethics and moralities of women's economic contribution revolved around norms of the 'good wife' in the accounts of both respondents among women and religious leaders, albeit in reversed ways. Most women respondents stated that they adopted a 'hand in hand' attitude and were accepting of tolerating financial duress with their husbands in order to comply with the category of the 'good wife'. Their ethics were mainly centred on understanding their husbands' hardships, economising and together securing a common future from scratch.

At home I was doing everything so that he does not have an excuse. I would stay up late at night working and organizing the home. And I tried as much I could to focus on my work. Although, I swear, I worked for six years, I would come and give him my salary

---

[155] These findings match with the study by Dahl (1997) on religious family law in Egypt.

at the end of the month in an envelope, in order for him to be content (ta yirḍa), so that he lets me work and see that I am planning for the future (ᶜam bundhur la baᶜden). (W12 2005)

Women's ethical selving of compromising their financial independence is consistent with dominant marital norms that discourage women from delineating an autonomous married self as discussed in the case of Indonesia (O'Shaughnessy 2009). Most importantly, these accounts dispel classical feminist assumptions that draw a linear link between women's economic power and their independence (examples of such accounts are found in Dallos and Dallos 1997).

Religious leaders also included finances within a whole moral framework of rights and obligations that were very removed from the discursive practices of women respondents. Their discourses revealed tension between an ideal doctrinal conception of rights and obligations that is pinned down to obedience on one hand, and the lived experiences of financial and work arrangements between couples on the other. As one Maronite religious leader respondent explained:

> Women need to have patience and resilience. Nowadays there are different circumstances. Previously it was not accepted that the woman would get out of the house. Now women are out to work. Work means contribution to the finances and asking for more rights. (RCL1 2005)

Shiᶜa religious leader respondents explicitly relied on ideal financial contractual terms to justify norms of husbands' control over women:[156]

> The Sharᶜ gave women their rights and freedom. In Sharᶜ the wife is not supposed to cook and clean. The husband needs to provide a cook and a domestic servant for her. She is even entitled to be compensated for the milk from which she is breastfeeding. He is not entitled to use her personal wealth in any way. Even if she receives inheritance, he is still entitled for spending on the household. Husbands suffer the burden to provide for their wives and the family in every way. Wives are not requested to do any work in the household. Husbands have to provide decent housing that is of equal standards to the wife's own family home. Wives are also entitled to work and hold on to all their

---

[156] These roles extended to women's rights in custody of children (set at the age of two for boys) and guardianship (set with the paternal grandparents).

192

wealth, and to be granted paid domestic assistance. Husbands also are required to compensate her for the milk they provide to their children during lactation. Wives have only two duties, pleasuring and obedience. (RCL5 2005)

This clear division of responsibilities contrasted with the gendered ways in which religious leaders analysed the roles of wives and husbands in economically related marital problems. RCL4 (2005) explained the main reasons for people to seek his advice at the RAB as follows:

> [the first reason is that] these days that we live in, people are pressured by hardship. When a man's salary is hardly enough to sustain him, then bickering and quarrelling starts at home. So the man is not able to provide for his family, the woman takes the risk and goes to her family. Then her father is not able to provide income for the family. And her situation worsens - if not worse but at least the same situation. [...] the fourth reason lies with the wife. She can be negligent or underperforming (muqaṣira). She could be employed, or working, or holding some social function/activity, she dedicates much time outside the house, which reflects on her household.

The gap between the normative frameworks and the discursive practices of religious leaders tends to reinforce the gendered moral effect of family law frameworks. They often used the language of rights and obligations to hold women to religious law, but are lenient in interpreting men's failure to subscribe to them as discussed in O'Shaughnessy (2009). The focus on economic issues was also prominent in Mir-Husseini (2000) research on family law in Iran and Morocco. In both contexts, religious judges implicitly recognised the contradictions between Islamic ideals of economic independence of women and gendered social practice pressuring women into relegating their finances (whether savings or income) to their husbands.

7.2.3 Control over women's bodies and movement

Norms of compliance with the wife category was manifested in allowing husbands' control over their bodies and their movement. In terms of control over body, women respondents did not enroll completely in their husbands' moralities, but still allowed them to prevail over their own ethics. One example is the experience of several respondents in wearing the Muslim headscarf. W12 was pressured by her husband to wear the scarf despite her opposition to it.

> I love religion very much, and God knows how close I am to him, but for me religion is not a scarf. My understanding for religion is different. Religion is inside, a connection between a person and God, and no one should know about it, and no one should bargain over it, and it should not be about appearances. [...] I found it difficult, I don't know. I refused at first, but then I gave in, even though it was disgusting for me, but I wore it.

In another contrasting example, W5's (2005) husband insisted that she takes off the scarf despite her preference to keep it. She describes:

> I tried to convince him. I kept saying no for around 8 months. I would tell him: "how can you be ok, with me showing my hair to the others? Here I am, fixing myself for you inside the home." He likes to show me off in front of people. So there were problems and evil got the best of me (Allah yilʿan al-shitān) and I took the veil off [...]. Because we fought a lot about it, I took the veil off. When we were separated I put it back on.

The control over women's bodies was also manifested in restricting their movements. The husband of W5, despite forcing her to take off her headscarf, forbid her to leave the house or even to go out to the balcony without him around. W4 also faced similar restrictions:

> I did not go out, I was not allowed to; even if I had to go to the [corner shop] I had to take my husband's permission, or go with my mother–in- law. If I needed something, I had to ask my mother-in-law or someone from his family to go get it for me.

These examples indicate more complex processes of relating to the scarf as a marker for identity than literature on Islamic revivalism suggest (one example is Hessini 1994).

The control over movements was also directly related to the ways the 'good wife' was drawn in relation to the institution of the family. Suad Joseph (2001:1) explains that the patrilineal family "lies at the core of the Middle Eastern and North African society – in political, economic, social and religious terms". Extending from the categorisation of legal personhood discussed in chapter 6, women's communal self was linked to their own families. The control over women's movement was primarily located within their own families before marriage. W2 recounts how her mother

managed her movements when she was engaged:

> My parents were strict and didn't approve of him wanting to drop by and visit me at
> midnight. They did not agree and asked him to come by earlier and leave at midnight.
> Alternatively, he could come to take me out for example, but he didn't. He used to come
> and sit here. My mother asked me to tell him "you have to respect this house so you
> cannot come at midnight." It would seem as if he did not respect me because he was not
> working until late, he used to just be out with friends. [...] I wanted to break off the
> engagement because of this [behaviour] [...]

Women's communal self was included under that of their husbands and in-laws after their marriage. The marker for this shift was the husbands' and in-laws control over movement. Most women respondents stated that they were banned from visiting their families. W2, W4, and W5 explained that they were banned from seeing their families for more than two years. They did not ethically subscribe to these restrictions, as W4 explains:

> I gave up a lot of my rights. From the first day, I gave up my rights and this is why he
> thought I am weak so he got increasingly dominant. Year after year, he became a
> mountain that no one can shake. At first, I gave up my rights not to see my parents [...].
> I agreed to live with his parents; I agreed not to go to the supermarket. I would say
> okay, okay, okay, to everything. Why? Why should I be so weak?

Women's own families also subscribed to this arrangement. W14 (2005) stated that her mother does not support her decision to leave the house. She tells her "do not think of coming here. A woman does not leave her house". This is in line with the collective circumscription of legal personhood of women within a communal patrilineal family framework discussed in chapter 6.

However, as indicated in the next sections, this relationship is more fluid than often assumed in the literature (such as in Joseph 2001). Several women respondents mentioned that their families agreed not to get in touch with them either because they thought they were happy and did not want to interfere (W2), or because they did not want to aggravate the problems between the couple (W8).

This analysis reveals that women respondents enrolled almost fully and thus compromised their own ethics around norms of marriage normativity, control over movement, relations with their own families, and finances. In contrast, they reluctantly complied with control over their bodies in relation to the veil and the reproductive selves related to parenthood roles.

7.3 Destabilising the 'wife kind'

This section explains how the process of subjectification is fluid and comprises a stage where women question the dominant 'wife kind' in which they were initially enrolled. At a particular stage of their relationships women sensed the inconsistencies of the dominant 'wife kind' through a clash between the telos of what a wife should be, and the epistemological self that is revealed against the practices of the husbands (Rose 1999). Here, women respondents still legitimised the ethical frameworks of their husbands but questioned their practices. This process is controlled by the discursive practices of 'moral containment' propagated by various moral authorities.

7.3.1 Conforming with gendered ethics of resilience

In contesting the 'wife kind', women's ethics clashed with the practices of their husbands. In order to keep with the dominant norms of sustaining marriage discussed in the previous section, women respondents reported adjusting their selves in order to adapt to their husbands ill practices. They enrolled in a dominant norm of 'resilience' that is discursively attached to the good wife category and is focused on complying with the husbands. As W12 explains:

> I tried as much as I could to go along with him (sāyro) and do what he wants. Sometimes I would pretend I do not know them and I go ask him about them in order to make him feel that I need him. I tried all things impossible (al-mostahilet).

Resilience also revolved around reinforcing the sexualisation of the married self. W4 recounts how family and neighbours pressured her to reconcile with her estranged husband after he violently assaulted her daughter:

I did not agree for him to come back [to the home]. But after two months, because [family and friends] nagged so much, I called him and told him "I want us to reconcile and for you to come home". He said: "I don't want to come back home." I said: "Ok. Come over and let's get intimate (ghannijneh)", he said: "Yes, if that is the case then I will come by, but do not expect more than that". [...]. This went on for two months. I felt he was coming only to serve his needs. If I wanted to work in this job, I would have made a lot of money. I was feeling like the lowest in the world and the cheapest woman in the world. [...]. He would tell me: "I want you as a lover; I don't want you as a wife." What does a lover mean? And what does a wife mean?

Resilience was also manifested in covering for husbands' reputation in front of people, as W2 explained:

He did not have a job, but I used to tell my parents that he has work. I used to lie for him in front of my parents so that they would not fall out. I was not feeling good about it, because he could see me lying for him and it did not feel good. If a woman is comfortable with her husband and she does not want to have problems she would do it. If a woman is comfortable with her husband and he does not want to go to visit her parents for instance, then she could lie. But I was not comfortable with him and I had to lie to cover for him, I would find it difficult.

These formulations of the self were changeable and went in line with what Foucault (Foucault and Hutton 1988) described as 'practices of the self' that subjects weave from the impositions of their surrounding culture, society, and social groups.

7.3.2 Containing the 'wife' within the normativity of marriage

The practices of the women respondents were reinforced by various institutional moral authorities, including the family, religious leaders, lawyers, and social workers. These actors all discouraged women from divorce or separation in varying ways and degrees.

In many cases, the family also played an important role in sustaining the norms of the 'wife kind' and encouraged women to remain in the marriage. W12 recounts that her mother discouraged her from leaving her husband despite his violent behaviour:

197

> My mother told me "maybe you made some mistakes at times. Tomorrow he will come to his senses (byi^{c}qal), and he is a man." She was saying what all mothers say. "The man is 'protection' (sitra) and you cannot raise your children by yourself. Be patient, this life needs patience." You know; it's the kind of talk that wears you out (byimqitlik qalbek).

The discourses underlining this advice relied on the notions of obedience, productive dependence, and resilience discussed above.

Religious leader respondents confirmed the gendered differentiation in exiting from marriage. One Shi^{c}a religious leader respondent considered that "the woman cannot marry one day and divorce the next and similar to the man. It is unacceptable, from a religious and a social perspective" (RCL4). Similarly, a Maronite religious leader, (RJ3 2005) respondent explained:

> Today the trend is to annul or revoke (faskh) the marriage. It depends if the man leaves the home [...]. It is only accepted if the man leaves the home. How can a child bear the idea that the mother lives with another man? They would hate him. If the man leaves the woman, then that is different.

The explanations provided by respondents among religious leaders were based on rational and seemingly non-gendered grounds contrasting with the gendered normativity of sustaining marriage. RCL1 found that couples usually choose to get married after undergoing several premarital religious preparation sessions in the church. Hence, they have to bear the responsibility, because "marriage is not a game". The argument was built on the notion of persons being rational agents. RCL5, a Shi^{c}a religious leader, gave a similar line of reasoning. He likened women in an unhappy marriage to a work situation, "if you are employed in a company and you get a bad manager, what would you do? You would stay, since you in need of it." These interpretations concur with Bowen's (2003:11) view that while the "public reasoning" of religious law "retain its foundation in comprehensive doctrines", it is also concerned with "interpreting religious texts in such a way that they are compatible with other ideals", in this case, dominant gendered norms in the family.

Civil society actors providing support for women respondents also prioritized norms sustaining the marriage. Social workers insisted on containing marital disagreements as much as possible in order not to 'wreck the marital home' (SW3 2005)[157]. This explanation referred to prioritising the collective organising unit of the family at the expense of women's fulfilment. SW2 (2005) explains:

> Nobody should interfere between the couple, not the family and not the social worker. The social worker is not God; she is a person after all. If any outsider interferes between them, then problems will fester. Only when it reaches a point of no return then intervention becomes acceptable.

Lawyers also expressed similar norms. LE1 (2005), a lawyer volunteering at WNGO1, explained to me the case of one of her clients in terms of 'conscience', without referring to any specific scriptural reference:

LE1

You know in the beginning I tried to sense her reaction as to whether she would go back to him, and tried to say good things to bring them together, but she did not budge.

INT01

Why did you do this?

LE1

I don't know. It's just my conscience. I like to reconcile people.

INT01

Even if he is a bad guy?

LE1

Yes I don't know. No one told me to do it. It's just my conscience. If I can bring people together then that is very good. It's just my conscience. I don't know. I feel better if I do it. So I tried to gauge her stand towards it to see if she would change her mind. But she was adamant. So now I know that she does not want to go back and I am clear on the line that I need to follow with her. He seems to still love her I think. He wants her, but what happened is that in the beginning, there were some problems and he acted with little dignity (ken qalīl karāme) towards her. So she got repulsed by him (kirihto).

---

[157] This expression is very popular in Lebanon and is used to refer any attempt to harm anyone.

In these accounts, dominant gender norms of personal relations directly influence the role of actors involved in issues of family law.

7.3.3 Containing the wife within elusive norms of embodied obedience

Women respondents expressed several layers of norms of bodily control. For example, W11 (2005) found that avoiding violence can be part of the technical selving of women:

> When the man hits the woman, he feels that he is weaker than her in order to hit her. You know why? Especially that you are an educated woman. If she is better than him, and in order to destroy her character, he hits her. If she is smart, she treats him in accordance with his level (btitᶜāmal maᶜo ᶜalā qadd mostawe). Then he stops hitting her. She would not let him hit her.

W3 also reflected similar views:

> [Hitting is] okay if I quarrelled with my husband. For example, he tried once to hit me (ymidd 'īdo ᶜalayye), there is nothing to it (mā fiyā shī). One takes it into consideration as unleashing momentary anger (fashshit khiliq). But not all the time.

These perceptions were also reflected by the support workers. When I asked SW2 about her clients' responsiveness to her advice she smiled and mentioned that some were not convinced and not satisfied with her advice. She attributed it to the type of women and their character, as some are "very negative and don't accept to look at positive prospects". She mentioned that she becomes fed up by their negative attitude, and concluded "that's why their husbands are fed up with them or take up other wives". SW3, who works in WNGO2, a radical feminist group, concurred by saying "between us, some women deserve to be beaten up; they push it to the extent that makes the husband lose his temper (ytall'ulu dino [Arabic slang])". In these accounts, social workers shift between their professional and personal norms in a process of 'bracketing of differences' that contribute to disseminating dominant moralities about the 'wife kind' (Bierschenk cited in Shrestha 2006).

These norms constrain women under the dominant category of the 'wife kind' and normalise notions of husbands' control. For example, this was sensed in the advice that SW3, a social worker in WNGO1, the leading NGO working on domestic violence, gave to W20. One morning, W20 called the NGO's domestic violence hotline. She complained about her husband's over restrictive behaviour towards her, such as locking her up in the house and banning her from any communication with anyone, including her own family, in addition to cutting down on her allowance and verbally abusing her. SW3 explained to me that the case was "not as bad as it sounded" because the husband "was still buying into his wife" (ba^{c}do shariyā [Arabic slang]), in the sense that he still wanted her as his wife. Her advice to W20 reinforced the sexualisation techniques of the married self that were discussed earlier. She explained to me that:

[...] the woman was also at fault, I told her that she did not take care of her appearance enough, always scruffy and smelling of cooking. It is understandable that [her husband] feels repelled by her. I told her she should make an effort and try harder to win him over". (SW3 2005)

Religious leaders pathologised violent men in order to sustain the good wife category. During my interviews with religious leaders, I challenged the notion of obedience or patience they advocated by putting forward the example of a woman who was repeatedly heavily beaten by her husband. RCL1 (2005) explained that in such cases, the husband would be considered "psychologically ill and the wife had the duty to stand by him until he is cured".

Similarly, RCL5 provided a gendered hierarchical understanding of authority in the family:

It is not acceptable for the man to hit his wife. But the woman wants to always do as she pleases. The nature of humankind means that there should be a law. You are educated, and well rounded, and are continuing higher education, and your conduct is sound, it does not mean that you want to manage the home and the family. Maybe you could be stronger than your husband intellectually and maturity-wise, and that is found in many households, and we now call this age as the 'women's age'. But if you have all these qualities, it doesn't mean that you rule the household. There should be one ruler of the

household. The household that has two leaders is ruined. The woman should defer (twaṭṭī) to the man but not for her to be humiliated. Humiliation is rejected, but God has instigated 'management' [The Quran verse that mentions that] "men have primacy (qawwāmūn) over women" should not be interpreted in the sense that he renders her a slave, but from an administrative and management perspective.

Police officers were another group of actors to legitimate violence as authority. In a training workshop to police officers run by WNGO1 on violence against women, participants tried to discount the evidence of domestic violence by claiming "it is unfair to always blame the man for all violence, as if he were a monster. It is only a minority; most men are caring and protective of women [...]" (Fieldnotes 2005). Then they relied on an array of scriptural references to legitimise violence against women, such as Quranic verses relating to "the right of the man to discipline the woman". They also referred to old Arabic sayings, such as one that likens women to an "olive that needs to be pressed (rass) for a better taste". These examples reflected the ways in which socio-cultural norms override professional practices.

7.4 Rejecting the dominant 'wife kind'

This section discusses how the selving process of women shifts away from the dominant norms of family law. This shift occurs when women interpret their husbands' practices as a marker of adverse ethics. Women dissociate from the gendered norms of the marital unit by contesting the embodied norms of obedience, regaining financial autonomy, and contesting the norms of reproduction and parenting.

7.4.1 Dissociating from the gendered norms of 'the marital unit'

Interviews with women respondents indicated that their lived experiences led them to contest tying their social self to the 'marital unit. This fusion primarily revolves around linking their reputation to that of their husbands, as indicated in other contexts (Dallos and Dallos 1997; O'Shaughnessy 2009). As W2 explained:

[...] I was living with him and I could not badmouth him like couples do. When I badmouth him, it is as if I am badmouthing myself. This is my opinion. For example, if I say that my husband is an imbecile and is ill mannered, while I am living with him it is

as if I am so too, the same thing. I only tell him off when I don't want to live with him anymore, when I become separate, when I don't want him anymore.

The impact of this fusion seemed detrimental to women as it meant embodied obedience manifested in control over the body and movement. W9 found that:

[T]he woman always lives in guilt thinking "maybe I did something wrong to him, maybe it is my fault" [...]. To tell you honestly, in the beginning, when I first married him, I would think, "do I put this here or there? What he if he wants it there?" But whether here or there, he is always upset. I would feel so tired. Do I open the window or close it? He ties you up (bi rabbtik) at every step.

Women respondents also relied on the impact the normative practices of their husbands had on their epistemological self. W4 recounted how she questioned the 'wife kind' as it was manifested in her being rendered invisible by her husband:

He would enter the house and act as if I didn't exist. If I sat next to him he would say: "go inside, take your children and go inside". What was I doing? What was my role in this house? Ok I am a mother and I make sacrifices, but ones like to hear a nice word.

Similarly, W9 recounted a discussion with her husband when she left the marital home after a fight. When her husband called her to discuss the issue she noticed that he addressed her by her first name. She replied by saying "first of all, thank you for showing that you know my name, for five years you have been calling me 'hey' (waynek) and 'you' (inteh) and 'look here' (laykeh)".

Women respondents also directly contested the dominant gendered character of the 'wife kind'. These two accounts revealed the ways women sensed the gendered pattern of the embodiment of the 'wife kind'.

I was sick of it. Imagine that in the end he was setting conditions that I cannot go out, I cannot open the window. The window I wanted to open was as small as a cat flap (ajalik ta'et hammem). It was as if I was imprisoned between four walls. I was like in a prison sentence and I didn't know when it would end. I don't when I will be released. I swear to god I told him this. How much can a woman put up with? (W5 2005)

I told him: It is my right to know". He said: "No I am a man; you don't have to know every step I make." I said: "so now I am a woman and you have to know every step I make. But you are the man and I don't have to know anything? Do you think this is marriage? You are the man and you do whatever you want and I don't?!"(W4 2005)

The dominant category of the married self was gradually devalidated when women respondents framed their husbands' behaviour in terms of restrictive and gendered ethics. Women respondents framed their husbands' practices as indication of their ethics in four ways. First, women respondents rejected the impact of the dominant norms on their ontological self:

I was patient, but in the end, I exploded. How long can I take it? He broke three ribs here, this shoulder he dislocated it, and this other shoulder he also dislocated, my leg he broke it. I would work with both my legs broken [...] I couldn't come up with excuses for him anymore, beating is only for donkeys. (W3 2005)

Second, women respondents set their 'selves' against their husbands as an antagonistic 'other', such as the case of W10:

I could not take it anymore. It got to a point where I felt annihilated. There was not one drop of self-worth left in me. And for what? [...] I did not care anymore what everyone would think. It was not worth it. There was nothing left to fight for.

Third, the husbands' ethical self was read as ontologically inadequate and harmful:

I use to tolerate, but in the end when you find that there is nothing in return you feel that you are been treated unjustly, and you are being hit, and deprived. [...]. There is no result. I tried and in all possible ways. I tried to be a lover. I tried to renounce my pride. I tried to deprive myself. I tried to deprive my children. [...] I tried everything. All possible ways for this family to stay together. There comes a time when a person re-visits himself. [...] I am personally like this. When I go to sleep I revisit everything that happen to me during the day to see where is the wrong and where is the right. [...] I was tolerating everything and saying: "it is ok; he will wake up some day." But where is that day? Where is that day? As I see it, he is not going to wake up. [...] I was sure one million per cent that there is no conscience or feeling. (W4 2005)

Fourth, the husbands' ethical self was considered as fixed and unchangeable:

> We were married for 8 years and 11 years in total if we include the engagement. It is a lifetime. Therefore, it is obvious that one would not change after this period. (W2 2005)

At this stage, women were able to dissociate from the dominant norms of the 'wife kind' by contesting their husbands' ethics. This process is in line with Haraway's (2003) 'located positionings' where individuals are able to reflect on their past experiences critically.

7.4.2 Asserting norms of financial autonomy

The productive self was questioned also when women experienced lack of appreciation of their financial contribution to household expenses. As this example illustrates, women respondents questioned their husbands' practices that include appropriating their wives share of finances.

> Before we got married, I put money in the bank in his name and mine. No one does this. He was saying at first "I have, I have, I have", but it turned out that he did not have anything [...]. This money that I put, I did not know how it disappeared, and where it went. I do not know where it is. [...] In the end, I do not have money anymore. Now I woke up. Now I started to ask. [...]. (W14 2005)

Similarly, women start questioning the practices of their husbands that exclude them from shared property. W15 (2005) explains how her quest for financial security created problems in her marriage. Her husband was in an unstable mental condition and had a volatile temper and repudiated her once on a whim and then claimed her back. Her problems worsened when they decided to buy a flat:

> I asked him to register the flat in my name, not out of greed, or snobbery, but as a guarantee, so that I wouldn't wait another 10 or 15 years more of my life to find myself on the street. He got offended and said "am I disabled, am I dead for you to register the flat in your name?" Another man who would be 'buying' into his wife and children would do the impossible to satisfy her. I told him I would not abandon you or the children, I would not put you in the street, I would divorce you like you did to me, but he did not agree [...].

In some cases, women stopped relying on their families' approval. One example is the case of W23, who sought divorce after 20 years of a generally harmonious marriage, because she blamed her husband for an undisclosed 'gross misconduct'. Her family did not justify her stand and sided with her husband and considered him an 'ideal son in-law' (Fieldnotes 2005). Her parents even confiscated her jewellery – her only assets from the dower, in order to prevent her from covering costs of a lawsuit. She ignored them and relied on friends to go into hiding until the divorce was finalised.

Undoing the productive self was by dissociating their contribution from that of their husbands and claiming recognition for it. As W4 explains:

> Once he said he wanted to leave the house. I sent after his brother and sister. I told them "ask him why he wants to leave the house". He said "I always come home and she is in a bad mood (mkashshra) and she is this and she is that". In front of his brother and sister I told him "I will ask you and you answer. I don't want anything else from you. How long have we been married?" he said "12 years". I asked "in these 12 years how much have you spent on me? Have you bought me clothes?" he said "no". I said "did you give me money for me to have a hairdo?" he said "no". He does not even get medicine. I get everything. Then people tell you "you are stronger". I was put in this situation. People tell you "it is your mistake because you got him used to this", but I say that this has nothing to do with it. In my opinion, I took him like this. Because since we got married, he is like this. I took him like this. [...]. People say "you got him used to this because you depend on yourself, so he got used to it." [...] This is a character in the human being. It is not me who got him used to carelessness or dependency.

Women's subjectivity shifted further away from the dominant 'wife kind' when they questioned the gendered norms and practices of financial allocation.

7.4.3   Contesting the dominant reproductive self

A crucial point of contestation was when women's ethics clashed with dominant norms about reproduction and parenthood. W12 explained how her husband sought the help of religious leaders to force her into complying with having more children:

> I stopped at the first child, no "you have to get another child", and he started taking me to religious people. [...]. He took me to the [RAB] of Sayyid Mohammad Hussein Fadlallah. Al Sayyid asked, "what is wrong?" I explained that he wants children. I do not want children. Then, the Sayyid told me "you cannot do this. If he wants children, he wants children." He started threatening, "if you don't get me a child, I will take my son." Under this pressure, I got a child, who is my daughter Sarah. Then his condition was for a third child. I had my third child and by then things had become very bad [...].

Reproduction also intersected with the norms of control over their movements by their in-laws. W4 stated that her husband and her in-laws pressured her over having children as soon as she got married. They had the ultimate say in the process, choosing the doctor she had to visit during her pregnancies and not informing her of the ill health of her first baby.

Women's notions of reproduction also included expectations about their husbands' obligations in showing assistance during pregnancy and delivery. W1 experienced this when she was about to deliver her second son in France. Her husband, in Lebanon at the time, did not come to be by her side during labour, despite her many requests. She recounts that he explained it in terms of his work obligations that take primacy. Similarly, W2 explained that her husband was not concerned with her difficult pregnancy:

> When I was about to deliver, he did not show support. During my pregnancy, I was ill and was at his parents, he brought me from his parents to my parents' place, which is quite close, and told my parents, "she is ill". Who took me to the doctor? My mother and my brother's wife. You know parents gossip. I used to be frustrated that he did not accompany me. Even if he had work, only once, he could have done it. He could have spared one hour to take me.

These expectations clashed with dominant norms that restricted husbands' reproductive roles as control over fertility and 'ownership' of children.

The turning point was when women respondents realised that the husbands' practices also targeted children. W3 recounted:

I had three miscarriages of three twins because of him, as he used to hit me and beat me so much. He started hitting my son and beating him, when he was not even 40 days old. Once my child had stomach cramps, he came and put the pillow on his mouth, he wanted to suffocate him. I asked him "what are you doing?" he said "I am quieting him", so I said "is this how a child is quietened?" From then, I began to be careful and watch out from him. I did not have trust. I used to send my son to school and finish my work before my son gets home. [...]. This is my son, not his. His son is not accepting him. I accepted him and tolerated for the boy's sake. More than this, I cannot take.

In this sense, women rejected reproductive and parenting norms when they tied the ill practices with poor ethics of care towards their children. W4 explained:

Because he has abandoned his conscience and his children. If he hadn't and I felt that he could still have mercy on his children, I would think that it's ok, let me stay here it is his house and he is welcome to return to it (ahla w sahla fi). But now no.

Here women contested the dominant 'wife kind' by opposing gendered norms of their reproductive selves against those of their husbands.

7.5 Interrupted looping effect and displacement of women's subjectivity

7.5.1 Alternative categories for the 'wife kind'

The process of kind making and unmaking was not completed as Hacking suggested for several reasons. The dominant 'wife' category persisted to be a mainstream desirable category, both legally and socially, while women with family law issues were re-categorised into three other 'negative' categories. One legal category is the 'unruly wife' (nāshez) that is commonly adopted by Islamic courts based on interpretations of the Shar' about women who desert the marital home against their husbands' approval and thus unilaterally separate from them. Wives who are categorised as nāshez are required to go back to the marital home, or are otherwise stripped of their marital rights, such as alimony and custody of children. W1 provides one example of this category after her husband left her in France and came back to Lebanon with the children without her knowledge. When she refused to join him, she was ruled as nāshez by the religious court and was thus denied all her legal rights, including custody of children and alimony, and a ban on travel was placed against her.

The categorisation of *nāshez* pressures women into remaining under the control of the husbands. As RCL3 explains, "the deviation (*nushūz*) usually is attributed to women as they are required to be obedient and maintain the continuity of marriage. However there are several views in this area." While religious judges confirmed that ruling of *nushūz* are subject to several conditions (RJ2 2005), several lawyers (LE1) and women respondents (W1, W8, W5) reported that they tend to be used as a first resort and applied liberally in courts. Continuing with the example of W1, the Jaafari judge issued a ruling of *nushūz* in the first hearing of the court case. In this instance, the lawyer accepted the ruling as 'common practice', and failed to challenge it although the case did not meet all the nushūz conditions. In this sense, the category of the *nāshez* becomes a dominant social category reinforced by gendered political practices of judges and litigants, as Nahda Shehada (2009) concurs in her study on the provision of house of obedience (*bayt al-ta'a* [158]) in the Gaza strip.

Women were also categorised in another 'negative' category of the 'divorcee'. The negative moral implications on this category are socially rather than legally constructed. When women manage to obtain divorce, they are subject to the negative norms associated with it. The 'divorcee' provides the moral antithesis of the 'good wife' and where women are blamed for the failure of the marriage. These constraints affect women's chances to negotiate future relationships. W5 mentioned that after she divorced, one suitor faced opposition by his parents because she was divorced. Another example is W2 who emphasised divorce as a decisive marker for a change in subjectivity:

> I told you I don't get out of my house except if I am divorced. He told me that he will change his ways, but I told him that there is no woman who would go back to an ex-marriage and find her life going for the better. I don't want to do this back and forth divorcing and getting back together. I have tried you and you won't change. It wasn't until two months ago that he accepted the divorce and we have been divorced since for two years.

---

[158] The House of Obedience (*bayt al-ta'a*) is the term used to indicate the legal requirement of a wife to return to the marital home, failing that she would be considered *nāshez* and loses all her rights to alimony and custody.

A third category is that of the 're-married woman'. Legal frameworks tend to disadvantage re-married women by restricting their custody rights. In many cases, former husbands manage to strip women from their children's custody if they decide to remarry. Men place conditions on the divorce settlement at the religious courts, or they use their influence to revoke custody (Fieldnotes 2005). Social stigma tends to be greater depending on the type of marriage they contract. For example, W10 remarried someone from outside her sectarian circumscription. Her parents did not approve of this marriage and ended up not attending her wedding, as they were ashamed that she has 'sinned'. Her mother still lamented the fact that, since she married a non-Druze and became excommunicated, W10 would not be buried in the family religious cemetery. While these categories are not incorporated into women's ethical selving, they still constitute part of the kind making that fails to transform into a positive political classification.

7.5.2 Displacing subjectivity to the 'mother kind'

I start here by detailing the dominant moralities of religious authorities on 'motherhood' and custody rights that are removed from women's construction of motherhood. RCL5 justified the men's right to children's custody in gender terms where "the woman is not to be given ownership, not to be given authority. The nature of women is not equipped for this. But men are."

When asking RCL4 about the reasons for the discrepancy between girls' and boys' age of father's custody (7 and 2 years old respectively), he provided a gendered analysis of the issue that is drawn from social norms rather than any specific scriptural texts:

> The girl needs more love and affection. For boys it is up to 2 years old as it is the age of breastfeeding. So regardless if the mother breastfeeds her son until he is 2 years old or not, she would still keep him until that age. Even if she gets married during the custody period, the children remain with her. [...]. A young boy aged two needs his mother's affection, I agree with you, but he is with his father who would probably get support from his parents. Boys are more capable of handling emotional shocks than girls. Girls do not take it well. That's why girls stay with their mothers until they are 7 years old to give them all the support and affection they need. The custody age for boys is related to the fact that there is no need for much emotional guidance as with girls. There is a

saying that mentions that no matter how boys behave they are still men. With girls, it is different. Their behaviour changes as they grow up. They need someone to protect them. As the saying goes: the man is a seeker and the woman is sought after, the man is seductive and the woman is seduced. Such an intricate make up that not you or I have created. God almighty created this attraction between the two parties. So the boy's custody age of 2 is enough to give him the needed love and affection.

The central attributes of the 'mother kind' related to protecting their children from the husbands' harm. The ethical selving of a good mother focused on the notion of 'sacrifice' that was expressed in several ways in relation to the children. The technical selving related to women's decision to remain in or leave the relationship being dependent on their ability to protect their children. W3 explained:

> I stayed that long for the sake of my son. But then his son was not accepting him. [...] I accepted him and tolerated for the boy's sake. I cannot take more than this. In the end I did not fear for myself, I feared for my son. My son whom I was able to have out of seven children. I had three miscarriages (mrawwḥa tlāt btūn) and the three were twins, three boys, and three girls other than this son.

Another notion of the good mother was that they would not abandon their children.

> I told the judge yesterday, if I were a bad woman I would have thrown the children to you and lived my life. (W15 2005)

> SW3 told me about this woman who hasn't seen her child for 10 months and she has not dared to call her husband. I said by God I would go and wrestle with him (wallah brūh habbsho). I want to see my children, he doesn't dare take them, I would hit him (bkassro). I would sacrifice everything for my children sake. He knows that. I have told him several times I would sell my parents, I would sell you and everything, but I don't sell my children. I would fight with my teeth and my hands in order to raise them and stay with them. (W4 2005)

In cases where women were separated from their children due to custody rulings, they translated their ethical selving as the 'good mother' as symbolic unwillingness to give up their children where the separation of women from their children was considered as forced and temporary. One example is with W1 who has not seen her

children in 10 years. After several years of negotiations, her husband agreed to divorce her under the condition that she would legally revoke her right to the children's custody despite them being over the legal age for mother's custody. While this agreement would have granted her a long sought divorce and visiting rights to her children, W1 did not agree to it on ethical grounds. She expressed it as follows:

> I cannot willingly abandon my children. They were taken away from me, and not the other way round, and I would never want them to think that I was the one to abandon them. I just cannot. I know I am materially losing a lot, but I cannot get myself to do it. At the end, they will understand what happened and will come back to me.

The techniques to maintain the ethical self of the good mother related to bargaining over custody. After her divorce, W2 negotiated custody of her four year-old daughter with her former husband. She explained that this bargaining affects her daughter's upbringing because she has to go by her ex-husband's rules or otherwise he threatens to regain custody. Her ex-husband required that their daughter would wear the headscarf although she is too young of age to do it according to Islamic Shiʿa religious directives (usually required at puberty). Although W2 wears the headscarf herself, she reluctantly agreed to it:

> My daughter is still too young to wear the headscarf (titḥajjab). I wanted her to enjoy her childhood and grow up to decide whether she wants to do it or not. However, her father [i.e. ex-husband], because he is in the Party (ḥizb) [i.e. a member of the Hezbollah party], wants her to wear it and I have to comply. Otherwise, he will use it as an excuse to take her custody away from me.

At the same time, women also constructed their ethical selves as good mothers by refraining from challenging the fathers' authority:

> I refused [to file a law suit] because in the end I will appear weak. In the future when my children grow up, they will know that I stood in front of their father in court. This is not fair to them (mish ḥilwe bi ḥaqqon) at all. It is not fair to my daughter. (W12 2005)

> They love their father a lot. Because I have never told them to hate their father, until today I tell them: "This is your father." Yesterday, for example, my daughter was asking

212

me: "What will the lawyer do? inshallah you get divorced." I asked: "Why are you saying this. Isn't it shameful (ᶜayb) to say this? This is your father. [...] Can you forget your father? If you can forget your father then you can forget me too." She said: "No but because he did all these things" I said: "No, your father will always be your father and you should love him and respect him regardless of what is between me and him. He is your father." (W4 2005)

In this sense, the 'wife kind' did not lead to a looping effect. Instead, it resulted in the displacement of women's selving to another category of 'mother kind' that combines both elements of dominant and less dominant norms.

7.6 Conclusion

This chapter traced the ways in which the norms of family law frameworks regulate women's legal subjectivity. It did so by exploring the normative basis behind women's enrolment in the 'marriage project' and development of their ontological and ethical selves as the 'wife kind'.

The analysis revealed that the norms of family law frameworks are disseminated in society through various 'moral authorities' that tend to sieve statutory and broader legal norms on family law and retain the gendered norms inherent in them. Women initially internalise these norms by subscribing to an aspirational ethos centred on the normativity of marriage and the gendered role of the wife. The family and religious leaders arguably played a crucial role in validating these gendered norms. However, the subjectification process is also strengthened when other actors tend to perpetuate these gendered norms. Women developed ethical selving of the 'good wife' by enrolling in, and complying with, without necessarily validating, the dominant norms instituting their husbands' authority over them.

Women's subjectification is shaped by the interlocking of the dominant moralities of family law frameworks and women's constructed ethics on their roles in personal relations that are produced through the discursive practices on gender equality in family law. It appears in three stages. First, the stage of compliance is where women's ethics are in line with dominant moralities and discursive practices follow accordingly. Second, women destabilise the 'wife kind' when women's ethics clash

213

with the dominant moralities, but they maintain compliant discursive practices. A third stage is when women's ethics overtake dominant moralities and align discursive practices with their own ethics.[159] This subjectification process is effectuated in tandem between two 'techniques of the self'. First, women stop considering their husbands' ill practices in isolation of their ethics. Second, women's ethics are reformulated to reject obedience and assert a sense of autonomous subjectivity instead.

In this shift, their subjectivity is reshaped from the category of 'wife' to that of 'mother'. While the epistemological and technical selving goes against the dominant categories of 'mother', the ontological and ethical one remains in line with the dominant morality of the gendered 'mother' category. In this sense, it adds to Hacking's (1995) notion of a looping effect where individuals categorised under a certain 'kind' manage to contest it by formulating alternative subversive meanings to it. The case of women categorised under the dominant 'wife kind' category slightly modifies this idea. This chapter indicated that instead of altering the political meaning of the dominant 'wife kind', women's subjectivity went through a double loop where women identified with another category of 'mother kind'. This category remains framed within gendered notions of womanhood. However, it stressed a different gendered role than that of the wife, which relates primarily to gendered dynamics of the couple. This shift can be influenced by the power dynamics in the socio-legal context. These power dynamics influence the extent to which the dominant norms (in this case of the 'wife kind') are deeply seated within the actors on which individuals draw on for support (in this case the family and the social workers and lawyers). When these actors fail to join women in subverting these dominant categories, they develop women's subjectivity in a way that restricts agency as is discussed in the next chapter.

---

[159] As I went about the analysis, I noticed that these three stages could be read as following the marriage cycle, starting with women's entry into marriage to exiting from it. This linear temporal sequencing was expected as most respondents were seeking to exit the marriage at the time of the research. However, the various stages of kind making and unmaking can occur at varied periods and instances during the marriage and thus it is not necessarily a linear interpretation of the marriage cycle.

8 CHAPTER EIGHT Governance spaces and the construction of women's agency

8.1 Introduction

I want everyone to hear me. We can't go on being ignored like that.

(W9 2005)

No one wants to talk about it... My kids were snatched from me while everyone was watching. [...]. I went to women groups hoping they would help. All they could say was 'there is nothing we can do, it's the law'. If the law was fair, I wouldn't have come to them. What kind of [feminist] activism is that?

(W1 2009)

When I was conducting my fieldwork, a two-minute video clip circulated on YouTube. It was taken from a TV interview between the Lebanese singer Haifa, a superstar known for her colourful lifestyle and artistic repertoire, and a famous talk show host known for his provocative questions. In the clip, the host brought up an issue that had never before been raised in the media. Haifa has a 12-year old daughter from a former marriage. Her former husband has not allowed her to make any contact with her since she was one-year old. The clip shows Haifa looking distressed, bursting into tears, refusing to discuss the issue, and threatening to leave the studio.

The eagerness of women respondents' to voice their issues sharply contrasted with Haifa's reluctance to 'go public' with hers.[160] It even contrasted more with the subdued manner in which women groups raised the issue of gender equality and family law. Women groups from across the ideological board did not engage fully

---

[160] Of particular interest were the comments on this clip posted by Youtube users. Many viewers thought that it was a private issue and blamed the host for bringing it up. A substantial proportion blamed her and her lifestyle, deeming her a fallen woman and bad mother. A third much smaller proportion defended her and blamed the former husband and religious laws for her inability to see her daughter. These views link to the discussion on dominant norms in chapter 6.

with the issue. The former director of a prominent women studies research group stated that "there should not be any reforms of family law, they are a private issue" (Fieldnotes 2005). Leftist groups were discouraged by an unfavourable political environment, as BM1 explained:

> It is not that we want to postpone dealing with [family law], but every time that the campaign is held, the forces that involved were not so large in order to exert effective pressure. [...] Now the sectarian mentality considers itself as the most powerful [...]. So secular or democratic forces are not currently strong. [...] It is like blowing in the wind and we don't want to reach this point. So there is a need for a change in the mentality. So how would you change the mentality? [...] We said let's start with demanding [gender] equality in other laws [...] until there is a strong lobbying force on the ground then we can proceed with the issue [of family law reform].

This chapter discusses how the order of gender governance of family law shapes women's agency. It links the previously discussed enactment, moralities and ethics of family law frameworks and policies to women's capacity to act on gender discrimination in their personal relations at both collective and individual levels. The main finding is that the gender governance order strengthens women groups' expertise on action on family law, which disconnects and restricts women's agency in individual and collective policy spaces. It also constructs women's agency in multiple directions through contested notions of resistance and freedom beyond the conventional Western perspectives.

The chapter contextualises the ways in which women groups engaged with the post-conflict policy making process discussed in chapter 5. In this process, women groups strengthened their role as 'experts' on family law and reinforced internal bureaucratic practices through 'projectisation' of collective action. Their expertise is strengthened by managerial approaches to non-governmental collective action and the gendered norms generated by the enactment of family law policies. The thesis traced these changes at the two levels of analysing the policy problem, and redrawing women with family law problems as target populations and regulating their agency in collective and individual spaces.

Findings reveal that the expertise of women groups is restricting women's agency on gender equality in family law in collective and individual spaces. In collective spaces, women groups are reducing women's participation to that of passive 'beneficiaries'. In individual spaces, women groups' expertise sustains the gendered norms and practices of family law policies rather than challenge them. These changes influence women's agency away from collective action and towards individually negotiating their freedom in personal relations in varying and multiple ways.

The first section links to chapter 5 by explaining the role of women groups in reformulating the policy problem of gender equality in family law in the post-conflict policy setting. The following section details the way women groups regulated the inclusion of women in the collective spaces for action on family law. The third section discusses the role of women groups as experts in regulating women's agency in individual policy spaces. The last section analyses the way in which the order of gender governance enacted in women's social spaces affects the direction of women's agency and the many definitions of 'freedom' produced.

8.2 Repositioning collective action and reframing the policy problem of family law

This section traces the new roles that Lebanese women groups adopted in response to the change in their positioning within the post-conflict policy making process discussed in chapter 5. During that period, women groups actively engaged in global and local policy episodes and contributed to the discursive changes in framing the policy problem. Hence their role was gradually modified from representatives to 'experts' in the sense elaborated by Foucault (1989) as exercising the power to shape discourse and action on gender equality in family law. I explore these roles of expertise in relation to Lewis and Mosse's (2006) typology of NGOs as 'brokers and translators'. At the end of the section, I propose a notion that complements these two roles and explain their positioning in the policy process.

This section starts by explaining how women groups acted as 'gender brokers' by shifting from representatives of women's rights to advisors on gender equality. This shift is noticeable in their roles during the transition period from the conflict period to the post-conflict era. Changes to the role of women groups are traced at both the

217

general level of gender-related policy making and implementation and the more specific one related to family law policies.

During the civil conflict, women groups acted as representatives of women's rights due to the breakdown of state institutions during the civil war. Up to the end of the 1980s, an array of leftist and nationalist women groups occupied the central scene of women's rights activism. They were positioned at the centre of the global and local feminist and socialist activism spaces. They received substantial funding from the political movements to whom they were affiliated and started originally as the women's committees for these parties. Both LWNGO1 and LWNGO2 were part of prominent national leftist political parties. Hence, they were closely linked to international socialist feminist movements.

Another group of activists also claimed representativeness of women's rights by adopting a universalist approach to gender equality in family law based on the international human rights framework. Human rights activist lawyers focused on statutory rights of gender equality in family law and built their human rights platform in 1984 by establishing the Lebanese Organisation for Human Rights (LOHR) as an affiliate to the International Federation for Human Rights. Activists at this organisation constituted the cross over between women and human rights groups. For example, the co-founder of the LHRO Laure Moghaizel presided over the national umbrella of women groups, Lebanese Council for Women (LCW) in the 1980 and 90s (Moghaizel Law Offices undated). [161]

As representatives of women's rights, women groups had a specific approach to gender equality in family law. Their engagement with gender equality appeared in collective public action based on legal expertise and advocacy for gender equality in family law. The transition into the post-conflict era gradually rearranged the positioning of women groups in relation to emerging policy actors, and particularly state actors. Several policy episodes led in the reduction of women groups' representation power among actors to a gradual shift towards a more advisory role.

---

[161] They were among the first civil society actors to contribute to the personal rights debate by proposing a unified civil personal status law proposal that they developed in 1950 while they were members of a small secular political group named the Democratic Party.

218

The role of women groups significantly changed during the institutionalisation process of the CEDAW mechanisms in Lebanon in the early 1990s as discussed in chapter 5. Women groups were centre stage in the initial phase of the preparations for the Beijing Summit, which were initiated in 1993. Upon ministerial decree, women groups were officially appointed as part of the national delegation along with a pool of officials that included the wife of the president of the republic who headed the delegation. At that stage, women group leaders acted as gender experts and introduced state actors to the global gender regime.[162] They asserted their leading position by providing the material for the national delegation on the situation of women's rights in Lebanon as expressed by BM2 (2005):

> We were the pioneers in promoting women's rights. When we asked Mona Hrawi [the president's wife] to give a speech on the International Woman's Day, she didn't know what 8 March was. But now, everyone talks about it and claims to have initiated it.

As implied in the quote above, the representative role of women groups gradually narrowed following the Beijing Summit and the follow up mechanisms of the CEDAW process. As part of the formalisation process, the Lebanese government established a national commission for gender issues. It had the role of the official representative of gender issues. As per the directives of the CEDAW mechanisms, the Non-Governmental Committee for the Follow up on Women's Issues (NGCFWI) was established as a monitoring body affiliated to NCLW.

Women groups gradually lost their leadership of the gender equality agenda to state actors who held official decision-making power at both administrative and operational levels. As discussed in chapter 5, the NCLW also acted as a gatekeeper for women groups' participation in the process. Despite CEDAW regulations, the status of women groups as a non-governmental committee within NCLW was not mentioned in the commission's by-laws. In 1998, the non-governmental committee broke off from the NCLW and established itself as an independent woman group (LWNGO5) after disagreements with the board members. As the leadership of the NCLW board changed a few years later, the president of LWNGO5 returned to the

---

[162] The Lebanese government appointed the wife of the then president of the republic as the head of the Lebanese delegation to Beijing.

board position. These examples indicate the political negotiations in which women groups were enrolled. As NCLW was further formalised, it claimed the role of the official representative and decision-making power from women groups.

With this reversal in roles, women groups focused on their expertise in legal knowledge. The CEDAW follow up mechanisms required specialised legal skills to cater for their requirements of reporting to the UN committee and reviewing and comparing legal provisions. For example, the NCLW and the LWNGO5 jointly drafted a National Lebanese Strategy in 1997. Expert lawyers from within women groups stepped into this role relying on their experience in the field.

The representation claims of feminist groups over gender equality in family law was also compromised by the campaign for an optional civil marriage law reform launched by the then president Elias Hrawi in 1996 and discussed in chapter 5. Women groups had a mixed response to the campaign (Al-Bizri 2000). The LWNGO2 and LWNGO3 actively joined the campaign whereas other organisations remained in the background. At the time, the LWNGO6 - the representative umbrella of women groups in Lebanon – was also part of the campaign because it was presided over by the president of LWNGO3. Participating women groups subscribed to the overall demands of the campaign focusing on the issue of consociational secular citizenship without including a manifest gender equality angle. I discuss their discourses in the next section. This seemingly ambivalent position of women groups later unveiled changes in the power dynamics between various policy actors.

In a follow up episode to the reform campaign, the dynamics between women groups and state actors further reduced their representative roles. In the two years following the reform campaign, significant changes took place within the space for feminist collective action. As BM13 (2005) explained, socialist and secularist groups gradually lost their grounds within the feminist collective action space in that period. Changes were reflected mainly in the LWNGO6. As the term ended for the leftist LWNGO6 president, the LWNGO6 elected a new president who was closely affiliated to political actors, particularly the then Prime Minister Rafik Hariri, who opposed the reform campaign. In addition, the LWNGO6 broadened its membership to include a large number of small religious community women groups working on

charitable service provision for women. With this new make-up, the LWNGO6 distanced itself from the secular claims on family law.

In the summer of 2001, women groups joined international efforts to hold the first World March of Women, a global event calling to end poverty and violence against women (World March of Women website). LWNGO2 and the LWNGO6 set to organise the march and draft a common agenda of local demands for women's rights. In drafting the agenda, women groups disagreed over the issue of optional civil marriage law reform. Leading leftist groups, such as LWNGO2 and LWNGO3, held on to their secular stance and insisted on including the demands. On the other side, despite its general commitment to a universalist gender equity agenda, the LWNGO6 objected to this demand because it went against the political agenda of a large number of its women group affiliates.[163]

The LWNGO6's stand was strongly backed by two women MPs.[164] As no agreement could be reached, and facing the secular groups' pressure to uphold the optional civil personal status laws demands, the LWNGO6 and its affiliates boycotted the march. This disagreement fragmented the representative role of women groups as advocates for family law reform. This episode helped in diversifying women groups' stance on gender equality and family law and their formulation of the problem as is discussed in the next section.

As women groups diversified their stances, they approached collective action as knowledge communities bearing gender specialists roles. Women groups moved on from the charged politicised climate and reorganised collaborations across women groups in issue-based networks. These networks were funded by western donors and drew new linkages across women groups that were still based on political alliances, in the broadest sense of the term.

Alongside the policy episode of family law reform, women groups strengthened their gender specialist roles by catching up on new global discourses around gender

---

[163] LWNGO6 considered optional civil marriage to be threatening inter-religious peace consolidation and 'shared livelihoods' and unsuitable for Lebanese social and religious norms.
[164] MPs Bahia Al-Hariri and Ghinwa Jalloul were both affiliated to the coalition of the then Prime Minister Rafik Hariri.

equality in family law, such as the prominent shift in from a legal approach to family law towards the lived perspective of Violence Against Women (VAW) approach. This global shift sought to address the resistance by several Arab and Islamic states to ratify or remove their reservations on the CEDAW convention.[165] The first event to introduce the VAW approach to the Arab and Lebanese feminist collective action was to hold a public hearing in Lebanon on 29 and 30 June 1995. Arab and Lebanese women groups organised the first public hearing including public testimonies of women enduring domestic violence by their husbands or in-laws.

On 1 December 1996, exactly one week after the launch of the secular civil marriage reform campaign. Several Lebanese and Arab women groups met in Rabat and agreed to formally establish the Permanent Arab Court to Resist Violence Against Women (hereafter Arab Court), and hold its headquarters in Beirut. LWNGO3 took the lead on the issue and appointed the director from one of its members. Later in 1997, LWNGO3 and several Lebanese women groups formed LWNGO1, the first Lebanese network specialised in working on resisting VAW. Despite the optional secular reforms campaign reaching its peak at that time, LWNGO1 did not mention the issue in any of their statements. The parallels went on as the second public hearing was held in Beirut between 15 and 17 March 1998 to coincide with the cabinet's voting round on the president's optional secular marriage reform proposal. As with the previous event, the Arab Court did not refer in any way to the turbulent debate over optional civil marriage reforms. Women groups thus initiated another track for action that is based on legal speciality and service delivery, thus confirming their roles as translators of gender knowledge that reconfigured the meaning of gender equality in family law.

With this new track, women groups asserted their role as legal specialists and service providers. Gradually women groups turned this track into gender 'projectisation'. Within two years, LWNGO1 mutated from its initial network structure into a formal Lebanese NGO and established itself as the only Lebanese specialist women group dedicated to resisting VAW. In a reversal of power dynamics, state actors were brought into this policy episode as implementation actors rather than policy and

---

[165] See Mayer (1995) and Connors (1996) for a useful discussion of the reservations of Arab states and their arguments on possibilities for the compatibility of the CEDAW with Islamic family law.

decision makers. For instance, LWNGO1 teamed up with the Ministry of Social Affairs (MOSA) to implement a training programme on detecting and referring victims of domestic violence. Eighty social workers from MOSA's Community Development Centres (CDCs) around Lebanon were trained for that purpose and a domestic violence guidebook was also drafted (PM1 2005). Similar to Hammami's (2000) findings on Palestinian NGOs since Oslo, Lebanese women groups have renegotiated their position vis-à-vis the state by positioning themselves as political actors and 'experts' with significant influence on the policy making process.

As we can see from this analysis, women groups had a crucial role in steering the discourse on gender equality and family law. They actively reformulated the policy problem of family law towards the notion of Violence Against Women. This notion is useful to bridge the plight of women across various family law frameworks. It however shifted the governance spaces from family law frameworks and their enactment towards the domestic and individual spheres. Their collective agency shifted towards establishing themselves as 'gender experts' by translating particular knowledge on gender equality in family law and brokering the agendas of local and global policy actors. Hence it is useful to think of the collective action space constructed by these women groups – and NGOs in general- as 'discursive connectors'.[166] Hence women groups' collective action space draws legitimacy from the international and local gender equality regimes and acts as a hub for power relations between various discourses on gender equality and family law of policy actors and women with family law problems.

8.3 Expert feminist action and women's representation and agency in collective spaces

This section explores the ways in which the agency of women with family law issues is enacted in the collective spaces of action on gender equality in family law. It unpacks the expert roles of women groups and explores its impact on women's agency. Women groups sustain their expertise roles by reinforcing the exclusivity of 'activism' in opposition to women with family law issues. The notions of brokerage

---

[166] My notion of connectors is different from 'interfaces' in that the latter assumes a neutral entity between two worlds (Long 2001). Considering NGOs as connectors recognises their roles as vehicles of power relations (Foucault 1980) and discursive translators (Lewis and Mosse 2006).

and translation run through all levels of the organisational structure of the women groups.[167]

8.3.1 Gender experts and lay followers

Women groups were able to strengthen their expertise role by maintaining exclusivity and a sharp dichotomy between the roles of 'activist' and 'lay' women. The intra-women groups' dynamics revealed a strong hierarchy that is a combination of two factors. First, women groups in the post-conflict period followed the historically gendered and hierarchical patterns of organising discussed in chapter 4. These dynamics are in line with Suad Joseph's (1997) study of women groups in Lebanon, where there is little mobility and turn over in leadership.

One example is the conference that I participated in during my fieldwork on the achievements and challenges of the feminist movement in Lebanon. In one of the discussions, several feminist activists lamented the fact that the burden of collective action has become increasingly too big to bear, as there the numbers of new feminist activist joining women groups was very low. The discussion between long standing activists and other younger members of the audience explained the conundrum of the 'feminist activist'. Two feminist activists gave different explanations. The president of LWNGO5 found that there was "low commitment by young generations to the issues of women's rights" (Fieldnotes 2005). The president of LWNGO3 rather attributed it to the "burdens of economic constraints and the domestic pressures that women face by their family obligations" (Fieldnotes 2005). These two explanations framed individuals – and primarily women – as either unconcerned or constrained, but in both cases defaulting from the 'activist' role. While the discussion went on along these lines, an unaffiliated young woman participant asked to speak. She explained openly that she and her friends are interested in working on women's issues, but they feel "crowded out by long standing members in rigid organisational structures" (Fieldnotes 2005). The young woman's views pointed to a sense of exclusion that individuals might have within feminist circles.

---

[167] The findings help rethinking Lipsky's (1980) concept of 'street level bureaucracy' that focuses only on the personalised interactions of frontline social workers with concerned populations.

Findings from my fieldwork sustained this exclusionary situation.[168] As extensively discussed in the NGO literature, the organisational structure of women groups in many contexts often includes rigid governing structures. Most studied women groups were run by the same president or board members for long years including leftist groups like WNGO2 and WNGO3. WNGO2 adopted a devolutionary system of governance where each branch elected their own committee from the local members and set their own priorities. However, these structures were composed of the same members, elected repeatedly. Another pattern is for women groups to mirror the Lebanese political governance system. WNGO6, the largest umbrella alliance gathering around 120 women organisations in Lebanon, alternates presidency terms between Muslim and Christian presidents, a long-standing practice that was resumed in the post-conflict era (PM2 2004).

These rigid structures demarcate clear lines between long standing gender 'specialists' and other uninitiated individuals. These roles have become part of the gendered and hierarchical organisational practices inherited since the formation of women groups as discussed in chapter 4. As the next section shows, these roles are also strengthened by the projectisation of family law centred collective action.

8.3.2 Embedding gendered norms of family law within expertise

The expertise of women groups further removed 'lay' women from the collective space by perpetuating the stigma associated with gender equality in family law discussed in chapter 7. Women group activists reinforced the role of 'gender experts' by distancing themselves from the 'policy problem' of gender equality in family law. Gender discrimination in family law was displaced as an external social 'problem' outside the boundaries of the collective action space. This was achieved at two levels.

First, the 'problem' was considered a taboo at the level of board members. Activists at LWNGO1 provide an example of this situation. In its capacity as leading NGO on domestic violence, LWNGO1 brands itself as a 'platform for women' (LWNGO1

---

[168] In her anthropological study, Suad Joseph (1997) compared the organisational and strategic patterns of one of the most established women organisations to the structures found among small family businesses or 'shopkeepers'.

2005). At the time of my fieldwork, three board members were going through family law problems. However, they kept their problems away from other members. Furthermore, they did not use the legal and counselling services provided there or sought any advice on where to seek it elsewhere. One of the concerned members, BM5 (Fieldnotes 2005), told me that she suggested to other members forming a support group amongst themselves, but no one was willing to open up. Activists dissociated themselves from the problem and thus from the 'users' associated with it, namely women with family law issues.

Second, the hierarchical organisational practices discussed in the previous section reduced the level of trust provided for support staff who tend to be the most vulnerable. For instance W12, one of the support staff at LWNGO1, sought this job to after problems with her estranged husband. Despite her ongoing family problems, she did not use the help of the group. This is despite the fact that she closely related to a board member who was an old friend and supported her in her situation. W12 explained to me:

INT01

Did you contact anyone in this organisation for support?

W12

No, no, no.

INT01

Why not?

W12

Because first of all, I do not like my story to be spread everywhere. I like secrecy. Then again, what would one benefit? Scandal and humiliation (jorsa w bahdale w sharshaha). And I do not have trust ... I don't know what to tell you. I cannot say anything, I work here.

In this situation, again the dynamics between individuals within these women groups were rearranged according to the gendered norms surrounding the problem of gender equality in family law. This example dispels the myths of solidarity and sisterhood often attributed to women groups and revealed the cross-cutting differences and the

marginalisation that women can face within feminist spaces.

I found a similar situation at another government support centre. I approached social workers in the centre to point me to potential respondents. During that period, very few women with family law problems used their services, so they were at a loss of trying to help me for about two weeks. Then in discussion with SW6 (2005), she suddenly remembered one 'who could be sort of a case'. It was W3, the caretaker of the building who lived in a small room by the main lobby. SW6 described W3 as "a destitute woman ($m^c attra$) who has been having difficult problems with her husband for quite some time". When I asked her whether she used their support services, she replied that she didn't. W3 was not categorised as a 'user'.

My interview with W3 turned out to be very insightful as she recounted her experience of dealing with severe violence by her husband and seeking support from various actors. She recounted one episode when she did not receive the help she sought from the centre:

> W3: Once [my husband] hit my son with a stick on here, he almost split his head into two. [...] I was up on the eighth floor, I went down barefoot on the stairs, I don't know how I got down. I saw my son on the floor telling me "dakhilik mama, my head" [...] [my husband] started hitting me and beating me. I went up to [the tenants] and told them [...] "go down and see if there is a solution with him. If you don't want him [to work as a caretaker] anymore, tell him to leave, because I cannot tolerate this anymore. They told me, this is your husband, it's your problem, you deal with it between you and him (stofli minnik la ilo), we do not want to interfere. I went back down here, and he began cursing and swearing [...].

> INT01: When you went to talk with the people in the building, the [support centre staff] were here? Did you talk to them?

> W3: Yes, yes, I talked to them. I told them, that there is no way for agreement. I told her "please if you could send someone from your part, you as the ministry, as the government, maybe he would listen and be convinced." She told me "we cannot interfere in such issues."

227

In the case of W3, social workers considered her situation as outside of the realm of formal diagnosis of VAW situations. Although closely associated to the centre, they did not offer her any legal help that they usually provide to users of these services.

8.3.3 Expertise and projectisation of gender equality in family law in collective spaces

The projectisation induced by the gender order of governance of family law further strengthened the expert role of women groups. The shift towards service delivery with the VAW approach created new expertise roles for activists as translators of knowledge on gender equality in family law. It also included professional staff as new operational translators of this knowledge. As discussed below, this division of labour worked in tandem to further marginalise women's participation in collective action.

These exclusionary dynamics lie in the division of roles between board members and professional staff. In some women groups like WNGO1, professional staff were not considered part of the decision makers as they were not invited to consultations over project design or future vision. On the other hand, board members did not have a say over the substance of the implementation. Professional staff had full autonomy over the diagnosis, follow up and referral of users and claimed expertise due to their formal employment status, or their specialist knowledge as social, psychological or legal professionals. There were no formal substantive reporting mechanisms presented to board members (or higher management in case of the government outlets) beyond the basic quantitative assessments.

The quantitative assessments translated women's knowledge into projects outputs. The projects outputs set by women groups and donors are focused on the numbers of 'cases' dealt with per week rather than the number of women succeeding in making progress in their family law issues. These outputs reduced women to 'cases' with legalistic and psychological indicators. [169] This term was in currency among all support services actors in a reminder of the expert role they hold. The information

---

[169] The use of 'cases' to refer to women with family law problems was initially adopted to preserve women's anonymity. Yet this terminology reminds of the one used by medical experts in clinical assessments.

collected about women's experiences was restricted to basic bio-data, which was not sufficient to compose an informed assessment of their overall situation. In addition, it was not used to provide a base for project design. At WNGO1, this data was used for reporting purposes rather than informing project ideas and grant proposals (Fieldnotes 2005).

Another exclusionary use of women's knowledge was through translating their experiences into victims' narratives while denying them ownership and voice. This translation is found in the information disseminated in VAW related public forums or publications. For example in the public hearing of the Permanent Arab Court To Resist Violence Against Women held in Beirut in 1995, several 'testimonies' were used to inform participants of the nature and extent of violence practiced against women. These testimonies consisted of anonymised narration of women's experiences. The 'testimonies' focused almost exclusively on the graphic details of the violence exerted upon them:

> I got married at the age of eighteen, said Z.B from Syria. My husband deprived me of the opportunity to continue my university studies, and forced me to serve his mother... He started to beat me to severe bleeding... He then drove me out of my house with no clothes and no money... My husband started to drink heavily and got into womanizing to the extent that he started to get some women into our own apartment. He kept insisting on the need to give birth to a son. As soon as I had given birth to our son, his attitude worsened. He prohibited me from going out of the house... Beating and abuse were no longer confined to our home. He began to torture me while starving my kids and myself. He began to threaten me of throwing me out of the house. One night, he severely beat me. I tried to commit suicide but my parents saved me. The Court did not rule that I get alimony, because my husband claimed to be poor. When my eldest daughter reached the end of her nurture age, my husband took her and started setting her against me. She now considers me repulsive and refuses to see me. Lately my husband took my other children. But two days later, he sent our young son home and said: "I will take him back when he grows up." He denies me any chance to see my daughters. I'm raising my son without any alimony and without being divorced, while expecting his father to take him away from me.

> (Arab Women Court undated)

This testimony focused on constructing the image of a victim. This type of accounts was restricted to the phenomenological description of their experiences, without any comprehensive analysis of the broader social dynamics in which women are involved. Women who used the services were not invited to the public events or conferences that were held. As Helms (2003) argues in the context of Bosnia-Herzegovina, women groups' categorisation of women as constitutively falling outside of the socio-political power relations (as agents of peace for example) presents a paradox that excludes them from participating effectively in the political sphere.

A contrasting example is of W10 who sought the services of WNGO1, seeking help in her custody battle. During the interview, she mentioned that she wrote a novel about her experience of violent marriage and her legal battle for custody. She repeatedly asked WNGO1 staff and board members for help in publishing it. Board members were not interested in publishing it and they turned it down without reading it. This segregation reinforces the gap between activists and users and hinders possibilities for building a momentum of significant grassroots movements on the issue.[170]

Social workers also helped construct the separate category of users by primarily translating women's knowledge about family law problems and fitting them into 'specialised' pathological categories. This process excluded the most vulnerable women and delegitimised their experiences. For example, in the WNGO1 socio-legal support centre in Beirut, women were informally classified according to their 'credibility' as users. For instance, W12 had been seeking support for more than one year at the time of the interview. She claimed repeated abuse by her husband and his family over a long period. Her accounts were repeatedly dismissed by social workers, and she was the joke of the centre. As SW3 (2005) scheduled me for an

---

[170] In 1998, a small group was formed from around 15 foreign women mainly from Europe (or Lebanese with dual nationalities) who were married to Lebanese men under Lebanese family law. These women organised into a group after they experienced first-hand the discrimination of Lebanese religious legal provisions when involved in divorce and child custody cases. They gathered support from international human rights organisations and their official bodies such as ministries of foreign affairs and embassies to pressure the Lebanese state for fairer terms. They tried approaching the main women groups but they were not supported.

interview with her, she warned me "you will see, she is a nut case, she is a sex-obsessed fraudster who keeps coming here to talk about dicks and fucks to waste our time". The interview was one of the most difficult to hold, as W22 had difficulty narrating her story coherently, and the discussion mainly revolved around repeated abuse by her husband's family and various instances of forced sexual encounters earlier in her life. After the interview, suspecting that W22 could be suffering from mental illness, I raised my concerns to the two psycho-social workers and had the following discussion (Fieldnotes 2005):

INT01: She seemed quite disturbed, I couldn't get much of her situation, she mostly focused on the sexual abuse she went through.

SW3: I assure you she doesn't suffer from anything, she has got nothing, she is a liar and a charlatan; she is just makes all these things up because she is sex-obsessed. That's all.

INT01: She seemed rather more disturbed than a fraud. As if she was really traumatised by several issues.

SW3: No, she really has nothing. We had several sessions with her and couldn't get any coherence either. She just comes up with a new [sexual] story every time and enjoys talking about it.

INT01: She might be suffering from severe mental illness beyond the usual counselling that is provided here.

SW3: No, she just is this way, we even sent her to the psychiatrist. He diagnosed her with delirium and gave her some pills. But that's it. Apart from that, she has got nothing.

SW4: Yes [SW3] is right. She is mentally ill, she has got no issues of abuse.

The two social workers agreed on a diagnosis that reflected a narrow and exclusive focus on VAW 'symptoms'. They considered segregated mental illness from any other loosely identified symptoms related to VAW. Both social workers did not conduct any further assessment related to her situation, such as a home visit or sustained referral to mental health professionals. Her claims were dismissed and she was dropped from the user category (Fieldnotes 2005).

This section revealed that instead of maximising women's agency, these collective spaces restrict women's agency and reduce their possibilities for action. These findings coincide with Islah Jad's (2004) research on Arab women groups which need to be considered as part of the historical and socio- political context and do not necessarily further socio-economic development. In the case of this research, these practices were noted to limit the agency of women with family law issues by excluding them from active involvement in collective action and reducing their voice. Women are pushed to the margins of the collective action space and towards individual spaces for action.

8.4   The enactment of expertise in women's individual spaces

This section is concerned with the ways the gender order of governance is enacted by women's collective action to regulate women's agency in individual spaces.[171] It assesses how women groups' expertise discussed in the previous section understand the role of various actors involved in women's agency in individual spaces. Findings reveal that because of this understanding, women groups' role of expertise restricts women's agency in everyday resistance of gender discrimination in family law. This process of containment is enacted in two ways. First, the expertise of women groups limits women's agency by reducing the avenues for interaction between women and other actors. Second, they funnel women's agency towards their expert role of psycho-legal support that is underpinned by hierarchical and gendered norms discussed in the previous section.

8.4.1   Women groups and various actors involved in women's individual spaces

Assuming their expert role, women groups construct a coherent and simplified understanding of women's relations with other actors in their individual spaces. This framework is based on dismissing women's knowledge and interpreting the dynamics of their interaction with other actors into reductionist binaries. It was noted at the level of three actors: the family, religious leaders, and police forces. I discuss these below.

---

[171] I use the term individual spaces to describe the 'communal' spaces that women operate in while seeking solutions for their family law issues. These involve their immediate environments including their husbands, children, in-laws, own families, and friends and neighbours; the law enforcing authorities such as the police forces; the religious court system; and the religious communal authorities like the religious advice bureaus or local parish priests.

Women groups' discourses simplified the family that is the immediate environment of women as an essentialised oppressive institution. These discourses are traced in women groups' publications such as WNGO1's newsletter. Every issue of the newsletter incudes a description of one 'case' that is commented on by 'social' and a 'legal' experts. The commentaries perpetuated the essentialised notions of the family as in this example of a social commentary starting with a description of the immediate environment of an abused woman as "a big sized family, poverty, backwardness, and ignorance" (Newsletter 2004). These perceptions were translated into women groups' action. In several interviews, social workers indicated that they do not do any home visits and they do not have any contact with the users' families. By maintaining strict separation between collective and individual spaces, women groups and other gender-concerned policy actors entrench the assertion that the problem of gender discrimination in family law lies in individual or domestic spaces. They thus construct collective spaces as unique sanitised and professionalised forums for helping women.

However, regardless of women's perceptions of their families, findings show that actually the immediate environment is the first and recurrent port of call for women. The institutional-legal framework of personhood discussed in chapter 6 strengthens the linkages women and their families in Lebanon. As women's subjectivity is spread at a continuum composed of their own and their husbands' families, women's agency is geared towards seeking their help – regardless of whether they will get it or not. Women respondents noted that the 'family' was composed of multiple, less coherent actors than portrayed in women groups' discourses. For instance, women respondents such as W12, W4, and W8 reported that their fathers were more supportive of their issues than their mothers, contra reductionist gender analysis. Similarly, brothers were also often identified as supportive of women respondents, as with W4, W5, W3, in terms of defending their sisters' safety from their husbands' violence or helping them with their legal battles. W12 and W14 also reported that in-laws were supportive of them. Other sources of help and support were the neighbours or friends who were called in for help in instances of domestic violence for example.

However, this is not to say that family support is always existent, swift, systematic, or unconditional. As discussed in chapter 7, support tends to be erratic and framed primarily within marriage normativity. Women respondents explained that support from their families could be especially tricky when it involves seeking them for shelter or financial support. They commented that "I cannot burden my family with myself and my kids" (W15), and "everyone has got their own problems and I cannot add to theirs" (W9). Women's decision of leaving the marital house when in an unhappy relationship was very much linked to their ability to find shelter with their families. These findings support research undertaken in different contexts and revealing the complexity of the relations between women and their family environment. In contexts as various as Iran and the US, Women often rely on their kin and family relations for social survival when dealing with their family law issues which in turn could compromise their capacity for taking action (Welchman 2004).

Women groups also reduced the array of religious actors to one category of 'religious leaders'. Religious leaders were portrayed as ultimate decision makers and a hindrance to the legal reforms of family law. Leftist women groups (WNGO2 and WNGO3) hold a categorical position that considers religious leaders as antagonists with irreconcilable opposing interests

"[...] there is no hope of talking to them, [...] don't expect that religious leaders will help you. On the contrary, there are some enlightened ones [... who] on personal basis they might be in favour, but publicly they don't, from all sects. We visited the Druze, Shiᶜa, catholic, Greek Orthodox [leaders] and they all provided different excuses for their refusal of reforms."(BM3 2005)

Other women groups differentiated between religious leaders and agreed to link only with the more 'progressive' ones. For example, WNGO1 held occasional roundtables in 2002-03 with religious leaders on the topic of violence against women, without further follow up. However these 'progressive' religious leaders tend to be at the margins of the decision making power as they do not hold high positions within the religious councils. Sometimes they can be even excluded by the decision makers within these religious councils. WNGO4 is the only women group to break this exclusion and develop consistent relations with official religious authorities

including the heads of the religious councils and their regional affiliates in the process of lobbying them to reform clauses within religious law (BM3 2005).

These accounts can be interpreted as part of the gendering effect of the enactment of family law frameworks. Women groups acknowledged religious leaders to be gender biased in their interpretation of religious legal frameworks. However, there is more to gender discrimination within the work of religious leaders. Women groups failed to address the institutional gendering effect inherent within the practices of court procedures of religious leaders, an issue that is not technically related to 'jurisdiction'. One could note the gendered practices of religious leaders in the subdued presence of women groups within religious courts. For instance, during several hearings at the Shiᶜa religious court in the southern suburb, volunteer lawyers from WNGO1 concealed their affiliation with the group and merely introduced themselves as legal representatives of the clients. One lawyer justified this practice by saying that judges would be uncooperative if they would learn about their affiliation (LE01 2005). The gendering effect of family law frameworks curtails women's agency –both as representatives and defendants.

Within the category of religious actors, two groups were dropped from women groups' discourses.[172] The first is that which I term the 'administrative authorities' who run the religious legal system, such as judges in religious courts and the rest of the administrative team of clerks. It is striking that they were not considered relevant policy actors by WNGO1 for instance, an organisation that is specialised with providing legal advice and representation activities in religious courts. The second is the group of 'religious community leaders' who run the RABs or community church priests and provide religious litigation (in case of RABs) and counselling services to women as discussed in chapter 6. While these two groups were excluded from women groups' analysis, they featured as main players at various points in the process. Women respondents expressed that they interacted with them at various points of their problems.

---

[172] As of 2009 some recently formed women groups started engaging with religious actors through efforts to modernise the Islamic courts and introducing digital database system for archiving and producing manuals aimed at raising awareness on gender discrimination in family law.

Findings reveal that these religious actors heavily influence women's agency through a crucial dynamic of informal mediation where they get to articulate gendered norms of family law. This mediation role was also found with religious leaders in other Islamic contexts such as the Gaza strip (Shehada 2006). This informal mediation was noted at both levels of formal litigation, such as in religious courts, or less formal one such as the case of the religious community bureaus.

Mediation occurs continuously during the litigation process. One example of these informal mediation practices took place during a court observation. I accompanied LE1 and W15 to the Shiᶜa religious court in the Southern Suburb to follow up on her request for alimony from her estranged husband. At the start of the session, the judge decides to turn the hearing into an informal meeting without prior notice and for no specific reason. W15 explains that her husband did not pay the tuition fee for her children's schooling as he promised in an earlier meeting with the judge two days ago. The judge immediately started by discrediting her story. He then summoned the clerk from the other room and asked him to call the husband from the handset on his desk. The clerk acts as the mouthpiece of the judge who is dictating his directives:

Clerk (on behalf of RJ1)

You have not paid to your wife and children's expenses despite your promise to me one month ago. (On behalf of the husband) he says he paid them Judge.

W15

No he didn't your Honour.

RJ1

You haven't, your wife is here asking for it.

Clerk (repeating RJ1's sentence and replying on behalf of the husband)

He promises to do it in two days.

W15

Your honour he already promised to do it several times and failed to keep his word.

RJ1 (picks up the phone from the clerk)

Let me talk to him. [Shouting]: (To the husband) you are not the one who makes the decision. Okay? You are not the one who decides. I told you to enrol the children at school. If you don't enrol them, I will grant her a decision where they [the police]

would take you from your job and put you in jail. Do you hear me? [The husband is trying to plead]. You can't say any word. You go enrol your children and then you come and talk to me. [The husband is trying to plead]. It's not for her to enrol them. I am telling you, you need to go and enrol them at school, you pay the fees, and you do everything. [...] (To W15) that's it, he will pay them.

W15 (anxiously)

But your Honour, he is a liar, he won't do it. I can't take it anymore. I want a divorce.

JR1

This time he will comply, if he doesn't then we will see.

The meeting closed briefly after. No records were kept for the decision or the discussion. This informal approach to dealing with legal issues draws the importance of legal pluralism where informal interpretation of Shari'a takes over the formal applications. This trend is noted by (Berger 1999) in his study of mosque circles in Syria where an informal application of Shari'a is widespread. Berger also finds that it is important to address motivations and emotional value when analysing these situations. As we exited the meeting, LE1 explained the practices of the court:

INT01

What about these meetings? Are they kept on record?

LE1

No, they are not. Only the court cases are, and any written requests that you put forward, but not these discussions. The judge likes to solve things in an amicable way like he did today. So these do not get recorded. These requests can be varied such as requests for instalments, or lifting ban of travel, or preponing the date of a court hearing. But usually I don't put forward a request for that. I usually ask him verbally, sometimes he agrees in which case it is fine. Otherwise, there is no point putting it.

INT01

To what extent these informal meetings are common and are they effective?

LE1

Yes there are loads. The style of this judge is to operate in this way, informally and amicably. And many times I work with him over such issues. And these practices are effective as long as there is good will from both sides.

LE1's view of effective judicial informal practices did not resonate with women's experiences. W15 got out of the meeting frustrated and pessimistic of any positive outcome. She mentioned that she has already approached the same Judge twice in the previous week to place a formal complaint for child alimony. In every instance, the Judge held an informal session, called the husband in, and reprimanded him without any follow up. Judges extensively use informal mediation mostly in replacement of the formal process of litigation, or alongside it. As a result, these informal practices are disadvantageous for women like W15 as they delay the resolve of the dispute and place them under increased financial burden.

The other group of religious community leaders, RABs or parish churches, play important roles in affecting the agency of women. They mainly act as counsellors, mediators between couples and arbitrators (for RABs). In several instances, women sought their help in solving their problems. In this role, they legitimise particular gendering social practices driven towards marriage normativity. RCL5 (2005) illustrated the convoluted techniques he used in mediating between couples seeking Shar'i divorce:

> The first step to deal with requests for divorce is to advocate reconciliation. For instance a man comes here asking to divorce his wife. We ask him if he certain of his decision, and ask him to think about it and then come back and bring his wife once he makes up his mind. One week goes by and then he brings his wife here reiterating the divorce request. So now we ask her to go and think about her decision and come back when she made up her mind. Once they come back, we ask them if they are having a [sexual] relationship. She says no, It's been one and a half month that he did not sleep with her. So we encourage her to do so saying that you should sleep with your husband, it is your marital duty. Now they go away to sleep together and come back after one week. We tell them you cannot divorce now because there was intercourse and you need to wait for a month until the end of the wife's next period. Another month passes by and we would continue to work in this way on setting the mood for reconciliation. They come back after two months saying that they want to get divorced. So we tell them they need to pay 50.000 LL. The man agrees but he does not have any on him so he asks to come back later to pay it. The next time he comes we tell him that the arbitrator (Mawlana) did not settle for the 50.000 LL, he now wants 100.000 LL – of course we do not charge money here, so this is our way to keep them from divorcing. And they still come here once in a while and we send them off with requests in order to deter them from divorcing.

This example explains how gendered norms of marriage normativity and wife sexual obedience discussed in chapter 7 drive actors' mediation roles to restrict women's agency.

Similarly, local churches play similar roles in relation to Christian communities from various denominations. These churches, administratively and religiously affiliated to the Patriarchates, operate locally to provide social services for their congregations. They run 'marriage preparation' courses, a prerequisite for marriage contracts by Maronite courts. They also run informal consultation and advice sessions for women and men with marital problems. Their advice is based on religious directives selected from the Bible and the Vatican mixed with behavioural psychological influences. W3 and W6 sought their help several times in issues of violence by their husbands, but they did not receive any help.

These various examples of litigation reveal the pivotal role of 'mediation' of judges as argued by Bourdieu (1987). The mediation role of various judicial authorities at the courts and the RABs is underpinned by using 'law' and 'custom' strategically against each other to reinforce their authority (Demian 2003) and restrict women's agency.

Finally, women groups' perceptions of police forces are mostly depoliticised. WNGO1 ran 'awareness' trainings for officers in order to 'sensitise' them about VAW. Overall, women respondents' experiences with police forces have been mixed. W4, W12, W5, and W6 reported that the police response to their complaints depended on the individual officers handling the case. They also mentioned that their complaints were all initially dismissed, and that they had to negotiate the police support in various informal ways with varying degrees of success.

Women's experiences with the police were dismissed also by social workers at WNGO2. When W4 complained about the bias of police officers in handling her case in the police station, SW3 (2005) brushed it off as "they are all like this, we can do nothing about it". SW3 thus dismissed the woman's knowledge instead of using these ill practices as valuable evidence to be added to her ongoing legal case.

8.4.2 Expertise and women's 'free choice'

As women groups simplify the framework of relations between women and various actors, they reinforce their expertise in providing psycho-social and legal support. These services are promoted by the combination of expertise between board members and professional staff discussed in section 8.3.3. of this chapter. Women groups position themselves as external actors who do not interfere with women's decisions. In a common narrative among all support centre workers, WNGO1 staff insisted on "respecting women's decision and refraining from providing any advice" that related to any action that they need to take (SW3 2005).

However, this approach to non-interventionism relates to gendered norms of marriage normativity discussed in chapter 7. For example, SW3 stressed that "we don't tell [a woman] divorce your husband or not, it is something that includes wrecking entire households (*kharab byout*) and we don't take this responsibility". By emphasising women's 'choice', women groups' role is positioned as 'external' to women's prospects of effective decision-making and social change. However, their discursive practices had a direct impact on women's agency.

The discursive practices of psycho-social workers showed that they affected the decisions of women through perpetuating gendered norms on family law. For example SW2, working in a CDC but trained by WNGO1, recounted this discussion with a user:

> [User] told me "if the religious law would have guaranteed children's custody to the woman, then I could have divorced and lived on my own with my children". I told her that she was "dreaming too much" and being very unrealistic. I told her to think of how this is impossible to be achieved, how difficult it will be for her to work and provide for herself. This is unthinkable and it can never happen, she will never have custody of her children.

Lawyers volunteering on behalf of WNGO1 also influenced women's agency while representing them in courts. LE1 agreed to represent W15 in her request to divorce her violent husband who deserted her and their three children without income. As she did not work, she moved to her parents' home and helped in running the family

corner shop. The following events took place on an observation at a Shiᶜa court in the southern Suburb. As I met both of them at the entrance, W15 explicitly told LE1:

> "I don't want to be with [her husband] anymore, I just can't. You need to do everything you can to get me the divorce. Also make sure that I get the custody of my children. I can't leave them to him".

LE1 promised to do everything that she could. After the hearing with the judge, we paused to discuss the meeting. W15 was confused as to the outcome of the meeting and asked LE1 "do you think he will push for divorce? I really hope so". LE1 explained that she was focusing on pushing for divorce and that she has put it in a formal written request that will be dealt with in the following court hearing. W15 then pointed out "you have not brought up the issue of the custody of my children. I don't want a divorce without having custody. I don't want to leave the kids with him". LE1 reiterated, "the most important thing now is to get you the divorce. After that we will sort out everything else".

After W15 had left, I asked LE1 if it would be possible to grant W15 the custody of her children after she gets divorced. She replied "No, unfortunately she won't be able to because at their age they are entitled to the father's custody as per Shiᶜa law. But I could not tell her this because if I do she will back out from divorce and she shouldn't because she really wants it". The lawyer was concealing the truth from her client and making a major decision on her behalf that went against her wishes.

While women voiced these views to women groups, the issue of shelter is 'out of the discussion'. None of the policies on gender equality and family law, whether governmental or non-governmental, included provisions for shelter. As BM6 (2005) mentioned to me "this is a red line that women groups cannot cross. There is a 'political decision' not to allow it. They will be seen as threatening the societal order" (BM13 2005).[173] The translation of women's knowledge relies on dismissing women's experiences, and linking it to larger processes beyond their control. Once

---

[173] In exceptional cases, WNGO1 sent a very small number of women (less than five at the time of the interviews) to secret locations such as monasteries or mental health hospitals where they could be 'hidden' from their violent husbands. In some cases women were traced by their husbands and were harmed.

again, women groups position themselves as 'external' to the power dynamics surrounding the problem of gender equality in family law. The major impact of this containment of women's agency is that the legal process seems fixed and unchangeable. Thus, women's agency takes different directions that accommodate the various constraints placed on them as discussed in the next section.

8.5 Resistance and direction of agency

This section is concerned with the effect of the order of gender governance on women's agency in relation to their family law issues. The discussion below indicates that women's agency is not uni-directional and does not aim towards a universal (read Western-centric) notion of formal statutory freedom. Rather, it is constructed by the gender order of governance of family law as enacted in techniques, moralities, and arrangement of spaces for action.

However, women developed a context-specific sense of freedom rather than rejecting it altogether as Mahmood (2005) asserted. In this sense, Mahmood used an essentialised understanding of freedom and did not deconstruct its political-contextual permutations. For women respondents, freedom was enacted following the formulations of Foucault (and Brown) as the "struggle against what otherwise be made to us".

For women respondents, freedom was unpacked into resisting a host of constraints that prioritised 'what is made' to them, to use Brown's (1995) words. Women's agency was thus geared towards more compound and context-specific notions of freedom that are framed by the legal and normative frameworks of family law.

Women's agency emphasised that freedom was about exiting an unhappy relationship in ways that are in line with the construction of their subjectivities discussed above in chapter 7. Hence, the direction of agency revolved around four interrelated factors: physical separation from husband; women's own reputation vis-à-vis their children; custody of children; and securing financial means.

Women expressed their will to exit the relationship primarily in terms of physical separation from husbands. However, the terms of separation depended on women's

constructed ethics on the issue. While separation was prioritised, the terms of this separation varied. The level of formality of the separation sought varied and was closely related to the normativity of marriage and the derogatory norms concerning divorced women. As mentioned in chapter 7, the stigma around divorce meant that women did not consider it as an emancipatory goal for their agency. It was rather considered in conjunction with other norms. For instance, W3 did not find the need to seek an official divorce despite being adamant on severing any ties with her estranged husband. Since she had initially contracted an unregistered marriage, she did not recognise it as valid and did not see the need to pursue it, as it would not have affected her situation. In contrast, W23 insisted on getting an official divorce from her husband (Fieldnotes 2005). However she considered it as a crucial tool for her to renegotiate her position in the couple before reconciling with and remarrying him a year later. For W1, obtaining official divorce was important, but it was less of a priority, as she preferred to forego it in order to managing her relationship with her children as explained below.

As women's subjectivity was constructed in terms of the 'mother kind', as discussed in chapter 6, women prioritised their perceived reputation vis-à-vis their children as a crucial component of freedom rather than effective custody. For example, in order to conform with the gendered 'good mother' role, W12 gave up all her legal rights and refused to file a law suit against her husband, because she was worried her children would blame her for standing against their father. Her reputation vis-à-vis her children extended to preserving a religious outlook. In her immediate environment, she wears the headscarf. However, as she is employed by one of the women groups, she comes to work and takes off her scarf all day. None of the employees or board members knows that she wears it. This came to my attention only when I dropped her off once on my way home. Just before we entered her neighbourhood, she put on her headscarf. She justified her action by saying that she did not "want people to talk and affect her relationship with her children" (W12). Hence, W12 made an effort to preserve her outlook as a religious adherent because it was valued within her immediate circle. She considered that her preserving her reputation vis-à-vis her children was related to her social reputation.

The 'mother kind' informed the agency of women at a discursive rather than a material level. For W1, what mattered most was the way she thought her children would perceive her as a mother. She did not settle for a divorce in Lebanon because her husband wanted her to revoke any custody claims for them. Instead, she opted for being only physically separated without being divorced from her husband in order to hold on to her ethics of not abandoning her children. Her agency was directed towards a particular understanding of freedom as a discursive image of a good mother, exemplified by the fact that she was not able to have any contact with them since 2001.

Women constructed their agency within the constraints of unfair custody rights. For example, W10 had to forego her custody of her daughter as she remarried because the religious court automatically grants it to her first husband custody in this case. As she was aware of this when she remarried, she thus reformulated freedom in terms of maintaining a close relationship with her daughter, rather than the actual custody rights. Also her first husband considered her 'morally unfit to keep in touch with her daughter' after she remarried to someone who did not belong to her own religious circumscription, a practice that is banned according to the Druze family law frameworks. Hence, her first husband played on her social reputation and tried to ban her from visiting rights, but she won them after lengthy litigation.

A final aspect defining women's agency is the bargaining power over property and financial arrangements. As Rao (2007) notes in the context of India, this relies primarily on women's social positionality ensuing from the hybridisation of dominant legal and normative frameworks. In several cases, financial arrangements were a bargaining tool in favour of women. For instance, W24 nailed an equitable divorce by negotiating over much of her husband's properties and finances that were legally registered in her name. Similarly, W23 managed to negotiate a swift divorce by threatening to expose her husband's shady business deals. Although coming from a modest social class, W5 was able to obtain a quick divorce and custody of her son because her husband did not have the means to provide for him. A contrasting example is that of W25 who decided to remain legally married to her husband despite their official separation because of the extra child/education benefits she received from her work in her status as a married employee. These findings concur

with research from Palestine, where women respondents related to a broader sense of justice than a drive for divorce, and thus opposed reform suggestions relating to Khulu' because it stripped them from their marital assets (Hammami 2004).

This discussion highlights the role of informal power dynamics in constructing the agency of women in negotiating their exit from their marital relationships. Women's agency was thus shaped by the various components of the order of gender governance of family law.

8.6   Conclusion

This chapter discussed the ways in which the order of gender governance policies of family law shape women's agency. The first section discussed how the repositioning of women groups resulted in a change in the problem of gender equality in family law from the communitarian argument of optional reforms to VAWism. The shift resulted in 'projectisation' of women groups' action on family law at the expense of advocacy. The third section discussed the effect of projectisation on the enactment of women's agency. It revealed that feminist collective action marginalises women and frames them as 'users'. The fourth section analysed the ways in which women's collective action has also restricted women's agency in individual spaces. The final section explained that women's agency is context specific and constructed by the various components of the order of gender governance. While it is directed towards separation, the terms and the extent of the formality of that separation varied considerably.

9 CHAPTER NINE Conclusion

In this concluding chapter, I discuss the main contribution of the thesis in terms of conceptualising family law policies as an order of 'gender governance'. This order is a historically evolving and gendered normative framework that organises how people think about, and act on, personal relations at the legal and the social levels. It draws on gendered moralities of family law 'truths' derived from socio-cultural and political expressions of religious doctrine. It also applies disciplinary techniques of policy and law making to control women's action at both collective and individual spaces.

In the first part of this chapter I justify the main contribution to research by revisiting the research question and highlighting the main findings. In the second section, I outline the limitations of the findings at the thematic and contextual levels and explore future directions for research. Finally, I examine the policy implications related to the main findings and offer some suggestions for women's action on family law in Lebanon.

9.1 Conceptual contribution of the study

9.1.1 Understanding family law policies as an order of gender governance

In order to assess the contribution of the thesis, I reiterate the aim driving me to conduct this research. At the start of the study, I set out to explore the various ways in which family law policies affect women's personal lives in contemporary Lebanon and how women experience and deal with gender discrimination in family law at both discursive and practiced levels. My inquiry was driven by the main research question: How does the enactment of family law impact on the ways women negotiate their personal relationships in post-conflict Lebanon?

To answer this question, I adopted two complementary theoretical and methodological approaches. My theoretical approach relied on post-structural theories of social and political analysis, grounded in three areas of Foucault's work. First, Foucault's (1980) concept of 'governmentality' helped me analyse family law policies as a form of state governance aimed at organising the affairs of populations

by reworking their perceptions of their own selves and their action in society. Second, I used Foucault's (1989) notion of 'genealogy of law' to analyse family law making as a dynamic institutional process located in time and place and reworked within the context of Lebanon. Third, I applied Foucault's (Foucault 1980) conception of 'power as enactment' in analysing the dynamics between various policy actors and, in particular, women's action on the issue.

I collected my primary data using a qualitative methodological approach that fits with post-structural inquiry in two ways. First, my methods were informed by an ethnographic approach to understanding family law policies. I primarily relied on participant observation of the interactions of women with family law problems and women group support workers, lawyers, and religious leaders. I also conducted 59 semi-structured interviews and observed three conferences on gender equality and one training workshop for police officers. The popularity of ethnography has been recently noted in research on policy and development, such as with the works of Mosse (2005) and Ferguson (1994). This approach was useful because it offered fine-grained data and enabled a critical reading of the policy making process.

Second, I conducted an ethnographic reading and discourse analysis of policy documents and my interview transcripts as a supplementary methodological lens to analyse my data. This method complemented my ethnographic inquiry by comparing it to the official policy and political discourses of various actors. Also, it informed this research as it revealed the underlying discursive implications of both interview and written accounts. Striking examples are found in the difference between the written and verbal accounts and practices noted with both religious leader and women group respondents. These two methods informed my post-structural approach as they accounted for the power dynamics between the researcher and various respondents involved in the study.

The findings from the thesis show that family law policies constitute an order of gender governance that continuously rearranges women within gendered norms of marriage normativity and limits their capacity of taking action and finding equitable solutions for problems of family law.

In one way, this order of gender governance can be likened to a complex set of gendered and gendering clockwork mechanisms where many different small components interact in complex ways to produce policy outcomes. It operates through the interactions of various institutional actors involved in family law policies. However, the analogy of clockwork mechanisms differs from similar conceptions, such as Ferguson's (1994) 'anti-politics machine'. Rather than insular and fixed machinery, this order is dynamic and fluid. It is weaved through the historical reworking of political, social and legal action and discourses.

Second, as this order of gender governance depends on power dynamics between actors and discourses, it does not exercise a unified and totalising oppressive effect. As the findings indicate, the fact that policy actors and women experiencing family law issues perceived family law frameworks as locked, is in itself part of the dominant discourses or 'regimes of truths' perpetuated within the order of gender governance. However, the findings noted the fluidity of power dynamics between actors, which means that the effect of family law policies on gender equality is changeable. This was noted in the varying ways women act on their family law issues depending on the multiple constraints imposed on them.

9.1.2   The enactment of the order of gender governance

Through the findings from my research, I made an analytical shift away from my initial standpoint to analyse religion as an organising principle for family law. Instead, I placed gender at the heart of my analysis of family law frameworks in multi-religious settings. The reason for this is that, during my research, it became increasingly clear that gender discrimination was the common denominator across most existing codes, as well as seemingly secular policy formulations.

Hence, gender discrimination was the power driving this clockwork mechanism, while religious structures and directives constituted parts of the machinery at work. I explain below the evidence supporting this analytical shift at three levels. First, the family law order of governance has gender discrimination as its organising logic and constant denominator. Second, it relies on restrictive elements of ethnic-religious stratification to drive gendering discursive practices. Third, it enacts a profound

gendering effect that organises family relations in consistently discriminatory patterns.

Gendering logic underpinning family law regime of truth

From the findings, I have drawn out three ways that reveal that it is gender, rather than religion, that forms the underlying logic for family law. Here, my intention is not to propose a dichotomy between gender and religion. Rather, it is to problematize the blanket use of 'religious ascription' as an analytical lens and highlight the restrictive gendered logic included within both religious and secular family law directives.

In the case of Lebanon, gender discrimination was a constant logic in family law. Both religious and secular family law policies were shown to be gendered. In contrast, the religious categorisation was rather inconsistent at several levels as discussed in chapters 4 and 6. These findings resonate with other pluralist frameworks of family law, such as in India, where the problem lies in their articulation and formulation rather than opposing them to a unitary approach (Desai 2009). Hence, it is useful to consider 'religion' in terms of a system of communitarian citizenship categorisation that accommodates various degrees of discrimination against women. In this sense, exclusionary gendered claims can be traced in other forms of citizenship frameworks.

Various permutations of the gendered logic were also traced in an array within religious and secular social norms relating to the family as discussed in chapters 6 and 7. Finally, the gender logic was manifested in the multitude of contested sources of secular and religious, and intra-religious, legislative authority as detailed in chapter 6. Legal sources and authorities were contested among actors at several levels of religious-secular, intra-religious, and intra-secular debates in line with experiences in other contexts, such as Palestine (Welchman 2003). It is thus important to consider the implications on gender discrimination in the extent to which it constitutes a common denominator across various ideological positions.

Operations and disciplining techniques

The gender order of governance has the communitarian legislative and judicial apparatus as its modus operandi. It enacts gendered configurations of family law through three disciplining techniques of governance. The first technique is embedded in the dynamics of the policy making process. A web of power relations brings together political, religious, and policy actors who converge over gendered translations of policy making. At the same time, policy actors fragment the policy problem of gender equality in family law. They do so by operating in 'policy pockets' and dismiss unfavourable actors. One example is the way women groups excluded religious leaders from their activities until 2009. The selection and framing of family law policy issues was noticeably gendered in both gender-focused and gender-blind policies, as discussed in chapters 5 and 8. Second, judicial structures enact gendered practices through religious judges who act as translators and mediators of legal directives, as discussed in chapters 6 and 7. Third, the administrative configurations of legal personhood in the state institutions follow gendered patterns through the communitarian system of citizenship, as argued in chapter 6.

Gendering effect on women's subjectivity and agency

The gendered aspect of the order of governance is manifested in its effect on women's subjectivity and agency. Women are particularly affected by it because the implemented provisions and practices are gendered, as discussed in chapters 6, 7 and 8. As with other contexts, it is recognised that "the impact of 'deep legal pluralism' disproportionately affects the rules that govern the lives of women (Welchman 2000:16). The order of gender governance has also fragmented the concept of equality in family law and scattered collective action focused on family law reforms, as discussed in chapters 5 and 8. Its effect on women's subjectivity is noticeable. Women's subjectivity is confined within a gendered moral and ethical framework of family relations discussed in chapter 7. Similarly, women's agency is restricted within gendered directions that also shape their capacity for resistance, as discussed in chapter 8.

9.2 Empirical contribution of the study

My thesis is, to the best of my knowledge, the first detailed empirical analysis of the enactment of gender equality and post-conflict Lebanese family policies. By applying the conceptual framework of family law as order of gender governance, this research offers several empirical contributions. I detail below the usefulness of applying the theoretical framework of gender order of governance on the Lebanese case and highlight the main empirical findings.

The first empirical contribution lies in the focus on family law as policy. By using this approach, I intended to restore historicity to Lebanese family law frameworks. The findings revealed that family law frameworks are far from being fixed and immutable, as often assumed in the literature on Lebanon (Shehadeh 1998; Shehadeh 2004; Zuhur 2002). By tracing the development of pre-independence and post-conflict family law policies in chapters 4 and 5, I highlighted the importance of various historical policy moments that shape the gendering effect of family law, such as the competition between colonial rulers (chapter 4), and the post-conflict CEDAW ratification process (chapter 5). Thus, family law is a dynamic construct rather than a fixed immutable system.

A second contribution lies in the implications of the analytical shift from religion to gender. This shift allows for a more nuanced understanding of the discriminatory workings of family law. While my research recognises that religious politics matter to the formulations of Lebanese national identity and citizenship (el-Khazen 2000; Haddad 2002; Kerr 2006; Picard 2002), it reveals that gender discrimination is not only a by-product of family law policies, but an exclusionary aim reproduced by a web of policy actors. Hence, I moved beyond the narrow analyses of the role of the religious institution (examples of such analyses are Khalaf 2002; Shanahan 2005). I instead expanded the analysis in two ways. First, I unpacked the legal authority that manages family law and traced intimate institutional links between religious and civil legal actors, as discussed in chapter 6. Second, I found that the policy making process of family law involves a much broader network of institutional actors including, but not restricted to, religious, political, and civil society actors, not least feminist actors and gender concerned institutions (chapters 5 and 8).

The focus on the gendering processes also highlighted the breadth and depth and the various permutations of gender discrimination embedded in seemingly 'progressive' gender equality policies, such as the institutionalisation of CEDAW mechanisms and the Optional Secular Marriage Campaign discussed in chapter 5. These findings suggest that the gendering effect of family law is steamed through both gender blind policies, such as consociational secular calls for reforms, and gender-focused family law policies, including statutory amendments and the VAW approach.

A fourth contribution was to realise that family law entrench gendered legal personhood in Lebanon through the enactment of the communitarian political and administrative system in general, rather than religious family law in particular. Legal personhood in Lebanon is gendered, as it is ring-fenced under a communitarian classification of the patriarchal family discussed in chapter 6. In this sense, reforms need to address gender discrimination at the level of categorisation of legal personhood and not family law provisions only.

A fifth contribution is to challenge the mainstream feminist notions of 'womanhood' found in the literature (for example Elshtain 1995). The research contributed in accounting for the polyvocality of women's experiences and positioning by focusing on the micro-dynamics of the gendering effect of family law. Women's personal subjectivity was found to be fluid and intimately shaped by legal personhood (Abu-Lughod 1998; Boyd, Chunn et al. 2007; Butler 2003; Butler 1999). Women's experiences of family law shaped various permutations of subjectivities that were largely constituted by the gendered norms of legal personhood as discussed in chapter 7.

This had two major implications. First, women's subjectivity is more complex than the assumed normative 'womanhood' ideal (Cosslett, Easton et al. 1996; Lieblich and Josselson 1994; Shoshan 2000). Women developed their understanding of their selves through a spiral gendering process facilitated and reinforced by discriminatory social norms and values of the various actors who provide them support, such as their families, social workers, and police forces, as discussed in chapters 7 and 8.

Second, the research also revealed the intimate relation between personal subjectivity and agency. Mainstream assumptions about women's emancipatory agency do not hold anymore (Blee 2002; Braig and Wölte 2002; Jeffery and Basu 1998; Lind 2005; Mateo-Diaz 2005). Findings from my research reveal that women's agency was arguably framed by discursive gendering constraints of the normative-legal family law framework. At the collective level, women's agency was restricted within feminist spaces. Far from being emancipated, women were largely excluded from women groups' action and confined to the category of beneficiaries as chapters 7 and 8 discuss. At the individual level, women understood freedom in various ways and resisted their constraints in an array of contextualised strategies that enabled them to produce any change they could get, rather than opt for optimal entitlements.

9.3 Limitations of the thesis and future directions for research

As with any piece of research, there are limitations at several levels because of various conceptual and contextual considerations.

Conflict and the gendering of personal citizenship

The first set of limitations relates to the fact that the thesis did not trace the historical changes to family law policies *during* the war period. The reasons for this omission were related to the contextual limitations of the fieldwork discussed in chapter 3. I consider that the conflict period is an exceptional context time that responds to another conceptual line of inquiry but would not affect or contradict my overall argument in the thesis. Also, consulting wartime archives of religious councils and courts was a complicated endeavour that would have cost me precious time away from the focus on my thesis.

Hence, some future directions for research would be to explore the dynamics of family law policies during conflict. Usually, gender and personal issues tend to be silenced during conflict in favour of 'more pressing issues'. This situation often offers an opportunity to entrench gender inequality or at the very least prepare grounds for entrenching gender discrimination in the post-conflict reconciliation period, as was the case in Lebanon. There is a need for a comparative analysis to test this hypothesis by examining several post-conflict contexts such as Lebanon, Iraq, and Afghanistan. A related line of exploration is to understand the different

contextual and political articulations of gender inequality across various settings. A third line would be to understand the nature and scope of exclusionary mechanisms used in the enactment of family law frameworks during times of conflict and situations of displacement.

Gender equality in family law and religious exceptionalism

While this research rejected the religious exceptionalism attributed to gender discrimination in family law, it remained mostly focused on the Shi'a family law framework with some insights from the Lebanese Maronite and other frameworks. Further research can build on several valuable contributions in family law that rejected religious exceptionalism (Bowen 2003; Dupret 1999; Welchman 2004). In order to extend the argument, one avenue would be to conduct a systematic comparison between various legal frameworks in Lebanon. Another comparison can be drawn between different pluralist frameworks. In several Middle Eastern contexts, such as Syria, interesting variations were noted at the level of communitarian formulations of personal citizenship and the trajectory of post-colonial state formation (Rabo 2005). It is also important to examine the relationship between legal personhood and subjectivity through the exploration of the official and non-official religious legal realms of family law and secular arrangements. In addition, there is a need to compare women's subjectivity and agency not only across religious affiliation but also at the socio-economic and socio-geographic levels.

Global citizenship, multiculturalism, and law enforcement

The thesis was mainly concerned with the domestic frameworks of family law but only briefly touched upon the enactment of law enforcement of the pluralist legislation and the official and unofficial nexus and their global ramifications. There is a need to thoroughly explore the enactment of law enforcement within pluralist legislation in Lebanon and the ways in which it impacts legal personhood and subjectivity between Lebanese in diaspora and home country.

Feminist collective action and advocacy

Finally, the thesis focused on the intersections between collective and individual women's action. It did not conduct an in-depth analysis of feminist collective action or individual spaces. Research here can be developed in two lines. One line is to

conduct an ethnography of feminist collective action and family law policies. Another possible line is to explore women's individual agency and interaction with the law and family within individual spaces, especially women's 'agency pathways' where they challenge gendered ideals of obedience as they transit into different stages of their marriage . There is no doubt that women who have not sought support of women groups constitute the majority, and hence it is crucial to explore the nature and dynamics of challenges that they face and the types of support networks and resistance strategies to which they resort. This would inform research on the gap between women's individual agency and their low access to collective action.

9.4 Implications for policy

At the level of policy, the shift from religion to gender moves the analysis beyond the impasse of secular-religious dichotomy of equality and law making. By analysing enacted gender equality, it is possible to identify reform areas within both frameworks. It allows for unpacking mechanisms for religious law making by dispelling the uniformity of jurisprudence and pushing for progressive religious and civil jurisprudence. Resorting to an analysis of the power dynamics between different policy actors helps identify the nodes of complexity and actors behind them, and thus lobby where it matters most.

The case of Lebanon sustains various policy recommendations calling for codifying family law directives. The thesis demonstrated that piecemeal codification, in Islamic family law in particular, significantly hinders women's ability to negotiate favourable statutory and enacted terms through the legal system. Any policy measures need to aim for a more equitable reconfiguration of citizenship, both across and within religious communities, coupled with a focus on substantially improving their lived experiences of negotiating their marital relations. Hence, interventions need to provide an array of options that would address the wide range of lived constraints detailed in the thesis, (including providing economic support, safe shelter for women and services for their children) rather than adopting a unidirectional statutory approach to equality.

Finally, a focus on the policy making process opens up possibilities to unlock the gendering process by identifying crucial moments of the process of change of

subjectivity and intervene accordingly. It helps unlocking constraints to agency and the factors restricting it. Identifying the discursive factors within women's collective action helps attend to their gendering effect on subjectivity and focus on strengthening and assisting women's individual resistance.

Bibliography

Abdo-Zubi, N. (1987). Family, Women and Social Change in the Middle East : The Palestinian Case. Toronto, Canadian Scholars' Press.

Abou Nohra, J. (1988). L'evolution Du Systeme Politique Libanais Dans Le Contexte Des Conflits Regionaux Et Locaux (1840-1864). In Shehadi, N., D. H. Mills (eds.) Lebanon : A History of Conflict and Consensus. London, the Centre for Lebanese studies in association with I.B. Tauris.

Abu-Lughod, L. (1998). Remaking Women : Feminism and Modernity in the Middle East. Princeton, New Jersey, Princeton University Press.

Afkhami, M. (1995). Faith and Freedom : Women's Human Rights in the Muslim World. London, I.B.Tauris.

Afkhami, M. and E. Friedl (1997). Muslim Women and the Politics of Participation : Implementing the Beijing Platform. [Syracuse, NY], Syracuse University Press.

Afshar, H. (1993). Women in the Middle East : Perceptions, Realities and Struggles for Liberation. Basingstoke, Macmillan.

Akarli, E. D. (1988). The Administrative Council of Mount Lebanon. In Shehadi, N., D. H. Mills Lebanon : A History of Conflict and Consensus. London, the Centre for Lebanese studies in association with I.B. Tauris.

Akarli, E. D. (2004). Gedik: A Bundle of Rights and Obligations for Istanbul Artisans and Traders, 1750-1840. In Pottage, A. and M. Mundy (eds.). Law, Anthropology and the Constitution of the Social : Making Persons and Things. Cambridge, Cambridge University Press.

Al-Bizri, D. (2000). Authorities and Society Facing the Issue of Personal Status Laws: The Example of the Hrawi Initiative (Al Sulutat Wal Mujtama' Amama Mas'alat Qawanin Al Ahwal Alshakhsiya: Mubadarat Al Hrawi Namuthajan). In Hamade, N., J. S. Makdisi and S. Joseph (eds.). Citizenship between Man and Woman (Al Muwatiniya Bayna Al Rajul Wal Mar'a). Beirut, Al Jadid Press.

Al-Khatib, H. (1984). The Historical Evolution of the Women's Movement in Lebanon and Its Relationship with the Arab World: 1800-1975. (Tarikh Tatawwur Al-Haraka Al-Nisa'iya Fi Lubnan Wa Irtibatiha Bil-'Alam Al-Arabi 1800-1975. Beirut, Dar Al-Hadatha.

Alvesson, M. (2002). Postmodernism and Social Research. Buckingham, Open University.

Amirmokri, V. (2004). L'islam Et Les Droits De L'homme : L'islamisme, Le Droit International Et Le Modernisme Islamique. Québec, Presses de l'Université Laval.

Annahar (1995). Civil Marriage Reforms in Lebanon. Annahar. Beirut, Dar Annahar.

An-Naim, A. (2002). Islamic Family Law in a Changing World : A Global Resource Book. London, Zed Books.

An-Naim, A. (2008). Islam and the Secular State : Negotiating the Future of Sharia. Cambridge, Mass., Harvard University Press.

Arab Women Court. (undated). "Promotional Leaflet." Retrieved 23 February 2004, from http://www.arabwomencourt.org/accomplishments/accomplishments.htm.

Asad, T. (2003). Formations of the Secular : Christianity, Islam, Modernity. Stanford, Calif., Stanford University Press.

Aubrey, L. M. (1997). The Politics of Development Co-Operation : Ngos, Gender and Partnership in Kenya. London ; New York, Routledge.

Badran, M. (2009). Feminism in Islam : Secular and Religious Convergences. Oxford, Oneworld.

Bartley, M. (1995). 'Probably, Minister...': The 'Strong Programme' Approach to the Relationship between Research and Policy. In South, N. and C. Samson. (eds.) The Social Construction of Social Policy : Methodologies, Racism, Citizenship and the Environment. Basingstoke, Macmillan.

Basu, A. (2003). Globalization of the Local/Localization of the Global: Mapping Transnational Women's Movements. In McCann R. C. and S.-K. Kim (eds.). Feminist Theory Reader : Local and Global Perspectives. New York, N.Y. ; London, Routledge.

Beauvoir, S. d. and H. M. Parshley (1993). The Second Sex. London, David Campbell.

Bell, D. and G. Valentine (1995). Mapping Desire : Geographies of Sexualities. London ; New York, Routledge.

Berger, M. (1999). The Shari`a and Legal Pluralism: The Example of Syria. In Dupret, B., M. Berger and L. Al-Zwaini (eds.). Arab and Islamic Laws Series. The Hague ; Boston, Kluwer Law International.

Beydoun, A. S. (2002). "On Combatting Violence against Women: The Performance of Lebanese Non-Governmental Organisations." Al Raida 19(97-98): 56-61.

Blee, K. M. (2002). Inside Organized Racism : Women in the Hate Movement. Berkeley, University of California Press.

Bouhidiba, A. (1998). Sexuality in Islam. London, Saqi Books.

Bourdieu, P. (1987). "The Force of Law: Toward a Sociology of the Juridical Field." The Hastings Law Journal 38: 805-853.

Bourdieu, P. (1994). Social Space and Symbolic Power. The Polity Reader in Social Theory. Cambridge, Polity Press in association with Blackwell.

Bowen, J. R. (2003). Islam, Law, and Equality in Indonesia : An Anthropology of Public Reasoning. Cambridge ; New York, Cambridge University Press.

Boyd, S. B., D. E. Chunn, et al. (2007). Reaction and Resistance : Feminism, Law, and Social Change. Vancouver, BC, University of British Columbia Press.

Braig, M. and S. Wölte (2002). Common Ground or Mutual Exclusion? : Women's Movements and International Relations. London, Zed.

Briar, C., R. Munford, et al. (1992). Superwoman Where Are You? : Social Policy and Women's Experience. Palmerston North, Dunmore Press.

Brock, K., R. McGee, et al. (2004). Unpacking Policy : Knowledge, Actors and Spaces in Poverty Reduction in Uganda and Nigeria. Brighton, Fountain Publishers Ltd.

Brown, W. (1995). States of Injury : Power and Freedom in Late Modernity. Princeton, N.J, Princeton University Press.

Bryson, V. (2003). Feminist Political Theory : An Introduction. Houndmills, Basingstoke, Hampshire, New York, Palgrave Macmillan.

Burchell, G., C. Gordon, et al. (1991). The Foucault Effect : Studies in Governmentality. Chicago, University of Chicago Press.

Burgat, F. and J. L. Esposito (2003). Modernizing Islam : Religion in the Public Sphere in the Middle East and Europe. London, Hurst.

Butler, J. (1992). Contingent Foundations. In Scott, J.W., and J. P. Butler (eds.). Feminists Theorize the Political. London, Routledge.

Butler, J. (1998). Subjects of Sex/Gender/Desire. In Phillips, A. (eds.). Feminism and Politics. Oxford, Oxford University Press.

Butler, J. (1999). Gender Trouble : Feminism and the Subversion of Identity. New York ; London, Routledge.

Butler, J. (2003). Performative Acts and Gender Constitution: An Essay in Phenomenology and Feminist Theory. In McCann R.C., and S.-K. Kim (eds.). Feminist Theory Reader : Local and Global Perspectives. New York, N.Y. London, Routledge.

Butler, J. P. (1999). Gender Trouble : Feminism and the Subversion of Identity. New York ; London, Routledge.

Castells, M. (1997). The Power of Identity. Malden, Mass ; Oxford, Blackwell.

CEDAW Committee. (undated). "Committee on the Elimination of Discrimination against Women." Retrieved 2 August, 2007, from http://www.un.org/womenwatch/daw/cedaw/committee.htm.

CEDAW/C/LBN/1 (2/09/2004). Initial Report of States Parties: Lebanon. Convention on the Elimination of All Forms of Discrimination against Women: Committee on the Elimination of Discrimination against Women. New York.

CEDAW/C/LBN/2 (11/02/2005). Second Report of States Parties: Lebanon. Convention on the Elimination of All Forms of Discrimination against Women: Committee on the Elimination of Discrimination against Women. New York.

CEDAW/C/LBN/3 (7/07/2006). Third Report of States Parties: Lebanon. Convention on the Elimination of All Forms of Discrimination against Women: Committee on the Elimination of Discrimination against Women. New York.

Chambers, R. (1997). Whose Reality Counts?: Putting the First Last. London, Intermediate Technology.

Charusheela, S. (2008). "Social Analysis and the Capabilities Approach: A Limit to Martha Nussbaum's Universalist Ethics." Cambridge Journal of Economics: 1 of 18.

Chatterjee, P. (2004). The Politics of the Governed : Reflections on Popular Politics in Most of the World. New York, Columbia University Press.

Chatty, D., and A. Rabo (1997). Organizing Women : Formal and Informal Women's Groups in the Middle East. Oxford ; New York, Berg.

Cheriet, B. (1997). Fundamentalism and Women's Rights: Lessons from the City of Women. In Friedl, E., and M. Afkhami (eds.). Muslim Women and the Politics of Participation: Implementing the Beijing Platform. Syracuse, NY, Syracuse University Press.

Choueiri, Y. M. (1988). Ottoman Reform and Lebanese Partriotism. In Shehadi, N., D. H. Mills (eds.). Lebanon : A History of Conflict and Consensus. London: Tauris.

Claval, P. (1984). "The Concept of Social Space and the Nature of Social Geography." New Zealand Geographer.

Clay, E. and B. Schaffer (1984). Introduction. In Clay, E., and B. Schaffer (eds.). Room for Manoeuvre: An Exploration of Public Policy in Agriculture and Rural Development. London, Heinemann.

Clay, E., and B. Schaffer (1984). Room for Manoeuvre: An Exploration of Public Policy in Agriculture and Rural Development. London, Heinemann.

Cling, B. J. (2004). Sexualized Violence against Women and Children : A Psychology and Law Perspective. New York, Clifford Press.

Coffey, A. (2004). Reconceptualizing Social Policy : Sociological Perspectives on Contemporary Social Policy. Maidenhead ; New York, Open University Press.

Cole, J. (2009). Struggles over Personal Status and Family Law in Post-Baathist Iraq. In Cuno, K.M., and M. Desai (eds.). Family, Gender, and Law in a Globalizing Middle East and South Asia. New York, Syracuse University Press.

Collste, G. (2005). Possibilities of Religious Pluralism. Linköping, Linköping University Electronic Press. 3.

Connors, J. (1996). The Woman's Convention in the Muslim World. In Yamani, M., and A. Allen (eds.). Feminism and Islam : Legal and Literary Perspectives. Reading: Garnet.

Conover, P. J. (1988). "The Role of Social Groups in Political Thinking." British Journal of Political Science 18 (Jan.) (1): 51-76.

Corm, G. (1988). Myths and Realities of the Lebanese Conflict. In Shehadi, N., D. H. Mills. Lebanon : A History of Conflict and Consensus. London: I.B. Tauris.

Cornwall, A. (2001). Beneficiary, Consumer, Citizen: Perspectives on Participation for Poverty Reduction. Stockholm, SIDA.

Cornwall, A., E. Harrison, et al. (2007). Introduction. In Cornwall, A., E. Harrison and A. Whitehead (eds.). Feminisms in Development : Contradictions, Contestations, and Challenges. London ; New York, Zed Books.

Cornwall, A., E. Harrison and A. Whitehead (2007). Feminisms in Development : Contradictions, Contestations, and Challenges. London ; New York, Zed Books.

Cosslett, T., A. Easton, et al. (1996). Women, Power, and Resistance : An Introduction to Women's Studies. Buckingham, Open University Press.

Cotran, E., and C. Mallat (1998-9). Yearbook of Islamic and Middle Eastern Law. London, Leiden, Boston, Kluwer Law International. Brill. 5.

Creswell, J. W. (1998). Qualitative Inquiry and Research Design : Choosing among Five Traditions. Thousand Oaks, Calif. ; London, Sage.

Creswell, J. W. (2003). Research Design : Qualitative, Quantitative, and Mixed Methods. Thousand Oaks, Calif. ; London, Sage.

Cuno, K.M., and M. Desai (2009). Family, Gender, and Law in a Globalizing Middle East and South Asia. New York, Syracuse University Press.

Ḍāhir, M. (1981). The Historical Roots for the Lebanese Sectarian Problem, 1697-1861. (Al-Judhūr Al-Tārīkhīyah Lil-Masalah Al-TĀifīyah Al-Lubnānīyah, 1697-1861. Beirut, Ma'had al-Inmā al-'Arabī.

Dahl, T. S. (1997). The Muslim Family : A Study of Women's Rights in Islam. Oslo Boston, Scandinavian University Press.

Dallos, S. and R. Dallos (1997). Couples, Sex and Power : The Politics of Desire. Buckingham ; Bristol, Pa., Open University Press.

Demian, M. (2003). "Custom in the Courtroom, Law in the Village: Legal Transformations in Papua New Guinea." The Journal of the Royal Anthropological Institute 9(1): 97-115.

Derrida, J. and J. D. Caputo (1997). Deconstruction in a Nutshell : A Conversation with Jacques Derrida. New York, Fordham University Press.

Desai, M. (2009). Legal Pluralism Versus a Uniform Civil Code: The Continuing Debates in India. In Cuno, K.M., and M. Desai (eds.). Family, Gender, and Law in a Globalizing Middle East and South Asia. New York, Syracuse University Press.

Douglas, M. (2001). Implicit Meanings Selected Essays in Anthropology. London ; New York, Routledge.

Dupret, B. (1999). Legal Pluralism, Normative Plurality, and the Arab World. In Dupret, B., M. Berger and L. Al-Zwaini (eds.). Legal Pluralism in the Arab World. The Hague ; Boston, Kluwer Law International.

Dupret, B., M. Berger and L. Al-Zwaini (1999). Legal Pluralism in the Arab World. The Hague ; Boston, Kluwer Law International.

Eekelaar, J. (2006). Family Law and Personal Life. Oxford ; New York, Oxford University Press.

El-Alami, D. S. and D. Hinchcliffe (1996). Islamic Marriage and Divorce Laws of the Arab World London and Boston, Kluwer Law International.

El-Cheikh, N. (1998-9). The 1998 Proposed Civil Marriage Law in Lebanon: The Reaction of the Muslim Communities. In Cotran, E., and C. Mallat (eds.). Yearbook of Islamic and Middle Eastern Law. London, Leiden, Boston, Kluwer Law International. Brill. 5.

El-Khazen, F. (2000). The Breakdown of the State in Lebanon, 1967-1976. London, I. B. Tauris.

Elshtain, J. B. (1995). Feminism, Family, and Community. In Weiss, P.A., and M. Friedman (eds.). Feminism and Community. Philadelphia, Temple University Press.

Escobar, A. (1995). Encountering Development : The Making and Unmaking of the Third World. Princeton, N.J, Princeton University Press.

Esposito, J. L. and N. J. Bas (2001). Women in Muslim Family Law. Syracuse, N.Y., Syracuse University Press.

Fawcett, B. and F. Waugh (2008). Addressing Violence, Abuse and Oppression : Debates and Challenges. London ; New York, Routledge.

Fay, M. A. (2001). Auto/Biography and the Construction of Identity and Community in the Middle East. New York, Palgrave.

Ferguson, J. (1994). The Anti-Politics Machine: "Development," Depoliticization, and Bureaucratic Power in Lesotho. Minneapolis, University of Minnesota Press.

Firro, K. M. (1992). A History of the Druzes. Leiden ; New York, E.J. Brill.

Firro, K. M. (2003). Inventing Lebanon: Nationalism and the State under the Mandate. London, I. B. Tauris.

Fischer, F. (2003). Reframing Public Policy: Discursive Politics and Deliberative Practices. Oxford: Oxford University Press.

Fischer, F. and J. Forester (1993). The Argumentative Turn in Policy Analysis and Planning. Durham, N.C, Duke University Press.

Fisher, W. F. (1997). "Doing Good? The Politics and Antipolitics of NGO Practices." Annual Review of Anthropology 26: 439-464.

Fitzgerald, T. (2007). Religion and the Secular: Historical and Colonial Formations. London, Equinox.

Foucault, M. (1980). Governmentality. In Foucault, M., and C., Gordon. Power/Knowledge : Selected Interviews and Other Writings, 1972/1977. Brighton, Harvester Press.

Foucault, M. (1980). Truth and Power. In Foucault, M. (1981). The History of Sexuality. Vol.1, an Introduction. Harmondsworth, Penguin.

Foucault, M. (1981). The History of Sexuality. Vol.1, an Introduction. Harmondsworth, Penguin.

Foucault, M. (1989). The Archaeology of Knowledge. London, Routledge.

Foucault, M. and C. Gordon (1980). Power/Knowledge : Selected Interviews and Other Writings, 1972/1977. Brighton, Harvester Press.

Foucault, M. and Hutton, P. H. (1988). Technologies of the Self : A Seminar with Michel Foucault. London, Tavistock.

Foucault, M. and P. Rabinow (1997). Ethics : Subjectivity and Truth. New York New York, New Press.

Fraser, N., A. Honneth, et al. (2003). Redistribution or Recognition? : A Political - Philosophical Exchange. London, Verso.

Fraser, N. and K. Olson (2008). Adding Insult to Injury : Nancy Fraser Debates Her Critics. London, Verso.

Friedl, E., and M. Afkhami (1997). Muslim Women and the Politics of Participation: Implementing the Beijing Platform. Syracuse, NY, Syracuse University Press.

Geertz, C. (1993). The Interpretation of Cultures : Selected Essays. London, Fontana Press.

Gellner, E. (1994). Conditions of Liberty : Civil Society and Its Rivals. London, Hamish Hamilton.

Giddens, A. (1984). The Constitution of Society : Outline of the Theory of Structuration. Cambridge, Polity Press.

Göçek, F. M. and S. Balaghi (1994). Reconstructing Gender in the Middle East : Tradition, Identity, and Power. New York, Columbia University Press.

Green, M. and B. Carter (1995). Naming Difference: Race-Thinking, Common Sense and Sociology. In South, N., and C. Samson (eds.). The Social Construction of Social Policy : Methodologies, Racism, Citizenship and the Environment. Basingstoke, Macmillan.

Greve, C. (1999). "Quangos-What's in a Name? Defining Quangos from a Comparative Perspective." Governance 12 (2): 129.

Griffiths, J. (1986). "What Is Legal Pluralism." Journal of Legal Pluralism & Unofficial Law 24(1): 1-56.

Griffiths, J. (1999). Preface. In Dupret, B., M. Berger and L. Al-Zwaini (eds.). Legal Pluralism in the Arab World. The Hague ; Boston, Kluwer Law International.

Grindle, M. S. and J. W. Thomas (1991). Public Choices and Policy Change : The Political Economy of Reform in Developing Countries. Baltimore, Johns Hopkins University Press.

Gupta, A. (2006). Blurred Boundaries: The Discourse of Corruption, the Culture of Politics, and the Imagined State. In Sharma, A., and A. Gupta. The Anthropology of the State : A Reader. Malden, MA ; Oxford, Blackwell.

Gupta, A. and J. Ferguson (1997). Anthropological Locations : Boundaries and Grounds of a Field Science. Berkeley, University of California Press.

Hacking, I. (1986). Making up People. In Heller, T. C., M. Sosna and D. E. Wellbery (eds.). Reconstructing Individualism : Autonomy, Individuality, and the Self in Western Thought. Stanford, Calif., Stanford University Press.

Heller, T. C., M. Sosna and D. E. Wellbery (1986). Reconstructing Individualism : Autonomy, Individuality, and the Self in Western Thought. Stanford, Calif., Stanford University Press.

Hacking, I. (1995). The Looping Effect of Human Kinds. In Sperber, D., D. Premack and A. J. Premack (eds.). Causal Cognition : A Multidisciplinary Debate. Oxford, Clarendon Press.

Hacking, I. (1995). Rewriting the Soul : Multiple Personality and the Sciences of Memory. Princeton, N.J, Princeton University Press.

Hacking, I. (2007). Kinds of People: Moving Targets. British Academy Lecture, British Academy.

Haddad, S. (2002). "Cultural Diversity and Sectarian Attitudes in Postwar Lebanon." Journal of Ethnic and Migration Studies 28(2): 291-306

Hajer, M. (1993). Discourse Coalitions and the Institutionalization of Practice: The Case of Acid Rain in Great Britain. In Fischer, F., and J. Forester (eds.). The Argumentative Turn in Policy Analysis and Planning. Durham, N.C, Duke University Press.

Hamade, N., J. S. Makdisi and S. Joseph (2000). Citizenship between Man and Woman (Al Muwatiniya Bayna Al Rajul Wal Mar'a). Beirut, Al Jadid Press.

Hammami, R. (2000). "Palestinian NGOs since Oslo: From Ngo Politics to Social Movements?" Middle East Report(214): 16-48.

Hammami, R. (2004). Attitudes Towards Legal Reform of Personal Status Law in Palestine. In Welchman, L. (ed.) Women's Rights and Islamic Family Law : Perspectives on Reform. London, Zed.

Hanisch, C. (1969) "The Personal Is Political." Speech presented to the Women's Caucus of the Southern Conference Educational Fund (SCEF). February 1969. http://www.carolhanisch.org/CHwritings/PersonalisPol.pdf

Hann, C. M. and E. Dunn (1996). Civil Society : Challenging Western Models. London, Routledge.

Hannigan, J. A. (1995). Environmental Sociology: A Social Constructivist Perspective. London, Routledge.

Haraway, D. (1988). "Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspectives." Feminist Studies 14(3): 575-599.

Haraway, D. (2003). Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective. In McCann, R. C., and S.-K. Kim (eds.). Feminist Theory Reader : Local and Global Perspectives. New York, N.Y. ; London, Routledge.

Hartsock, N. C. M. (1983). Money, Sex and Power : Towards a Feminist Historical Materialism. New York, Longman.

Hartsock, N. C. M. (2003). The Feminist Standpoint: Toward a Specifically Feminist Historical Materialism. In McCann R. C., and S.-K. Kim (eds.). Feminist Theory Reader : Local and Global Perspectives. New York, N.Y.; London, Routledge.

Harvey, D. (2001). Spaces of Capital : Towards a Critical Geography. Edinburgh, Edinburgh University Press.

Hashim, I. (1999). "Reconciling Islam and Feminism." Gender and Development 7(1).

Hellum, H., S. S. Ali and A. Griffiths (2011). From Transnational Relations to Transnational Laws: Northern European Laws at the Crossroads. Farnham, Ashgate.

Helms, E. (2003). "Women as Agents of Ethnic Reconciliation? Women's Ngos and International Intervention in Postwar Bosnia-Herzegovina." Women's Studies International Forum 26: 15-33.

Hessini, L. (1994). Wearing the Hijab in Contemporary Morocco: Choice and Identity. Göçek, F.M. and S. Balaghi (eds.). Reconstructing Gender in the Middle East : Tradition, Identity, and Power. New York, Columbia University Press.

Göçek, F.M. and S. Balaghi (1994). Reconstructing Gender in the Middle East : Tradition, Identity, and Power. New York, Columbia University Press.

Hill, M.J. (ed.). The Policy Process : A Reader. New York, Prentice Hall/Harvester Wheatsheaf.

Hogwood, B. (1995). "The 'Growth' of Quangos: Evidence and Explanations. ." Parliamentary affairs 48 (2): 207.

Holland, J., J. Blackburn, et al. (1998). Whose Voice? : Participatory Research and Policy Change. London, Intermediate Technology.

Hooks, B. (2000). Feminist Theory from Margin to Center. London, Pluto Press.

Hudson, M. C. (1988). The Problem of Authoritative Power in Lebanese Politics: Why Consociationalism Failed. In Shehadi, N., D. H. Mills (eds.). Lebanon : A History of Conflict and Consensus. London I.B. Tauris.

Huxley, A. (2002). Religion, Law, and Tradition: Comparative Studies in Religious Law. London, Routledge Curzon.

Ingram, H., A. L. Schneider, et al. (2007). Social Construction and Policy Design. In Sabatier, P.A. (ed.). Theories of the Policy Process. Boulder, Colo., Westview Press.

Jad, I. (2004). "The NGO-isation of Arab Women's Movements." IDS Bulletin 35(4): 34-42.

Jeffery, P. and A. Basu (1998). Appropriating Gender : Women's Activism and Politicized Religion in South Asia. New York ; London, Routledge.

Jennings, B. (1993). Counsel and Consensus: Norms of Argument in Health Policy. Fischer, F. and J. Forester (eds.). The Argumentative Turn in Policy Analysis and Planning. Durham, N.C, Duke University Press.

John, P. (1998). Analysing Public Policy. London, Pinter.

Johnson, P. (2004). Agents for Reform: The Women's Movement, Social Politics and Family Law Reform. In Welchman, L. (ed.) Women's Rights and Islamic Family Law : Perspectives on Reform. London, Zed.

Joseph, S. (1997). The Reproduction of Political Process among Women Activists in Lebanon: 'Shopkeepers' and Feminists. In Chatty, D., and A. Rabo (eds.). Organizing Women : Formal and Informal Women's Groups in the Middle East. Oxford ; New York, Berg.

Joseph, S. (2000). Gender and Citizenship in the Middle East. Syracuse, N.Y., Syracuse University Press.

Joseph, S. (2001). Introduction. In Joseph, S., and S. Slyomovics (eds.). Women and Power in the Middle East. Philadelphia, PA, University of Pennsylvania Press: 1-19.

Joseph, S. and S. Slyomovics (2001). Women and Power in the Middle East. Philadelphia, PA, University of Pennsylvania Press.

Juma, C. and N. Clark (1995). "Policy Research in Sub-Saharan Africa: An Exploration." Public Administration and Development 15(2): 121-137.

Kandiyoti, D. (1995). Gendering the Middle East : Alternative Perspectives. London, Tauris.

Kawtharani, W. (1976). Al-Ittijihat Al-Ijtima'Iyya Al-Siyasiyya Fi Jabal Lubnan Wa Al-Mashriq Al-'Arabi, 1860–1920 (the Social and Political Directions in Mount Lebanon and the Arab Orient, 1860-1920), Beirut: Ma'had al-inma' al-'arabi.

Kerr, M. (2006). Imposing Power-Sharing : Conflict and Coexistence in Northern Ireland and Lebanon. Dublin ; Portland, OR, Irish Academic Press.

Khair, A. (1996). "Al Majlis Al-Doustouri Wa Dawrouhou Fi Arraqaba Ala Doustouriyyat Al-Qawaneen." (The Role of the Constitutional Council in

Monitoring the Constitutionality of Laws). Journal for Lebanese and Arab Studies - Abaad 5: 97-103.

Khalaf, M. (2002). Evaluating the Status of Lebanese Women in Light of the Beijing Platform for Action, the United Nations Development Fund for Women. Arab State Regional Office.

Khalaf, S. (2002). Civil and Uncivil Violence in Lebanon : A History of the Internationalization of Human Contact. New York, Columbia University Press.

Khater, A. and C. Nelson (1988). "Al-Harakah Al-Nissa`Iya: The Women's Movement and Political Participation in Modern Egypt." Women's Studies International Forum 11(5): 465-483.

King, D. (1999). In the Name of Liberalism: Illiberal Social Policy in the USA and Britain. New York, Oxford: Oxford University Press.

King, U. (1994). Feminist Theology from the Third World : A Reader. London, SPCK/Orbis.

Kiser, L. and E. Ostrom (1982). Three Worlds of Action: A Metatheoretical Synthesis of Institutional Approaches. In Ostrom, E. (ed.), Strategies of Political Inquiry. Beverly Hills, Sage Publications.

Kousha, M. (2002). Voices from Iran: The Changing Lives of Iranian Women. Syracuse, Syracuse University Press.

Krayem, H. (2003). Consolidating Women's Participation in Local Government and Implementation of a Quota-System in Lebanon (Taaziz Tamthil Al-Maraa Fi Al-Majalis Al-Mahaliyya Was Iqtirah Tatbiq Al Qota Fi Lubnan). beirut, lebanese women's rights league Friederich ebert Stiftung.

Kusha, H. R. (2002). The Sacred Law of Islam: A Case Study of Women's Treatment in the Islamic Republic of Iran's Justice System. Aldershot, Ashgate.

Laclau, E. and C. Mouffe (1985). Hegemony and Socialist Strategy : Towards a Radical Democratic Politics. London, Verso.

Latour, B. (2005). Reassembling the Social : An Introduction to Actor-Network-Theory. Oxford ; New York, Oxford University Press.

Leach, M. and R. Mearns (1996). Introduction. In Leach, M., and R. Mearns (eds.). The Lie of the Land: Challenging Received Wisdom on the African Environment. Oxford, James Currey.

Leach, M., and R. Mearns (1996). The Lie of the Land: Challenging Received Wisdom on the African Environment. Oxford, James Currey.

Lefebvre, H., N. Brenner, et al. (2009). State, Space, World : Selected Essays. Minneapolis, University of Minnesota Press.

Lerner, N. (2000). Religion, Beliefs, and International Human Rights. Maryknoll, N.Y., Orbis Books.

Lewis, D. (2008). "Crossing the Boundaries between 'Third Sector' and State: Life-Work Histories from the Philippines, Bangladesh and the Uk." Third World quarterly 29(1): 125-141.

Lewis, D. and D. Mosse (2006). Development Brokers and Translators : The Ethnography of Aid and Agencies. Bloomfield, CT, Kumarian Press.

Lewis, D. and D. Mosse (2006). Theoretical Approaches to Brokerage and Translation in Development. In Lewis, D., and D. Mosse. Development Brokers and Translators : The Ethnography of Aid and Agencies. Bloomfield, CT, Kumarian Press.

Lewis, G. (2004). Citizenship : Personal Lives and Social Policy. Bristol, Policy Press.

Lieblich, A. and R. Josselson (1994). Exploring Identity and Gender : The Narrative Study of Lives. London, Sage.

Lilja, M. (2005). Power, Resistance and Women Politicians in Cambodia: Discourses of Emancipation. Copenhagen, NIAS.

Lind, A. (2005). Gendered Paradoxes : Women's Movements, State Restructuring, and Global Development in Ecuador. University Park, Penn., Pennsylvania State University Press.

Lindblom, C. E. (1979). "Still Muddling, Not yet Through." Public Administration Review 39(6): 517-526.

Linder, S. (1995). "Contending Discourses in the Electric and Magnetic Fields Controversy: The Social Construction of Emf Risk as a Public Problem." Policy Sciences 28: 209-230.

Lipsky, M. (1980). Street-Level Bureaucracy : Dilemmas of the Individual in Public Services. New York, Russell Sage Foundation.

Lister, R. (1997). Citizenship : Feminist Perspectives. Houndmills, Basingstoke, Macmillan Press.

LLWR (1997). At the Turn of the Twenty-First Century: The Role of the Lebanese Woman and Her Responsibilities in Building the Modern State. The Fourteenth Convention for the League for the Rights of the Lebanese Woman in its golden Jubilee, Beirut, The Lebanese League for Women's Rights (LLWR).

Long, N. (2001). Development Sociology : Actor Perspectives. London, Routledge.

Lukes, S. (2005). Power : A Radical View. Houndmills, Basingstoke, Hampshire, New York, Palgrave Macmillan.

MacKinnon, C. A. (2005). Women's Lives, Men's Laws. Cambridge, Mass., Belknap Press of Harvard University Press.

Mahmood, S. (2005). Politics of Piety : The Islamic Revival and the Feminist Subject. Princeton, NJ, Princeton University Press.

Maila, J. (1991). "L'accord De Taef, Deux Ans Apres." (Two Years after the The Taif Agreement). Les Cahiers de l'Orient. 24.

Makdisi, U. S. (2000). The Culture of Sectarianism : Community, History, and Violence in Nineteenth-Century Ottoman Lebanon. Berkeley, Calif., University of California Press.

Maktabi, R. (2009). "Female citizenship in the Middle East: Comparing family law reform in Morocco, Egypt, Lebanon and Syria". Draft paper presented at the World Bank / Yale workshop "Societal Transformation and the Challenges of Governance in Africa and the Middle East". Yale University, Department of Political Science. January 31 – February 1, 2009.

Mallat, C. (1997). "The Lebanese Legal System " The Lebanon Report 2.

Mallat, C. (2007). Introduction to Middle Eastern Law. Oxford [England] ; New York, Oxford University Press.

Mamdani, M. (1996). Citizen and Subject : Contemporary Africa and the Legacy of Late Colonialism. Princeton, N.J, Princeton University Press.

Mansfield, N. (2000). Subjectivity: Theories of the Self from Freud to Haraway New York, New York University Press.

March, J. J. and J. P. Olsen (1997). Institutional Perspectives on Political Institutions. In Hill, M.J. (ed.). The Policy Process : A Reader. New York, Prentice Hall/Harvester Wheatsheaf.

Massey, D. B. (2005). For Space. London, SAGE.

Mateo-Diaz, M. (2005). Representing Women? Colchester, ECPR.

Maxwell, J. A. (1996). Qualitative Research Design : An Interactive Approach. Thousand Oaks, Calif. ; London, Sage.

Mayer, A. E. (1995). Rhetorical Strategies and Official Policies on Women's Rights: The Merits and Drawbacks of the New World Hypocrisy. In Afkhami, M. (ed.) Faith and Freedom : Women's Human Rights in the Muslim World. London, I.B.Tauris.

Mayer, A. E. (2007). Islam and Human Rights : Tradition and Politics. Boulder, Colo., Westview Press.

McCann, C. R. and S.-K. Kim (2003). Introduction. In In McCann, R.C., and S.-K. Kim (eds.). Feminist Theory Reader : Local and Global Perspectives. New York, N.Y. ; London, Routledge.

McGee, R. (2004). Unpacking Policy : Actors, Knowledge, and Spaces. In Brock, K., R. McGee and J. Gaventa. Unpacking Policy : Knowledge, Actors and Spaces in Poverty Reduction in Uganda and Nigeria. Brighton, Fountain Publishers.

McKee, K. (2009). "Post-Foucauldian Governmentality: What Does It Offer Critical Social Policy Analysis?" Critical Social Policy 29(3): 465-486.

McNay, L. (1992). Foucault and Feminism : Power, Gender and the Self. Cambridge, Polity Press.

Mernissi, F. (1991). The Veil and the Male Elite : A Feminist Interpretation of Women's Rights in Islam. Reading, Mass, Addison-Wesley Pub.

Mernissi, F. (2003). Beyond the Veil : Male-Female Dynamics in Modern Muslim Society. London, Saqi Books.

Miller, G. (1997). Building Bridges: The Possibility of Analytic Dialogue between Ethnography, Conversation and Foucault. In Silverman, D. (ed.). Qualitative Research : Theory, Method and Practice. London, Sage.

Mir-Hosseini, Z. (2000). Marriage on Trial : Islamic Family Law in Iran and Morocco. London ; New York. New York, I.B. Tauris.

Mir-Hosseini, Z. (2003). "The Construction of Gender in Islamic Legal Thought and Strategies for Reform." Hawwa 1(1): 1-28.

Mir-Hosseini, Z. (2006). "Muslim Women's Quest for Equality: Between Islamic Law and Feminism." Critical Inquiry 32(4): 629-645.

Moaddel, M. (2005). Islamic Modernism, Nationalism, and Fundamentalism : Episode and Discourse. Chicago, Ill., University of Chicago Press.

Modood, T., A. Triandafyllidou, et al. (2005). Multiculturalism, Muslims and Citizenship : A European Approach. New York, NY, Routledge.

Moghadam, V. M. (1992). Development and Patriarchy : The Middle East and North Africa in Economic and Demographic Transition. Helsinki, Finland, World Institute for Development Economics Research of the United Nations University.

Moghadam, V. M. (2003). Modernizing Women : Gender and Social Change in the Middle East. Boulder, Co., L. Rienner.

Moghadam, V. M. (2007). From Patriarchy to Empowerment : Women's Participation, Movements, and Rights in the Middle East, North Africa, and South Asia. Syracuse, N.Y., Syracuse University Press.

Moghadam, V. M., M. Karshenas, et al. (2006). Social Policy in the Middle East : Economic, Political, and Gender Dynamics. Basingstoke ; New York, Palgrave Macmillan.

Mohanty, C. T. (2003). Feminism without Borders : Decolonizing Theory, Practicing Solidarity. Durham ; London, Duke University Press.

Mohanty, C. T. (2003). Feminist Encounters: Locating the Politics of Experience. McCann, R.C., and S.-K. Kim (eds.). Feminist Theory Reader : Local and Global Perspectives. New York, N.Y. ; London, Routledge: x, 509 p. ; 526 cm., cased.

Molyneux, M., S. Razavi, et al. (2002). Gender Justice, Development, and Rights. Oxford: Oxford University Press.

Molyneux, M. D. (2000). Women's Movements in International Perspective : Latin America and Beyond. Basingstoke, Macmillan.

Mosse, D. (2005). Cultivating Development : An Ethnography of Aid Policy and Practice. London ; Ann Arbor, MI, Pluto Press.

Mullally, S. (2004). "Feminism and Multicultural Dilemmas in India: Revisiting the Shah Bano Case." Oxford Journal of Legal Studies 24(4): 671-692.

Mullard, M. and P. Spicker (1998). Social Policy in a Changing Society. New York, Routledge.

Mundy, M. (2002). Introduction. In Mundy, M.. Law and Anthropology. Aldershot, Burlington, USA, Ashgate/Dartmouth.

Naghibi, N. (2007). Rethinking Global Sisterhood : Western Feminism and Iran. Minneapolis, MN, University of Minnesota Press.

Naim, E. (1996). "Comment on the Historical Evolution of the Judicial Systems." Journal for Lebanese and Arab Studies - Abaad 5: 28-36.

Naples, N. A. and M. Desai (2002). Women's Activism and Globalization: Linking Local Struggles and Global Politics. New York, London, Routledge.

Narayan, U. (1997). Dislocating Cultures: Identities,Traditions and Third-World Feminism. New York London, Routledge.

NCLW. (undated). "Constitution of the National Commission for Lebanese Women." Retrieved 2, August, 2007, from http://www.nclw.org.lb/pages.cfm?pid=12.

Non-Governmental Committee for Following up on Women's Issues (the) (2007). The Third Shadow Report on Cedaw. Beirut.

Non-Governmental Committee for Following up on Women's Issues (the) and the Collective for Research and Training on Development Action (2005). The Second Shadow Report on the Progress of Implementing the Cedaw Convention (Taqrir Al-Zhol Hawla Mada Al-Taqaddum Fi Tatbiq Ittifaqiyat Ilgha' Jamee` Ashkal Al-Tamyiz Dudda Al-Mar'a). Beirut.

Non-Governmental Committee for Following up on Women's Issues (the) and Lebanese Council of Women (1999). The National Report of Non-Governmental Organisations in Lebanon on the Progress of Setting up the Beijing Workplan (Al-Taqrir Al-Watani Lil Munathamat Ghayr Al-Hukumiya Fi Lubnan `an Al-Taqaddum Al-Muhraz Fi Tanfith Minhaj `Amal Bijin). Beirut.

Nussbaum, M. C., J. Glover, et al. (1995). Women, Culture, and Development : A Study of Human Capabilities. Oxford, Clarendon Press.

O'Neill, B. L. and E. Gidengil (2006). Gender and Social Capital. London, Routledge.

O'Shaughnessy, K. (2009). Gender, State and Social Power in Contemporary Indonesia : Divorce and Marriage Law. London ; New York, Routledge.

O'Toole, L. L., J. R. Schiffman, et al. (2007). Gender Violence : Interdisciplinary Perspectives. New York, New York University Press.

Obermeyer, C. M. (1995). Family, Gender, and Population in the Middle East : Policies in Context. Cairo, American University in Cairo Press.

Okin, S. M. (1989). Justice, Gender, and the Family. New York, Basic Books.

Okin, S. M. (1998). Gender, the Public and the Private. In Phillips, A. Feminism and Politics. New York, Oxford University Press.

Olivier de Sardan, J.P. (2004). Anthropology for Development : Understanding Contemporary Social Change. New York, Zed Books.

Olson, K. (2008). Participatory Parity and Democratic Justice. In Fraser, N., and K. Olson. Adding Insult to Injury : Nancy Fraser Debates Her Critics. London, Verso.

Ostrom, E. (1982). Strategies of Political Inquiry. Beverly Hills, Sage Publications.

Ostrom, E. (2007). Institutional Rational Choice: An Assessment of the Institutional Analysis and Development Framework. Sabatier, P. A. (ed.). Theories of the Policy Process. Boulder, Colo., Westview Press.

Pankhurst, H. (1992). Gender, Development and Identity : An Ethiopian Study. London, Zed Books.

Parolin, G. P. (2008). Citizenship in the Arab World : Kin, Religion and Nation-State. Amsterdam, Amsterdam University Press.

Parpart, J. L., S. Rai, et al. (2002). Rethinking Empowerment: Gender and Development in a Global/Local World. London ; New York, Routledge.

Pateman, C. (1988). The Sexual Contract. Cambridge, Polity.

Petersen, A. R. (1999). Poststructuralism, Citizenship, and Social Policy. New York, Routledge.

Phillips, A. (1998). Feminism and Politics. New York, Oxford University Press.

Phillips, A. (2001). "Feminism and Liberalism Revisited: Has Martha Nussbaum Got It Right? ." Constellations 8(2): 249-266.

Phillips, A. (2003). "When Culture Means Gender: Issues of Cultural Defence in the English Courts." Modern law review 66(4): 510-531.

Picard, E. (2002). Lebanon, a Shattered Country : Myths and Realities of the Wars in Lebanon. New York, Holmes & Meier.

Pottage, A. (2004). Introduction. In Pottage, A., and M. Mundy (eds.). Law, Anthropology and the Constitution of the Social : Making Persons and Things. Cambridge, Cambridge University Press.

Pottage, A., and M. Mundy (2004). Law, Anthropology and the Constitution of the Social : Making Persons and Things. Cambridge, Cambridge University Press.

Pringle, R. and S. Watson (1998). 'Women's Interests' and the Poststructuralist State. In Phillips, A. (ed.). Feminism and Politics. New York, Oxford University Press.

Quran (The). Surah 30 verse 21 English Translation of Surah 'the Byzantines',. D. T.B.Irving.

Rabo, A. (2005). Legal Pluralism and Family Law in Syria. In Collste, G. (ed.). Possibilities of Religious Pluralism. Linköping, Linköping University Electronic Press. 3.

Rabo, A. (2011). Syrian Transnational Families and Family Law. In Hellum, H., S. S. Ali and A. Griffiths (eds.). From Transnational Relations to Transnational Laws: Northern European Laws at the Crossroads. Farnham, Ashgate.

Rao, N. (2007). "Custom and the Courts: Ensuring Women's Rights to Land, Jharkhand, India." Development and change 38 (2): 299.

Reagon, B. J. (1998). Coalition Politics: Turning the Century. In Phillips, A. Feminism and Politics. New York, Oxford University Press.

Rehman, J. (2007). "The Sharia, Islamic Family Laws and International Human Rights Law: Examining the Theory and Practice of Polygamy and Talaq." International Journal of Law, Policy and the Family 21(1): 108-127.

Rein, M. and D. Shon (1993). Reframing Policy Discourse. In Fischer, J., and J. Forester (eds.). The Argumentative Turn in Policy Analysis and Planning. Durham, N.C, Duke University Press.

Roded, R. (1999). Women in Islam and the Middle East : A Reader. London, I.B. Tauris.

Roe, E. M. (1991). "Development Narratives, or Making the Best of Blueprint Development." World Development 19(4): 287-300.

Roe, E. M. (1995). "Except-Africa: Postscript to a Special Section on Development Narratives." World Development 23(6): 1065-1069.

Rose, N. S. (1999). Governing the Soul : The Shaping of the Private Self. London ; New York, Routledge.

Rossman, G. B. and S. F. Rallis (2003). Learning in the Field : An Introduction to Qualitative Research. Thousand Oaks, Calif., Sage Publications.

Sabatier, P. A. (2007). Theories of the Policy Process. Boulder, Colo., Westview Press.

Said, E. W. (1979). Orientalism. London, Penguin.

Said, E. W. (1993). Culture and Imperialism. London, Chatto.

Salibi, K. S. (1988). A House of Many Mansions : The History of Lebanon Reconsidered. London, Tauris.

Samson, C. and N. South (1995). Introduction: Social Policy Isn't What It Used to Be - the Social Construction of Social Policy in the 1980s and 1990s. In South, N., and C. Samson (eds.). The Social Construction of Social Policy: Methodologies, Racism, Citizenship and the Environment. Basingstoke, Macmillan.

Santos, B. d. S. (2002). Toward a New Legal Common Sense : Law, Globalization and Emancipation. London, Butterworths LexisNexis.

Sayigh, R.M. (1993). Too Many Enemies : The Palestinian Experience in Lebanon. London ; Atlantic Highlands, N.J, Zed Books.

Schulze, K. (1995). Communal Violence, Civil War and Foreign Occupation: Women in Lebanon. In Kandiyoti, D. (ed.). Gendering the Middle East : Alternative Perspectives. London, Tauris.

Scott, J. W. (1999). Gender and the Politics of History. New York, Columbia University Press.

Scott, J.W., and J. P. Butler (1992). Feminists Theorize the Political. London, Routledge.

Seckinelgin, H. (2008). The International Politics of Hiv/Aids : Global Disease-Local Pain. London, Routledge.

Shachar, A. (1998). "Group Identity and Women's Rights in Family Law: The Perils of Multicultural Accommodation." The Journal of Political Philosophy 6(3): 285-305.

Shachar, A. (2009). Multicultural Jurisdictions Cambridge, Cambridge University Press.

Shaham, R. (1999). "An Egyptian Judge in a Period of Change: Qādī Ahmad Muhammad Shākir, 1892-1958." Journal of the American Oriental Society 119(3): 440-455.

Shanahan, R. (2005). The Shi'a of Lebanon : Clans, Parties and Clerics. London, I. B. Tauris.

Sharma, A., and A. Gupta (2006). The Anthropology of the State : A Reader. Malden, MA ; Oxford, Blackwell.

Sharma, A. and K. K. Young (1999). Feminism and World Religions. Albany, N.Y., State University of New York Press.

Shehada, N. (2009). "House of Obedience: Social Norms, Individual Agency, and Historical Contingency." Journal of Middle East Women's Studies 5(1): 24-49.

Shehadeh, L. R. (1998). "The Legal Status of Married Women in Lebanon." International Journal of Middle East Studies 30(4). (Nov., 1998): 501-519.

Shehadeh, L. R. (1999). Women and War in Lebanon. Gainesville, Fla., University Press of Florida.

Shehadeh, L. R. (2004). "Coverture in Lebanon." Feminist Review(76): 83-99.

Shehadi, N. and D. H. Mills (1988). Lebanon : A History of Conflict and Consensus. London, the Centre for Lebanese studies in association with I.B. Tauris.

Shore, C. and S. Wright (1997). Anthropology of Policy : Critical Perspectives on Governance and Power. London ; New York, Routledge.

Shoshan, B. (2000). Discourse on Gender/Gendered Discourse in the Middle East. Westport, Conn., Praeger.

Shrestha, C. H. (2006). "They Can't Mix Like We Can" : Bracketing Differences and the Professionalization of NGOs in Nepal. In Lewis, D., and D. Mosse (eds.). Development Brokers and Translators : The Ethnography of Aid and Agencies. Bloomfield, CT, Kumarian Press.

Siim, B. (2000). Gender and Citizenship : Politics and Agency in France, Britain, and Denmark. New York, Cambridge University Press.

Silverman, D. (1997) Qualitative Research : Theory, Method and Practice. London, Sage.

Soja, E. W. (1989). Postmodern Geographies : The Reassertion of Space in Critical Social Theory. London, Verso.

Somel, S. A. (2001). The Modernization of Public Education in the Ottoman Empire, 1839-1908 : Islamization, Autocracy, and Discipline. Leiden ; Boston, Brill.

Sonbol, A. E. A. (1996). Women, the Family, and Divorce Laws in Islamic History. Syracuse, N.Y, Syracuse University Press.

South, N. and C. Samson (1995). The Social Construction of Social Policy : Methodologies, Racism, Citizenship and the Environment. Basingstoke, Macmillan.

Spagnolo, J. P. (1977). France and Ottoman Lebanon, 1861-1914.

Sperber, D., D. Premack and A. J. Premack (1995). Causal Cognition : A Multidisciplinary Debate. Oxford, Clarendon Press.

Spivak, G. C. (1987). In Other Worlds : Essays in Cultural Politics. New York ; London, Methuen.

Spivak, G. C. and S. Harasym (1990). The Post-Colonial Critic : Interviews, Strategies, Dialogues, Routledge.

Stack, T. (2007). A Higher Ground: The Secular Knowledge of Objects of Religious Devotion. In Fitzgerald, T. (ed.) Religion and the Secular: Historical and Colonial Formations. London, Equinox.

Stake, R. E. (1995). The Art of Case Study Research. Thousand Oaks, Sage Publications.

Stone, D. and S. Maxwell (2005). Global Knowledge Networks and International Development : Bridges across Boundaries. London, New York, Routledge.

Stone, D. A. (2002). Policy Paradox : The Art of Political Decision Making. New York, Norton.

Takieddine, S. (1977). Al-Taṭawwur Al-Tārīkhī Lil-Muskhilah Al-Lubnānīyah (1920-1970) : Muqaddimāt Al-Harb Al-Ahlīyah (The Historical Evolution of the Lebanese Problem (1920-1970): Introduction to the Civil War). Beirut, Dār Ibn Khaldūn.

Takieddine, S. (1996). "Judicial Regulation and Exceptional Courts." Journal for Lebanese and Arab Studies - Abaad 5: 50-64.

Tamanha, B. Z. (2000). "A Non-Essentialist Version of Legal Pluralism." Journal of Law and Society 27(2): 296–321.

Thompson, E. (2000). Colonial Citizens : Republican Rights, Paternal Privilege, and Gender in French Syria and Lebanon. New York, Columbia University Press.

Throgmorton, J. A. (1993). Survey Research as Rhetorical Trope:Electric Power Planning Arguments in Chicago. In Fischer, F. and J. Forester (eds.). The Argumentative Turn in Policy Analysis and Planning. Durham, N.C, Duke University Press.

Tong, R. (1998). Feminist Thought : A More Comprehensive Introduction. Boulder, Colo. ; Oxford, Westview Press.

Touraine, A. (1988). Return of the Actor : Social Theory in Postindustrial Society. Minneapolis, University of Minnesota Press.

Traboulsi, I. (1996). "Personal Status Legislation: Reality and Improvement." Journal for Lebanese and Arab Studies - Abaad 5: 69-75.

Tucker, J. (1996). "Revisiting Reform: Women and the Ottoman Law of Family Rights, 1917." Arab Studies Journal 1: 4-17.

Tucker, J. E. (1998). In the House of the Law : Gender and Islamic Law in Ottoman Syria and Palestine. Berkeley, University of California Press.

Tucker, J. E. (2008). Women, Family, and Gender in Islamic Law. Cambridge ; New York, Cambridge University Press.

Tueini, G. 14 March Rally Speech. Beirut. 14 March 2005.

Twigg, J. (2002). "The Body in Social Policy: Mapping a Territory." Journal of Social Policy 31(3): 421–439.

UNDP. (2004). from www.undp.org.lb.

UNO. (26/06/1998). "Declarations, Reservations and Objections to Cedaw." Retrieved 21/12/2006, from http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm.

UNO A/Res.34/180. (18/12/1979). "Convention on the Elimination of All Forms of Discrimination against Women." Retrieved 21/12/2006, from http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm

Walby, S. (1989). "Theorising Patriarchy." Sociology 23: 213–234.

Waterman, A. S. (1984). "Identity Formation: Discovery or Creation? ." Journal of Early Adolescence 4: 329–341.

Weiss, P.A., and M. Friedman (1995). Feminism and Community. Philadelphia, Temple University Press.

Welchman, L. (2000). Beyond the Code: Muslim Family Law and the Shari'a Judiciary in the Palestinian West Bank, Leiden, Brill.

Welchman, L. (2002). Islamic Law: Struck with the State? In Huxley, A. (ed.) Religion, Law, and Tradition: Comparative Studies in Religious Law. London, Routledge Curzon.

Welchman, L. (2003). "In the Interim: Civil Society, the Shar'I Judiciary and Palestinian Personal Status Law in the Transitional Period." Islamic Law and Society 10(1): 34-69.

Welchman, L. (2004). Introduction. In Welchman, L. (ed.). Women's Rights and Islamic Family Law : Perspectives on Reform. London, Zed.

Welchman, L. (2004). Women's Rights and Islamic Family Law : Perspectives on Reform. London, Zed.

Welchman, L. (2007). Women and Muslim Family Laws in Arab States. A Comparative Overview of Textual Development and Advocacy. . Amsterdam, Amsterdam University Press.

Welchman, L. (2009). Family, Gender and Law in Jordan and Palestine. In Cuno, K.M., and M. Desai (eds.). Family, Gender, and Law in a Globalizing Middle East and South Asia. New York, Syracuse University Press.

Weldon, S. L. (2002). Protest, Policy, and the Problem of Violence against Women : A Cross-National Comparison. Pittsburgh, Pa., University of Pittsburgh Press.

West, C. and H. Z. Don (1987). "Doing Gender." Gender and Society 1(2): 125-151.

Whelehan, I. (2007). Modern Feminist Thought. Edinburgh, Edinburgh University Press.

Williams, L. S. (2002). "Trying on Gender, Gender Regimes, and the Process of Becoming Women." Gender and Society 16(1): 29-52.

Wittgenstein, L. (1953). Philosophical Investigations. Oxford, Blackwell.

Wolcott, H. (1990). "Making a Study "More Ethnographic"." Journal of Contemporary Ethnography 19(1): 44-72.

Wolfe, C. L. (2006). "Faith-Based Arbitration: Friend or Foe? An Evaluation of Religious Arbitration Systems and Their Interaction with Secular Courts." Fordham Law Review 75: 427.

Woodman, G. (1999). The Idea of Legal Pluralism. In Dupret, B., M. Berger and L. Al-Zwaini (eds.). Legal Pluralism in the Arab World. The Hague ; Boston, Kluwer Law International: 4-19.

World March of Women website. Retrieved 20 May 2005, from http://www. worldmarchofwomen.org/structure/rencontre_1998/cmicarticle.2006-04-12.3938051795/en.

Yamani, M., and A. Allen (1996). Feminism and Islam : Legal and Literary Perspectives. Reading: Garnet.

Yin, R. K. (1994). Case Study Research : Design and Methods, Sage Pubns.

Young, I. M. (1998). Polity and Group Difference: A Critique of the Ideal of Universal Citizenship. In . Phillips, A., Feminism and Politics. New York, Oxford University Press.

Yount, K. M. and H. Rashad (2008). Family in the Middle East : Ideational Change in Egypt, Iran, and Tunisia. Abingdon ; New York, Routledge.

Zaarab, M. and R. Aqil (1997). Harawi's Initiative to Allow Civil Marriage - What Do Religious Leaders Say? (1). Al Nahar.

Zahraa, M. (1996). "The Legal Capacity of Women in Islamic Law." Arab Law Quarterly 11(3): 245-263.

Zalzal, M.-R. (2000). Equality in Sectarian Laws (Almusawat Fi Thil Alqawanin Alta'ifiya). In Hamade, N., J. S. Makdisi and S. Joseph (eds.). Citizenship between Man and Woman (Al Muwatiniya Bayna Al Rajul Wal Mar'a). Beirut, Al Jadid Press.

Ziada, T. (1996). "Historical Evolution of the Judicial Authority." Journal for Lebanese and Arab Studies - Abaad 5: 28-36.

Ziadeh, H. (2006). Sectarianism and Intercommunal Nation-Building in Lebanon. London, Hurst.

Zinelabidine, M. (2002). Femme et Culture en Tunisie au Xxe Siecle: Particularisme et Mutations Sociopolitiques. Villeneuve d'Ascq, Presses Universitaires du Septentrion.

Zubaida, S. (2003). Law and Power in the Islamic World. London, I. B. Tauris.

Zuhur, S. (2002). "Empowering Women or Dislodging Sectarianism: Civil Marriage in Lebanon." Yale Journal of Law and Feminism 14: 177.

Legal Statutes

Decision 60 L.R. (13/03/1936). The Code for Religious Communities. Beirut.

Decision 146 L.R. (18/11/1938). Amendment to Decicion 60. Beirut.

Decision 53 L.R. (30/03/1939). Non-Application of Decision 60 L.R. dated 13/3/1936 and amended in Decision 146 dated 18/11/1938 on Muslims. Beirut.

Lebanese Republic (18/09/1948). Lebanese Penal Code. Beirut.

Ottoman Law (25/10/1917). Code for the Rights in the Family, Unions and Separations. The Ottoman State. Beirut.

Lebanese Republic (23/05/1926). Lebanese Constitution.

Lebanese Republic (23/06/1959). Inheritance Law for Non-Mohammadeans.

Lebanese Republic (21/10/2008). Ministerial Directive Authorising the Removal or Omission of the Sectarian Category in the National Civic Records.

Lebanese Republic (21/09/1990). Amended Lebanese Constitution

Lebanese Republic (16/07/1962). The Code for Sharci Courts.

Lebanese Republic Law on Marriage for Eastern Catholic denominations issued on 22/2/1949 and approved by the Pope Pious XII and modified on 25/3/1993.

Lebanese Republic (7/12/1951). Civic Records Code.

Lebanese Government. Ministerial Decree 18 (13/01/1955). Ifta' and Islamic Waqfs.

Lebanese Republic (19/12/1967). Law 72/67: Ratification of the law proposal related to organising the affairs of the Islamic Shi`a Community in Lebanon.

Decision 3503 (27/1/1926). The Jaafari Madhhab.

Interviews and Personal Communication

Semi-Structured Interview with Board Member BM1 of Women Groups LWNGO2 and LWNGO7. Beirut, 18 September 2005.

Semi-Structured Interview with Board Member BM2 of Women Group WNGO3. Beirut, 22 September 2005.

Semi-Structured Interview with Board Member BM3 of Women Group LWNGO4. Beirut, 8 October 2005.

Semi-Structured Interview with Board Member BM6 of Women Group LWNGO1. Beirut, 18 August 2005.

Semi-Structured Interview with the Lebanon Country Director BM9 of an American Non-Governmental Organisation. Beirut, 02 September 2005.

Semi-Structured Interview with Board Member BM13 of Women Group LWNGO2. Beirut, 18 December 2005.

Semi-Structured Interview with Lawyer LE1 volunteering at a Psycho-Legal Service Delivery Programme. Beirut, 3 September 2005.

Semi-Structured Interview with Lawyer LE2 volunteering at a Psycho-Legal Service Delivery Programme. Beirut, 30 September 2005.

Email Correspondance with Legal Expert LE3 on Family Law Issues. 3 February 2011.

Semi-Structured Interview with Policy Maker PM1 at the Lebanese Ministry of Social Affairs. Beirut, 19 September 2005.

Personal Communication with Policy Maker PM2 at a Gender-Focused Research Centre, 18 April 2004.

Semi-Structured Interview with Christian Community Leader RCL1 in Greater Beirut. Beirut. 31 August 2005.

Semi-Structured Interview with Christian Community Leader RCL2 in Greater Beirut, 31 August 2005.

Semi-Structured Interview with Shi`a Community Leader RCL3 at Fadlallah Religious Arbitration Bureau. Beirut, 22 August 2005.

Semi-Structured Interview with Shi`a Community Leader RCL4 at Khou`i Religious Arbitrary Bureau. Beirut, 12 August 2005.

Semi-Structured Interview with Religious Leader at the Sastani Religious Arbitration Bureau. Beirut, 22 August 2005.

Semi-Structured Interview with the Head of the Shi`a Religious Court RJ1 in Greater Beirut, Lebanon. . Beirut, 22 August 2005.

Semi-Structured Interview with Religious Judge RJ2 at the Shi`a Religious Court of Ghobeiri, Lebanon. . Beirut, 24 August 2005.

Semi-Structural Iinterview with Religious Judge RJ3 at the Maronite Religious Court of Greater Beirut, Beirut. 27 August 2005.

Semi-Structured Interview with Social Worker Respondent SW2 in Greater Beirut. Beirut, 14 June 2005.

Semi-Structured Interview with Social Worker Respondent SW03 in Greater Beirut. Beirut, 16 June 2005.

Personal Communication with Social Worker Respondent SW06 at a Psycho-Legal Centre. Beirut, 22 June 2005.

Personal Communication with Woman Respondent W1. London, 23 February 2005.

Semi-Structured Interview with Woman Respondent W2. Beirut, 2 August, 2005.

Semi-Structured Interview with Woman Respondent W3. Beirut, 4 August, 2005.

Semi-Structured Interview with Woman Respondent W4 in Beirut, 3 August, 2005.

Semi-Structured Interview with Woman Respondent W5 in Beirut, 12 August, 2010.

Semi-Structured Interview with Woman Respondent W6 in Beirut, 16 September 2005.

Semi-Structured Interview with Woman Respondent W8 in Beirut, 16 August 2005.

Semi-Structured Interview with Woman Respondent W9 in Beirut, 19 August 2005.

Semi-Structured Interview with Woman Respondent W10. Beirut, 21 July 2005.

Semi-Structured Interview with Woman Respondent W11. Beirut, 19 September 2005.

Semi-Structured Interview with Woman Respondent W12. Beirut. 13 July 2005.

Semi-Structured Interview with Woman Respondent W13 in Beirut, 06 June 2005.

Semi-Structured Interview with Woman Respondent W14 in Beirut, 29 July 2005.

Semi-Structured Interview with Woman Respondent W15 in Beirut, 08 August 2005.

Semi-Structured Interview with Woman Respondent W20 in Beirut, 17 September 2005.

Semi-Structured Interview with Woman Respondent W23 in Beirut, 17 July 2005.
Semi-Structured Interview with Woman Respondent W24 in Beirut, 18 July 2005.
Semi-Structured Interview with Woman Respondent W25 in Beirut, 07 September 2005.
Personal Communication with Woman Respondent W26. Via email. 11 August 2011.
Discussion with Professor James Scott on issues in Qualitative Research Methods. London. Organised by the LSE's Social Policy Department. 13 January 2008.

Multimedia
Iskandar, M. (2010). Jumhuriyyet Albi (the Republic of My Heart) - Pop Song. Beirut.

LBCI (2005), Sa'a bi Orb El=Habib Television Programme hosted by Tony Khalife featuring Haifa Wehbe. Lebanese Broadcasting Corporation International.