



**TRABAJO DE FIN DE GRADO**

**TITLE: Lack of Civil Marriage Law in Lebanon: Political System**

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## **ABSTRACT**

Lebanon is one of the few countries without a civil marriage law. Personal status matters are in the hands of religious denomination entities. As a result, couples that want to have an intra-religious marriage must travel abroad or select one of the religious denominations in which they want to affiliate as a couple, and the ones that don't want to be affiliated into a religious denomination don't have the option of getting married in Lebanese territory. This research studies the political reasons behind the lack of civil marriage law

The civil marriage law has been avoided for years by politicians, who have argued that is not time for a unified personal status law as it would create the ability for citizens to not affiliate to any of the 18 religious' denominations, which may lead to the abolishment of the actual system whereby the public administration entry seats are distributed equally between the 18 religious denominations. This law could be the start of a new political system, which doesn't interest the political leaders who have used the division between the religious denominations as a way of sectarianization.

**Keywords: Religious denominations, Sectarianization, Confessionalism, Civil Marriage Law**

## RESUMEN

Líbano es uno de los pocos países sin ley de matrimonio civil. Las cuestiones relativas al estatuto personal están en manos de las entidades de las confesiones religiosas. Como consecuencia, las parejas que desean contraer matrimonio intra-religioso deben viajar al extranjero o elegir una de las confesiones religiosas a las que desean afiliarse como pareja, y las que no desean afiliarse a una confesión religiosa no tienen la opción de casarse en territorio libanés. Esta investigación estudia las razones políticas de la falta de ley de matrimonio civil

La ley de matrimonio civil ha sido evitada durante años por los políticos, que han argumentado que no es el momento de una ley de estatuto personal unificada, ya que crearía la posibilidad de que los ciudadanos no se afiliaran a ninguna de las 18 confesiones "religiosas", lo que podría llevar a la abolición del sistema actual por el que los puestos de entrada en la administración pública se distribuyen equitativamente entre las 18 confesiones religiosas. Esta ley podría ser el inicio de un nuevo sistema político, que no interesa a los dirigentes políticos que han utilizado la división entre las confesiones religiosas como medio de sectarización.

**Palabras clave: Confesiones religiosas, Sectarianización, Confesionalismo, Ley de Matrimonio Civil**

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# 1. INTRODUCTION

## 1.1. Research subject and justification

Lebanon is one of the few countries without a civil marriage law. Citizens need to have a religious marriage depending on their religious denomination affiliation. Problems arise when a couple is not affiliated to the same religious denomination, and the religious entity doesn't want to marry them. This may seem like a minor problem, but since 1971, various politicians and civil societies have asked for a civil marriage law, and every time they try to create a law it doesn't even get passed by the parliament That's why this research is meant to analyze the reasons behind the lack of a civil marriage law in Lebanon, especially the political ones. Explaining how the history of Lebanon state formation, its political and electoral system, and the institutionalization of religious denominations created a country in which talking about the possibility of creating a civil marriage law is evaded by all terms by politicians and religious leaders.

The state formation of Lebanon is characterized by the coexistence of 18 religious denominations and historical developments that created tension among them. The Ottoman and French Mandate had to come up with a structure in which they could coexist in peace and govern together. Creating in this way the basis for a confessionalism system where the power is divided among the various religious denominations. The state institutionalized them by giving them the power of creating their own personal status laws and a place in governing the country.

Lebanon is one of the few countries with a confessionalism system, where the political power is divided among the different religious denominations. That's why it's important to analyze the ramifications that this system can create in a country-noting how the lack of a civil marriage law can be one of them. The United States Peace Institute, states that even though at the beginning this system resolved the problems for the coexistence of the various religious denomination groups "having all kinds of religious communities meant an eventual extension of regional politics into domestic affairs."(United States Peace Institute, 2006)



Also, this topic dives deeper into the scars the confessionalism system has made in Lebanon, it has divided the country and the population as sub-state identities. In addition, Transparency International in their 2022 report stated that “Lebanon’s confessional power-sharing arrangements fuel patronage networks and clientelism, which undermines further the country’s governance system” (Transparency International, 2022,p.1)

## **1.2. Objectives**

Main Goal:

Analyze the political reason behind the lack of a civil marriage law in Lebanon.

Specific Objectives

- Describe Lebanon's formation as a state to understand the context in which religion denomination were institutionalized
- Explain Lebanon's political and electoral system
- Analyze sectarianization in Lebanon
- Explain the situation of marriage in Lebanon
- Describe the position of the main religious denomination on a civil marriage law
- Explain the reasons for the lack of civil marriage law

## **1.3. Methodologies**

The project employs a qualitative analysis that will be used through a bibliographical review of the history of the formation of Lebanon to understand how the political system was produced . Additionally, there will be an evaluation of its link to the lack of civil marriage law. To carry out this task, various primary and secondary sources have been used.

To begin, primary sources such as the Lebanese Constitution and the Electoral Law were utilized to get an understanding of Lebanon's political structure, power distribution, and the obligations and freedoms afforded to religious denominations. The Lebanon Constitution contains important information on the government's structure and the liberties

of religious denominations. The information acquired from these original sources will assist us in understanding how the religious divide was established

Second, secondary resources such as books on Lebanese history and marital laws were used to are essential for understanding the historical environment in which Lebanon was founded. Marriage-related legislation were given special consideration, as well as how they impact the present situation in Lebanon. History books were read in order to understand how historical processes reinforced religious denominational divisions and how this influences the contemporary state of marriage. These sources gave information on the historical and legal framework in which Lebanon's absence of civil marriage legislation developed, as well as the reasons behind it.

In addition, secondary sources such as news and articles were used to investigate the opinion of political leaders on civil marriage and attempt to pass the law. Debates and controversies in Congress were later studied to explain better the reasons behind the lack of a civil marriage law in Lebanon. This information provided insight into the positions of different political leaders and an understanding of their motivations and beliefs on civil marriage.

Furthermore, secondary sources such as news and articles were utilized to research political leaders' views on civil marriage and attempts to enact legislation. Debates and disagreements in Congress were later explored to better explain the reasons behind Lebanon's lack of a civil marriage statute. This data provides insight into the viewpoints of various political figures, as well as an understanding of their motives and attitudes towards civil marriage.

## **2. THEORETICAL CONCEPTUAL FRAMEWORK**

### **2.1. Constructivism**

Originated in 1980, Alexander Wendt's "Constructivism theory" explains that the behavior of the states is not determined by the international but by the way the states interpret it and construct their surroundings.

The theory of constructivism in international relations argues that the social construction of reality is an important part to understand how international relations work. It reveals

that the identity and values of the actors influence the decisions they make and how they act. The system and its actors are influenced and shaped by social norms, beliefs, and identities. (Wendt,1992)

According to Wendt, constructivism is formed by two bases “(1) that the structures of human association are determined primarily by shared ideas rather than material forces, and (2) that the identities and interests of purposive actors are constructed by these shared ideas rather than given by nature.” (Wendt,1999, pp.1). Wendt explains the first by differentiating the level of threat that the United States perceives from North Korea or UK, emphasizing that the USA is more threatened by five North Korea nuclear weapons than 500 British nuclear weapons. Nuclear weapons are the same, so the distinction is not caused by them (material structure) but by the meaning given to the material structure. Demonstrating that constructivism goes deeper into the ideas and beliefs and that these are constructed and in constant change. He further explains that “a fundamental principle of constructivist social theory is that people act toward objects, including other actors, on the basis of the meanings that the objects have for them” (Wendt, 1992,pp.396). States are not going to act the same towards in this case Britain or North Korea because they have different meanings for them also depending if there are allies or not for Wendt “collective meaning constitute the structures which organize our actions” (Wendt,1992,p. 397)

Firstly, constructivism is riddled by the role of ideas in the construction of social life. These beliefs are frequently shared by many individuals, and to have social importance, they must be realized in practice. Constructivism gives/provides meaning to material structures. This is not to imply that material conditions (biology, geography...) play no role at all; rather, their impact is always filtered by the concepts that give them meaning. Secondly, as mentioned before the theory investigates the socially “constructed nature of agents or subjects” (Fearon & Wendt, 2002, p.57) identifying the causes and context in which agents acquire their identities and interests. Finally, the third characteristic is the concern of constructivism of constitutive explanations seeking to state conditions of possibility for objects or occurrences by demonstrating their composition and organization. As a result, the item or event in question does not exist independently of them. (Wendt, 1992)

Wendt argues that states have various identities that are a representation of who they are and their interests, for instance, the identity of a small state is different from a large one because of their interest the small one may be more focused on its survival, and the large one on gaining more power by dominating the system. (Wendt,1992)

Another central issue of constructivism is social norms “informal rules that govern behavior in groups and society” (Stanford Encyclopedia of Philosophy, 2018) they focus on understanding the norms and the social behavior that is accepted in a certain context. Social norms can be described in various ways anthropologists focus on how they can play their role in different cultures (Geertz,1973). On the other hand, legal scholars have used it as an alternative to legal rules (Ellickson,1991). Constructivism states that social norms and identities are not predetermined, but shaped and influenced by the interactions between individuals and groups over a period. This interaction influences the understanding of the work and how actors behave and perceive their interests in the international system. (Fearon & Wendt,2002)

Constructivism was selected as the theory because it will be useful to understand how religious denominations' norms, laws, and values were constructed and created the actual political system of Lebanon. The state formation of the country is characterized by historical developments that have shaped interactions between the various religious denominations (the civil war, creation of *Grand Liban*, invasion of Israel and Syria) and pushed a diverse group to become one nation, with different social norms and perspective on what Lebanon should be. This theory was used because Lebanon's situation needs to be assessed deeply to understand the division and perception. In the case of other theories such as Liberalism, Marxism, and Feminism they have points that relate with the situation of Lebanon but don't explain the roots of the problems linked to civil marriage law in Lebanon. In the case of Realism, it can be used to explain the political/religious leaders' interest to maintain the power of their religious denominations in the parliament but doesn't explain the roots of the reasons behind a civil marriage law because they are Lebanese citizens that believe in the social norms implemented and don't want the improvement of the civil marriage law. This theory is too simple and doesn't take factors such as social norms, culture, religion, and context.

## 2.2. Consociationalism

Consociationalism is a form of democracy where the state is run by a power-sharing system of the different groups that form part of a country. This system is used in countries that are deeply divided into religious, political, ethnic, racial, or linguistic groups, usually due to historical developments. According to Lijphart, by giving them representation in the government the possibilities of an unstable state are reduced. (Lijphart,1977)

Lijphart, designed his theory of consociationalism democracy as an alternative for countries with a plural society. He uses the term coined by Harry Eckstein to define plural societies as "segmental cleavages" that may be of ideological, linguistic, ethnic, religious, racial, or cultural nature where "political divisions follow very closely, and especially concern lines of objective social differentiation, especially those particularly salient in a society" (Eckstein,1996) to explain the definition of plural societies. Eckstein explains that these groups of the population tend to follow and associate along the lines of their own group, which he refers to as "segments of a plural society" (Eckstein,1996).This is the definition Lijphart uses to explain what a plural society is. (Lijphart,1977,p.3)

Lijphart defines four basic characteristics that a model of consociationalism should have: the first of all being a "grand coalition" of the leaders of each group. The coalition can take place in various forms, whether it is in a parliament or an advisory board, but the important part is the participation of all the significant leaders of the various groups and that together they govern the plural society because if they don't come together the consequences are going to be bigger. (Lijphart, 1977,p.25)

Even if a state fulfills the characteristic of a large coalition there is still a risk of instability that's why the three remaining characteristics: mutual veto, proportionality, and segmental autonomy work as a complement. ( Lijphart, 1977,p.35)

In states with plural society, there is an eminent risk that some of the groups are excluded from the taking of decisions in the state, this is where the "mutual veto" (Lijphart,1977, p.36) characteristic comes in to protect the interest of the

minorities. Despite the fact of a minority presence in the grand coalition, the author argues that there is a possibility for the minorities to be outvoted by the majority. In this case, if the decision deeply affects the interest of one of the minorities the power of the veto applies, providing them a tool of protection.(Lijphart, 1977,p.36-28)

The “mutual veto” (Lijphart,197, p.36) should be established in the constitution or in an unwritten understanding or rule, describing in which kind of decision-making and in what themes it should be applied, and consensus should be reached so that nobody stays behind. In addition, Calhoun defends the importance of the mutual veto by arguing that the existence of a mutual veto will make segments want to cooperate to maintain the stability of the system. (Calhoun,1953,p.28)

The third characteristic defended by the author is the “principle of proportionality” (Lijphart,1977, p.38) which states that the representation should be based proportionally on the population size. In this way, the allocation of financial resources and places in the government are distributed among the different segments. Jurg Steiner, defines the proportionality model as one where “all groups influence a decision in proportion to their numerical strength” (Steiner,1971,p.63). Linked with the grand coalition method, the representation of each segment of the population should be proportional to their size. There are different forms of proportionality that may work for one country but in others no. For instance, in Lebanon's parliament, the seats are distributed by the 18 groups proportionally to their population (5 to 5 quota).(Lijphart,1977,p.40)

Finally, the author defends that's sometimes there is a need for one more component which is “segmental autonomy” (Lijphart,1977,p.41), in this case, minorities may rule in the cases that exclusively concern their segment. One of the forms in which segmental autonomy can be expressed is through federalism, granting certain autonomy of decision-making and rules. This can be used in societies where the segments are concentrated in one territory that separates them from the other segments. ( Lijphart, 1977,p.38 )An example is Lebanon, where religious denominations have the autonomy of decision making in certain topics like personal status matter and education.

The goal of Consocialisation is a stable state, but this can only happen if there is a will of cooperation between the leaders of the various segments. O'Leary defends

that the practice of Lijphart's results in various repercussions of inefficiency and delay in decision-making because the different groups can't agree. Also, the proportionality principle hampers merit appointments, because of the quotas that have been established.(O'Leary, 2006).

Horowitz argues this model leads to creating more division between the different segments of the population and doesn't strengthen the idea of one national identity. According to him "grand coalitions are unlikely, because of the dynamics of interethnic competition. The very act of forming a multiethnic coalition generates interethnic competition – flanking – if it does not already exist" (Horowitz,1985 p.575).

### **2.2.1. Confessionalism**

Consociationalism can have different forms, when it is divided along religious lines it becomes confessionalism, which is the case of Lebanon's system of government. In confessionalism, the distribution of power is proportionally divided among the confessional communities depending on their demographic, and the highest positions are distributed among the religious denominations with more percentage of population. In this system, politics and religion are mixed, securing the coexistence of the various communities and giving all of them a place in the government. (Salamey & Payne ,2009)

Kerr argues that this type of system can create division in the population and deepen conflict as the groups that have more representation could use their power to oppress others. In addition, demographic changes will mean redistribution of positions so they will need to do a census so that the proportions always reflect the real sizes of each group (Kerr,1966).

## **2.3. Sectarianism**

### **2.3.1. Sect Definition**

Max Weber was the first to define a sect, which he did so by constraining it to a church: "People were born into churches, but they chose to be part of sects." (Weber,1978) According to him, sects didn't have a hierarchy, rejected institutionalization, were apolitical, and one would have to meet certain requirements to qualify to join a

sect. Bryan Wilson, on the other hand, rejects the idea of a sect being against the church and emphasizes that they are against secular society. Actually, among scholars, there is a consensus that a sect is “a group that has separated to some degree from a parent body and has boundary markers to indicate its separate identity.”(Collins, 2014,p.177)

On the other hand, Adam Gaiser defends that a sect is part of a larger aspect that includes nationality, ethnicity, race, language, family, geography, religion, and profession. Gaiser defends that sectarianism can also be explained by its function, salvation being an important part of it. Challenging researchers to see sectarianism as a “way of doing things, as a mode of being in the word and as a discourse of identification” (Gaiser,2017,p.68).

Hashemi and Postel, propose the term sectarianization as “a process shaped by political actors operating within specific contexts, pursuing political goals that involve popular mobilization around particular (religious) identity markers.” (Hashemi; Postel,2017,p.4). As per them, “class dynamics, fragile states, and geopolitical rivalries also shape the sectarianization process” ( Hashemi; Postel,2017, p.4).

The term sectarianism is avoided by the authors because it coins the Arab world as having this static "immutable characteristic" (Hashemi; Postel ,2017,p.5) .They defend that from the seventeen centuries till today Sunni-Shia relations were not always in conflict nor was sectarianism a strong political force in modern Muslim politics, there was a time when Syrians and Iraqis coexisted for centuries without bloodshed. Taking this into consideration , they highlight how authoritarian regimes in the middle east have manipulated sectarian identities at various times for their own interests and to stay in power putting as an example the arab uprisings. (Hashemi & Postel,2017)

With these points highlighted, Hashemi and Postel come to the conclusion that weak states are more prone to sectarianization because of the manipulation that their dominant leaders enhance to them. Defining a weak state as one where the government doesn't have the ability to control the population and create a unified nation. (Hashemi & Postel,2017)



Aternatly, Salloukh argues that the current wave of sectarianism in the Middle East is mostly driven by regime policies and the balance between external and domestic threats. According to him, the sectarian divisions in the region are spread by Iran and Saudi who have spread campaigns and identity narratives on what suits their interest. (Salloukh, 2017)

Narrative Identity approaches defend that one of the main reasons for sectarianization is the sectarian groups' narrative that they are the salvation. Leaders of sects use this narrative to gain support and move co-sectarian groups to violence. In conclusion, sectarianization in the perspective of narrative will be "the process by which actors identify and articulate threats in terms of and in relation to the grand narratives of the sect actors who perceive their sect to be under threat. Such an approach must also ask why and for what gain such actors choose to articulate such threats in terms of the sect narratives" (Gaiser, 2017, p.74)

The term sectarianization shall be used in the research for explaining the actions of political/religious leaders to pursue the goals through the division of the population, with the objective of fulfilling their interest and maintaining their power. This will help understand the role of actors in Lebanon in the creation of sub-identities inside the country.

Religious denomination is going to be the term that will be used to refer to the subgroups that are recognized by the state of Lebanon, every time in the document the term sect or confession is referred to will mean the religious denomination. It's important to note that the research is not going to go into the nature of the term religious denomination, it will just use it to refer to sects/confessions.

#### **2.4. Civil Marriage**

Civil marriage refers to an act, ceremony, or process in which a relationship between two persons is legally recognized by the state. This union grants the two persons rights and privileges. (Witte; Elisson,2015)

Each country has its own laws that recognize the basis of marriage. The obligations and benefits of a civil marriage may differ depending on the country in which it is

made. Some of the rights that are typically included are related to property, tax benefits, inheritance, and the legal status of the children born after the union. (Rosenfeld,2017)

Joseph Story, an American jurist described marriage in 1834 as:

"Marriage is treated by all civilized societies as a peculiar and favored contract. It is in its origin a contract of natural law. . . . It is the parent, and not the child of society; the source of civility and a sort of seminary of the republic. In civil society it becomes a civil contract, regulated and prescribed by law, and endowed with civil consequences. In most civilized countries, acting under a sense of the force of sacred obligations, it has had the sanctions of religion superadded. It then becomes a religious, as well as a natural and civil contract; . . . it is a great mistake to suppose that because it is the one, therefore it may not be the other."(Story,1834,p.108)

The law of civil marriage is relevant because it provides legal recognition and protects the right of the two people that are involved in the marriage. It also regulates certain conditions for marriage such as age, consent, and capacity, preventing in this way forced marriages and abuses of power. Finally, it can promote equality between the parties involved in the marriage and in the case of separation will regulate the bases of the divorce, how the properties are going to be divided, the custody of the children, and the financial support for them. (Rosenfeld,2017)

### 3. RESEARCH DEVELOPMENT

#### 3.1. History

##### 3.1.1. Creation of Lebanon as a State

This section will explain the history of Lebanon's state formation to understand the context in which it was formed. Consequently, the power-sharing system in Lebanon now known as the confessionalism system will help us explain the institutionalization of religious denominations and the historical developments that arise sectarianization in the country. All of this will lead us to one of the reasons behind the lack of a civil marriage law in Lebanon.

It all started in 1839-1840 in Mount Lebanon, when a rebellion against the feudal lords and the Ottoman reforms overlapped and forced European powers and Ottomans to establish a new political order in what we know now as Lebanon. Consequently, in December of 1842, they divided Mount Lebanon into two districts based on religious lines Druze and Maronite. However, the conflict between the communities didn't stop, and as a result, the Minister of Foreign Affairs of the Ottoman Empire visited Lebanon in 1845 to find a solution to the conflict, which will be known as the *reglement de chakib effendi* that established a mixed community council of twelve members: two Maronites, two Greek orthodox, two Greek Catholics, three Sunnis, two Druze, and one Shiite, and their functions were to regulate the affairs of the community known as the "*dual qa'immaqamiyya*" (Wilkins, 2013,p.23)

This new political order based on religious denominations, brought a lot of tensions to Mount Lebanon evolving into the massacre of 1860, which derived the creation of the *Reglement Organique* that established Mount Lebanon as an autonomous and Christian entity within the Ottoman Empire under the protection of the European, known as *Mustatiffiya*, given them their unique laws and power of political representation. The *Reglement* created the bases of the political system that the French finished creating in 1920 (confessionalism). Ussama Makdisi argues that "every article in the Règlement indicated that the new order was to be sectarian" (Shaery- Eisenlohr, 2008, p.8). Finally, in 1864 the new council was formed by four Maronite members, three Druze, two Greek

Orthodox, one Greek Catholic, one Sunni Muslim, and one Shia Muslim. (Wilkins,2013,p.22)

Since this, the Ottoman and European Powers emanated that the population of Mount Lebanon will be “a single identity, where one's sect defined one's involvement in the public sphere and one's ability to be appointed to office, to govern, to collect taxes, and to punish” ( Salloukh, 2017, p.230). So from this moment, the division between religious denominations were formed and given power in politics.

Consequently in 1920, after the First World War , France created the state of *Grand Liban* under the wishes of the Maronite community, which asked for a bigger state so that they could function well, so the French extended the borders that were previously part of Great Syria and built Gran Liban. The area of Great Syria that was taken was mostly underdeveloped Muslims that didn't want to be under the mandate of the Maronites or subordinated to the Christians, thus creating a divided and unstable country with a population that didn't accept the new borders and leaders. (Wilkins,2013,p.23)

The architects of this new Lebanon created a divided state failing to build a Lebanese identity, with not only internal challenges but with a lot of external influences because some didn't recognize the new borders and the Arab nationalist demanded the dissolution of *Grand Liban* and that the territory would be reunified with greater Syria. Wilkins argues that “Lebanon was thus born with an intense identity crisis and state authority was repeatedly challenged by substate and supra-state identities leaving it unable to establish a robust foreign policy from its outset” (Wilkins,2013,p.24).

### **3.1.2. National Pact 1943**

Lebanon became independent in 1943, with a National Pact which was an unwritten agreement based on the 1926 Constitution. The agreement was made between the Maronite President Bishara al-Khoury and the Sunni Prime Minister Riyad al-Solh establishing a confessional system, with the goal of balancing the power between the Muslims and Christians; the pact had the same level of power as the constitution. The Muslims recognized the Lebanese State and its new borders for the first time with this

pact. At this point, Lebanon was divided in two: the Maronites that view Lebanon as Libanism, and Muslims with the rest of the Arab world who viewed Lebanon as Arabism and wanted it to unite with Syria forming a grand country. (Wilkins,2013,p24-25)

From this point, Lebanon was divided into two identities-the Muslims and Christians, the author, Roschanack Shaery- Eisenlohr argues that “In this view, sectarianism and political deadlock in Lebanon is linked to the irreconcilability of these two narratives”.(Shaery-Eisenlohr, 2008, p.9)

The power was distributed between the different religious denominations hinged on proportions of the 1932 census that was made in Lebanon . According to it, the Christians had a majority in Lebanon of (51,3%) of the population followed by Muslims. The largest minority was constituted by Maronites at 28%, subsequently by the Sunnis at 22,4% and Shias at 19,6%. Taking this into consideration, the parliamentary seats were divided between Muslims and Christians by a ratio of 6:5. Also the political seats were distributed, the post of the president was given to a Maronite Christian, the Prime Minister to a Sunni Muslim, the speaker of the Parliament to a Shia Muslim and the Chief of Staff of the Army to a Druze. The power allocation of the different posts implied that the president had dominance over the political, financial, security, and judicial power giving the Maronites a big part in the state. (Saouli, 2019, p.8)

In the case of family law, it was established that it was going to be regulated by autonomous religious denomination courts, having the liberty of modeling their own educational practices and marriage laws which will be explained in depth in the section of civil marriage of the research. (Wilkins, 2013)

The National Pact reinforced the religious denominations division in the country and difficulty the formation of a national identity, even though it intended to incorporate the 18 religious' denomination in the state and create a political uniformity, it “exacerbated and institutionalized communal differences” (United States Institute of Peace, 2007). Institutionalizing religious denominations in political and administrative positions in Lebanon, prevented cross-religious denomination ties and deepened an identity based on religious affiliation. Even labor unions were organized by their affiliation, even though

the exploitation of workers affects workers from all religions, a national cross-religion denomination labor union always failed to be established at that time. Political movements, youth movements, and professional associations also were organized along these lines. (Malley,2018)

During this period, religious leaders used their position for their own interest, establishing a “commercial-financial oligarchy relationship” (Wilkins,2013, p.28) made up of the elite families of the different religious denominations. The leaders established relationships with wealthy oligarchs in which they provided financial assistance, jobs, contracts, and legal assistance to people from their own sects. (Wilkins,2013, p.28)

### **3.1.3. Civil War**

During the war and its intensification, the country became divided into religious-led cantons. Each religious denomination led the area and had its own militia to defend their part of the territory. At this time there was not a Lebanon-united interest but what prevailed was the interest of each religious denomination community. Each of them had its own source of aid and support, some having external sources. The state didn't have any control over the population and the control was in the hands of each religious denomination leader, this can be called what Joel Migdals coined as a weak state where leaders don't have control over the population and use strategies such as sectarianization dividing the population against each other. (Malley,2018,p.123)

In this context, the Arab League was pushed to take the role of negotiating to end the war. They invited the surviving members of the Lebanese parliament to Taif city of Saudi Arabia in October 1989 to agree on political reform to establish a new political system for Lebanon. The negotiation lasted three weeks, resulting in the elimination of the 6:5 Christians- Muslim ratio to a 5: 5, creating parity in the parliament and the other administrations of the state. The posts division stayed the same with a Maronite president, Sunni Prime Minister, and a Shiite Speaker of the parliament, but the powers of the president were reduced, and expanded the powers of the prime minister were. (Salloukh,2015)

### **3.1.4. Taif Accord**

The Taif Accord maintained the institutionalization of religious denominations but reconfigured the proportion of the power-sharing system of Lebanon. They acknowledge that “abolishing political sectarianism is a fundamental national objective.” (Malley, 2018)

The accord created a “structural dilemma: recognizing the sectarian/political elite as custodians of the sectarian order while expecting them to reform it.” (Salloukh,2015, p.21) Liberty was given to religious denominations to rule over and be the main pillars of politics and mobilization in postwar Lebanon. (Salloukh,2015, p.22)

In conclusion, during the French Mandate period, the institutionalization of religious denomination in the state happened. Consequently, the Lebanese Civil War, the invasion of Syria and Israel- all together, created a division between the religious denominations where the religious denominations were institutionalized and gave power over the decisions of their community. By giving the power to religious denomination every Lebanese citizen was obligated to form part of one of them to be able to have their civil rights (vote, marriage, be a candidate for a public office post) ( Salloukh, 2015,p12-31).

The Taif accord initial objective was to pave the way for the abolishment of the confessionalism system, the aim was to go through a transition, but the post war period was filled with instability and lack of consensus between religious denominations to find the path to abolish confessionalism. Taif looked for the answers on how to govern a deeply divided society as their final goal was to create a state where all citizens had the same rights irrespectively if their religious denominations affiliations, but the confessional system reinforced by the Taif gave each religious denomination the veto power over states decisions, bargained the correct functioning of the government and a divided society was established where citizens only relied on their religious denominations leaders for their security and basic needs.( Hudson,1968)

## **3.2. Lebanon's Constitution**

The Lebanese Constitution was promulgated on 23rd May 1926. Its biggest reform and most recent was made in October 1989 with the Charter of Lebanese National Reconciliation, also known as the 'Taif Accord'.

In terms of the distribution of power, the constitution doesn't describe a division of the different positions (president, prime minister, president of the parliament), but it does mandate an equal distribution between Muslims and Christians in the administrative institutions.

This part will seek to define the nature of the Lebanese political and election system as it pertains to the production of the individual and their thinking about political realities that will be essential to the argument over civil marriage. In addition, by understanding how the government functions (confessionalism system) and the electoral system law, we can explain the obstacles to a civil marriage law.

### **3.2.1. Political System**

As stated in the preamble C) and D) of the constitution, Lebanon is a parliamentary democratic republic and its political system is "established on the principle of separation of powers, their balance and cooperation. Also, it states in the preamble H) that "the abolition of political confessionalism shall be a basic national goal and shall be achieved according to a staged plan" but till now there is no plan for the abolition of political confessionalism and not even a strategy the reasons for this will be explained in the part of sectarianization in Lebanon. (Lebanon's Constitution, 1995)

The legislative power is constituted by a single body, known as the Chamber of Deputies, commonly known as the parliament, which has 128 seats distributed equally between Muslims and Christians as it states in article 24 of the Constitution the chamber must allocate their seats until there is an abolishment of a confessional by following the requirements "a. Equal representation between Christians and Muslims. b. Proportional representation among the confessional groups within each religious community. c. Proportional representation among geographic regions". (Lebanon's



Constitution, 1995). The Chamber has not yet adopted a non-confessional electoral law so actually it is still distributed among the 18 religious' denominations.

The executive power is divided between the President and Prime Minister. The President, as declared in Article 49, is the "head of state and the symbol of the nation's unity". After the Taif Accord, the president's power changed more to a kind of figure of the state, and his responsibilities were reduced. Consequently, the Prime Minister is the "head of government and its representative", as declared in Article 64 of the constitution.(Lebanon's Constitution,1995 )

The Council of Ministers is formed by a decree of the President of the Republic and is presided by the Prime Minister. The Parliament must approve the Council must be known as Cabinet by a simple majority within a limit of 30 days since its formation. By tradition, the Council has an equal distribution of seats divided in the main sects Muslims and Christians. The council is very important because the main religious denominations used them as a form of enforcing the interest of their communities in the decision-making normally the sects with more seats have more ministers (Sunni, Shia, Maronites). There was an informal agreement that distributed the ministers: traditionally the minister of education was for a Druze, the minister of interior Sunni, the minister of defense, and the minister of finance Maronite but since the 2006 war indecision to forming a council of ministers have changed things up. ( Salloukh,2016,p.24)

The 18 recognized religious denominations in Lebanon are the following:

- Muslims
  - Sunni
  - Shia
  - Alawites
  - Ismaili
  - Druze
- Christians
  - Maronites
  - Greek Orthodox

- Greek Catholic
- Armenian Catholic
- Armenian Orthodox
- Syriac Orthodox
- Syriac Catholic
- Assyrian
- Chaldean
- Orthodox Copt
- Evangelical
- Protestan
- Roman Catholic

The Constitution of Lebanon is necessary to understand how Lebanon's main power functions, even though it is not followed fully by politicians. The division of power and responsibilities is divided by the religious denominations. The main positions (President, Prime Minister, Speaker of the Parliament) are distributed among the main three religious denominations (Christian, Sunni, Shia). We can conclude in this way that even though the preamble states that the abolishment of confessionalism should be a national goal and that the positions must be given by merit, this has not happened yet. In conclusion, to be part of the system in Lebanon you must belong to one of the religious denominations that are recognized by the state if not you are able to form part of the parliament or be a candidate to the main political position (President, Prime Minister, Speaker of the House).

The structure established by the Taif accord has allowed religious denominations groups to hold power of their veto in decision with the objective of imposing their interest. The state of Lebanon has failed to impose the national interest of the country above the religious denominations sub identities interest. One recent example, in March when Lebanon had two time zones at the same time, Nabih Berri Parliamentary Speaker and Najib Mitaki caretaker Prime Minister decided to the change of one hour more should be postponed until Ramadan finished and the Christian politicians didn't agree so Lebanon for a week had the two time zones the Christians followed the typical change of spring of one hour more and the muslims stayed with one hour less. This created chaos

in the country until the parliament decided to rectify the time. (Turak,2023). That's only one example of the power religious denominations have in Lebanon and their influence on the government-taking into consideration that mostly all political parties in Lebanon are linked to religious denominations.

### **3.3. Electoral System**

As explained before Lebanon has a confessionalism system that distributes the parliament seats equally between Muslims and Christians. The parliamentarians are elected by universal suffrage for a period of 4 years, being responsible for choosing the President, and approving the Prime Minister and the Council of Ministers. ( Lebanon's Constitution,1995)

The explanation of the electoral system will help us understand the reasons behind the sectarianism and the lack of a civil marriage law. In addition, it will define the requisites for citizens to be available to vote and be a candidate for public positions

After the Taif Agreement, the number of seats for each religion changed due to the percentage adjustment between Muslims and Christians. The number of seats now depends on the number of inhabitants per religion denomination. This system has been criticized because it has been more than 30 years without a census to fix the number of seats. (European Union Election Observation Mission, 2022). In addition to its inefficiency , it arises a more and more divided population, thus creating more tension and difficulties to elect those in charge of running the state. An example is the period from 2014 until 31 October 2016, when the parliament failed to obtain the majority required for electing the president, so there was a vacancy of 2 years when Lebanon didn't have a presidency. It has become usual, that when country needs to choose a new government they can't agree and the country stays without a leadership (Arsan,2018).

### 3.3.1. Law 44

In 2017 a new election law was adopted, law no.44. As explained in Article 2 of the law, the parliamentary seats are divided by religious denominations and voters can only vote for the candidates of their sub-district and inside that list vote for one candidate. This new law redrew the electoral map of Lebanon and the 26 districts into 15 and inside some of them are divided into sub-districts. This division was made based on religious denomination lines taking into consideration that in Lebanon the different religion denomination groups are divided in zones. In image 1 we can appreciate in the different colors the 15 subdistricts the law created . (Law 44,2017)

**Figure 1- Sub-districts created by Law44**



Source: (The Electoral Knowledge Network,2017)

In the map we can see the sub-districts of the electoral districts, and inside of the subdistricts the seats are divided by religious denomination lines (explained in the

tables). The division of the seats changed in the Taif accord for it to be more equal between Christians and Muslims giving 64 seats to each one, but it is important to emphasize that the number of seats each religious denomination has is based on the proportions of the 1932 census and considering, that more than 90 years have passed since the distribution it is not accurate to the population of today's Lebanon. Tables 1, 2,3,4, and 5 explain how the 128 seats are distributed by religious denominations between the sub-districts. This is going to be important to analyze the reasons behind the lack of a civil marriage law, explaining the power religious denominations have. (Law 44,2017)

Table 1 - Division of seats in Beirut

Districts	Subdistricts	No. Seats	Sunni	Shiaa	Druze	Maronite	Greek Catholic	Greek Orthodox	Evangelical	Armenian Catholic	Armenian Orthodox	Minorities
Beirut 1	Ashrafieh, Remeil, Saidi, Medawar	8				1	1	1		1	3	1
Beirut 2	Ras Beirut, Mina El Hosn, Ain el Mreisseh, Mazraa, Mseitbeh, Zkak El Blat, Bashoura, Marfaa	11	6	2	1			1	1			
	Total	19	6	2	1	1	1	2	1	1	3	1

Note. Data collected from The Electoral Knowledge Network, 2017

Table 2- Division of seats in Mount Lebanon

Districts	Subdistricts	No. Seats	Sunni	Shiaa	Druze	Maronite	Greek Catholic	Greek Orthodox	Evangelical	Armenian Catholic	Armenian Orthodox	Minorities
Mount Lebanon 1	Jbeil	3		1		2						
	Kserswan	5				5						
Mount Lebanon 1	Metn	8				4	1	2		1		
Mount Lebanon 3	Baabda	6		2	1	3						
	Chouf	8	2		2	3	1					

Mount Lebanon 4	Aley	5			2	2		1				
	Total	35	2	3	5	19	2	3		1		

Note.Data collected from The Electoral Knowledge Network,2017

Table 3- Division of seats in South Lebanon

Districts	Subdistricts	No. Seats	Sunni	Shiaa	Druze	Maronite	Greek Catholic	Greek Orthodox	Evangelical	Armenian Catholic	Armenian Orthodox	Minorities
South Lebanon 1	Saida	2	2									
	Jezzine	3				2	1					
South Lebanon 2	Tyre	4		4			1					
	Sayda Villages	3		2								
South Lebanon 3	Bint Jbeil	3	1	3			1					
	Nabatieh	3		3								
	Marjayoun Hasbaya	5		2	1			1				
	Total	23	3	14	1	2	2	1				

Note.Data collected from The Electoral Knowledge Network,2017

Table 4 -Division of seats in Bekka

Districts	Subdistricts	No. Seats	Sunni	Shiaa	Druze	Maronite	Greek Catholic	Greek Orthodox	Evangelical	Armenian Catholic	Armenian Orthodox	Minorities
Bekaa 1	Zahle	7	1	1		1	2	1			1	
Bekaa 2	West Bekaa Rasha-ya	6	2	1	1	1		1				
Bekaa 3	Baalbek Hermel	10	2	6		1	1					
	Total	23	5	8	1	3	3	2			1	

Note.Data collected from The Electoral Knowledge Network,2017

Table 5- Division of seats in North Lebanon

Districts	Subdistricts	No. Seats	Sunni	Shiaa	Druze	Maronite	Greek Catholic	Greek Orthodox	Evangelical	Armenian Catholic	Armenian Orthodox	Minorities	Alawites
North Lebanon 1	Akkar	2	2										1
North Lebanon 2	Tripoli	4		4			1						1
	Minnieh	3		2									
	Dinnieh												
South Lebanon 3	Zgharta	3	1	3			1						
	Bcharréh	3		3									
	Koura	5		2	1			1					
	Batroun												
	Total	28	3	14	1	2	2	1					2
Grand Total		128	27	27	8	34	8	14	1	1	5	1	2

Note.Data collected from The Electoral Knowledge Network,2017

The tables demonstrate how the seats are divided between the different religious denominations, before each parliamentary election a census is required to check if the proportionality is still accurate. As it was mentioned before since 1932 they haven't done one, because it will lead to a big change of seats majorly in favor of muslims Shiites according to a report made in 2019 by Information International. Shiites ranked first representing 31,6% Sunnis 31,3% and Christians 30,6%. The study reports a 946% increase in shias and 1052% in Alawites. This data was recollected "through the number of voters during 2018 elections". (International Information,2019)

Chapter IV of the law explains how the voter's list functions and the requirements to be able to vote and be added to the list: " voters full name, mothers name, register number as extracted from the personal status records, gender, date of birth and sect" Taking this into consideration, a person can't be added to a list of voters if he or she is not registered in a recognized religious denomination, everyone in Lebanon must belong to one. This is important to understand the lack of a civil marriage law in Lebanon, an issue which will be explained deeply in the section of the reason for a lack of a civil marriage law. (Law 44,2017)

In the case of women who marry a non-Lebanese man, their husbands and children can't become Lebanese, and, in this way, they could never vote. The reason behind this is so that when a woman marries a man in Lebanon, she passes from her dad's ancestral village register to her husband's ancestral village and needs to vote in that sub-district. So, if she marries a man that is not Lebanese, she cannot enter them into the register of her family, resulting in the inability of her non-Lebanese husband to become Lebanese with the same application to their future children. (National Democratic Institute,2015)

With this section, it can be concluded that for citizens to be able to vote or be candidates for a public post they need to be affiliated to a religious denomination. Also, the seats are divided proportionally between the different religious denominations even though they don't represent the actual demographic of the 15 districts because they haven't done a census since 1932.

### **3.4. Sectarianization in Lebanon**

Since the formation of Lebanon, political and religious actors have used the divide-and-conquer techniques to gain power. This section will briefly explain some situations that have arisen sectarianization in the country and how during that time, political and religious leaders have used sectarianization in Lebanon as a technique to maintain power. The previously indicated is relevant for the research because the lack of civil law can be linked to sectarianization in Lebanon.

Events since Rafic Hariri's assassination evidence that religious denomination division has been increasing, the prime minister's assassination in 2005 led up to more disagreements and alienation between the Sunnis and Shias religious denominations. Consequently, in the Israel-Lebanon war in 2006, a lot of lives were lost, most of them affiliates to Hezbollah making them feel left out and that the rest of the sects betrayed them and left them fighting alone for the security of Lebanon, increasing their lack of trust in other sects. (Arsan,2018)



Peter Shirlow argues that , "religious segregation is not just simply a separation of people, it is the instrument through which animosity, mistrust and division best manifest themselves." (Baytiyeh,2019,p.225). Religious denominations' leaders use government institutions to their interest, increasing their wealth and power, with the aim of acquiring the most resources they can for their community. They use the state's resources to build networks and loyalties. (Baytiyeh,2019).

Lebanon's territory is segregated by religious denominations, its capital, Beirut, is divided into three zones: Shias in the South, Sunnis in the West, and Christians in the East. Consequently, demographic imbalance in Lebanon has been affected by the various wars, producing reallocations of religious denominations. Leaders seek spaces with access to resources, strategic locations, and geographic borders for gaining power and advantages (during the time of the war the sects that had access to ports could gain money from the taxes to imports and exports). This eventually leads to conflicts between sects over territory and forcing population expulsions with the aim of sectarian cleansing. (Cammet & Issar, 2010)

As time went by, religious and political leaders have prohibited the selling and buying of properties for people from different religious denominations to maintain the stability of the community and not mix it with others that could have the aim to take over the control of the zone. In 2007, Walid Jumblatt, a Druze leader, accused Hezbollah of wanting to buy territory from Druze communities with funding from Iran with the objective of alternating demographic composition and having militias in strategic positions in the country. (Cammet & Issar, 2010). This can be linked to the electoral law if they do a demographic evaluation and a census the religious denominations want to have control over the zones so it will give them more seats in the parliament. In the same line, this is related to a lack of civil marriage, because religious denomination leaders don't want citizen to start having intra-religious marriage so that they don't lose the quantity of citizen affiliated to their religious denomination.

### **3.5. Personal Status Law**

This section will define the personal status system in Lebanon and how it is divided as it relates with the lack of civil marriage law. In addition, it will explain how personal status matters, especially marriage functions in Lebanon, so that we can understand the impediments to a civil marriage law in Lebanon analyzing in this way the reasons behind the lack of civil marriage law.

#### **3.5.1. History of Institutionalization of Sectarian Identities in Lebanon**

Lebanon lacks a civil code that regulates personal status matters, such as child custody, inheritance, and marriage to all its citizens without distinction. Fifteen separate personal status laws set the rules for the 18 recognized religious denominations. As a direct result, Lebanese are treated differently depending on their religious affiliation. (Salloukh,2015,p.32)

In 1936, decree No.60 recognized religious denominations' rights to preside over their own court and have a separate personal status law. In this same decree, article 10 expressed that "Lebanese belonging to recognized confessions with personal status provisions are subject to their confessions' religious laws on matters pertaining to personal status and to the stipulations of civil law on matters not covered by this religious law".(Decree 60, 1936) The most controversial article of the decree was the article 17 that establishes "personal status matters for citizens that don't belong to one of the recognized sects, shall be subject to civil law." (Decree 60, 1936), this article obligated the state to create a civil personal status law for the citizens that didn't want to form part of one of the 18 recognized religious denominations of the country. The time passed and Lebanon's political leaders opposed this article, and it was revoked from the decree (Salloukh,2015,p.33). The state's creation of personal status law for citizens that didn't want to be affiliated into a religious denomination meant that there was gonna be a new group in Lebanon, the ones with no religious affiliation and this could have opened the way for the abolishment of confessionalism.

Each one of the religious denominations created its own personal status law. In the case of the Druze, article 16 establishes that only the marriages conducted by a Druze *sheikh*(religious representative) would be recognized. This article also prohibited marriage between a Druze and a non-Druze. (Salloukh,2015, p.34)

In 1951, a law that regulated religious denomination courts specified that they should submit to the Lebanese state their personal status law so that it could be ratified, but none of the sects submitted their laws at that time. As a result, in Lebanon religious denominations have the liberty to manage personal status matters freely. (Salloukh,2015,p.35-36).The liberty of religious denominations to have their own personal status law forces the citizens to rely on religious denominations institutions and obligates all Lebanese to form part of one of them, because of the absence of a civil personal status law for all Lebanese.

### **3.5.2. Documenting Marriage**

In 1951 the Lebanese state issued a law that established the procedure for submitting personal status documents relating to “birth, marriage, divorce, nullity of marriage, death, change of the place of residence, change of sect, religious conversion, and other updates” (article 1). This is important because it gives the responsibility of personal status matters to religious denominations entities. This will aid explain the procedures for registering a marriage actually in Lebanon. (Law on Documenting Personal Status Matters, 1951)

In the case of the birth of a child, he should be registered in his parents' family registry (*Ijrach Caid Ifradi*) which states the following: name, location of birth, name of the mother, sect/religion, number of registry. In image 2 we can detail an example of a family registry. The names and personal information have been erased for security, the second line is the one of the mothers and in the column of observations it says transferred because she had to be transferred from her dad village registry to the one of her husband. In the case she gets a divorce, she goes back to her father's family registry. It is also noted that there is a column called “religion”. All the columns need to be filled for the registration to be successful. This is another example of how religious denominations

form part of every part of the Lebanese citizens and how it affects the lack of a civil marriage law. (Law on Documenting Personal Status Matters, 1951)

**Figure 2 Example of a Family Registry**

REPUBLICA LIBANESE  
MINISTERIO DEL INTERIOR Y DE LAS MUNICIPALIDADES  
DIRECCION GENERAL DE ESTADOS CIVILES

REGISTRO CIVIL FAMILIAR

Ubicación:  
Lugar y N.º de Registro: -

Nombre y Apellido	Nombre del padre	Nombre y Apellido de madre	Lugar y fecha de nacimiento	Religión	Estado civil	Sexo	Fecha de Registro (Observaciones)

Copia del original.  
El jefe de la Oficina de Estados Civiles de Choueib, Hamoud Murr (Firma y sello) el 21 de Septiembre 2018.  
Jefe del Ministerio del Interior y de las Municipalidades, Oficina de Estados Civiles de Choueib - Republica Libanesa.

Toda vez conforme al texto padre adjunto.

**Source:** Data collected by the author in Lebanon February 2023 and translated from Arabic to Spanish by an official translator.

Part three of the law defines the bases of marriage, divorce, and nullity of marriage certificates. Article 22 expresses that "a person must submit a certificate of marriage to the Personal Status Register within a month from the date of his marriage. This certificate must be ratified by the religious authority which performed the marriage and signed by the mukhtar and two witnesses. This marriage certificate shall include the following: 1. name, surname, profession, sect, date of birth, place of birth, and place of residence of both spouses, 2. name, surname, profession, and place of residence of the father and mother, 3. name, surname, profession, and place of residence of each of the witnesses, and 4. date of marriage (year, month, day and time). (Article 23) These two articles demonstrate that if a person doesn't belong to a religious denomination or the religious authority doesn't perform the marriage, they can't register their marriage. This is also another procedure that goes against civil marriage law. (Law on Documenting Personal Status Matters, 1951)

In case of marriages performed outside of the country, the husband shall send the nearest consulate a copy of the personal civil registry extract (*Ijrach Caid Ifradi*) in the name of the Lebanese contracting party proving his/her civil status in Lebanon (single, widowed, divorced) if both are Lebanese then one personal civil registry for each. In the case that the man the woman is marrying is not Lebanese the marriage will be registered with the Interior Minister but the nationality will not be passed to her husband and kids. (Embassy of Lebanon in Madrid,2023)

### **3.6. Civil Marriage Situation**

#### **3.6.1. Lebanese Court System**

This section will define the nature of the Lebanese court system as it relates to the type of legislation opposed by those in favor of civil marriage. The Lebanese constitution, in its 9th article, states that issues about personal status laws need to be managed by sectarian courts. The article 9 declares the following: “There shall be absolute freedom of conscience. The state, in rendering homage to the God Almighty, shall respect all religions and creeds, and 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.” (Lebanon's Constitution, 1995 ).This article sets the basis for religious denomination identities and personal status law going to be the main obstacle in the implementation of a civil marriage law

The Personal Status Courts is a system of courts in Lebanon that deal with issues such as divorce, marriage, child custody, and inheritance. Each religious denomination has its own court following its religious rules and their personal status law. In Lebanon, the government recognizes 15 separate religious denominations courts each with its own set of personal status laws. Druze, Sunni Muslims, Shia Muslims, Maronite Catholics, Greek Orthodox, and others are among these. (Salloukh,2013)

In the case of marriages between different religious denominations, the woman is always going to be registered in the place where her husband is registered, thus creating the family registration paper ( if the couple decides to have children, they will be registered on the family registration paper) See image 2 . (Taqiuddin, 1996, p. 427)

### **3.6.2. History Civil Marriage Debate**

Marriage was recognized by the state in 1928, by decree 60 issued by the French High Commissioner Damien de Martien during the French mandate, but Lebanon has never had a civil marriage law where individuals can get married as a citizen outside the religious denomination courts on Lebanese grounds. (Joseph, 2000, pp. 130–131)

Abdullah Lahoud, Norma Melhem, and Joseph Moghaizel, were the ones that wrote the first draft of what could possibly have been the first civil marriage law. The draft was submitted to the parliament in 1971 by Aguste Bakhos and was approved by the Democratic Party (al-Hizb al-Dimoqrati), but the parliamentarians wanted to change the wording in the proposal, and they didn't get into an agreement. Consequently, the Secular Democratic Party ( al-Hizb al-Ilamni al-Dimoqrati), made a draft of a unified civil personal status law in 1981, but because of the civil war it never even got submitted to the parliament. (Salloukh,2013)

During the presidency of Elias El Hrawi, the most serious attempt to enact an optional civil marriage law occurred in 1996. He lobbied with a lot of strength showing determination for a civil personal status law to be established in Lebanon. El Hrawi, pushed for a proposal the 25th of November of 1996 being the closest they have ever gotten to enacting the personal status law. He argued that by allowing and legalizing inter-religious marriages, the bill would open the way for a long-term elimination of sectarianism from Lebanese society and pave the way to creating a national identity so that finally Lebanese can be treated as one. (Baydoun, 1999)

El Hrawi organized a committee with a representation from each one of the Lebanese religious denomination so they can submit their proposals for a personal status law, but the committee couldn't get into an agreement about the procedure for inheritance and intra-religious weddings (taking into consideration Druze prohibited them to marry non-Druze and non-Druze can't convert and Islam prohibits Muslim women from marrying non- man the only way is that they convert to Islam). (Baydoun, 1999)

The final draft of the law was submitted by El Hrawi in 1998, it declared that people that wanted to have a civil marriage needed to follow the rules of the civil court and not their own religious denominations. Although the law was accepted by the cabinet, Rafiq al-Hariri (Prime Minister) didn't send it to the parliament. Scholars and politicians claim that he didn't endorse it because of the repercussions it could have on the confessionalism system and religious denomination powers. The law got rejected by most: the Sunni represented by the Future Movement political party (Rafic Hariri) and religiously by the Mufti (head of religion) Sheikh Mohammed Rashid Qabbani rejected the law, even Saudi Arabia spoke denouncing civil marriage is haram (forbidden in islam). The only Shia religious leader that supported the law was Sayyed Mohammad Hassan El-Amine who asked for the abolishment of sectarianism in the Lebanese state and politics. The Druzes were divided in terms of their religious leader's opinion on civil marriage, the Head Sheikh of the Unitarian Druze Community declared that the country had more important problems, and this law only persuaded more instability and disorder. Politically one of the biggest leaders of the Druze Walid Jumblatt endorsed it. On the other hand, Sheikh Suleiman Ghanem supported the creation of a single personal status law. The Grand Ayatollah Mohammad Husayan Fadallah and the head of the Higher Islamic Shia Council Ayatollah Mohammad Mehdi Shamseddine rejected it saying it was against Islamic principles. (Baydoun, 1999)

The arguments of Muslims that supported the law, were based on the fact that Lebanon is not an Islamic state and therefore it shouldn't follow the Sharia, emphasizing that Lebanon has a lot of laws that oppose the Sharia (alcohol trade, gambling, penal code). Berri political leader of the Amal Movement (Shia Party) was in favor of the law arguing that it helps to end sectarianism in Lebanon. ( Sallouk,2013)

The various Christian religious denominations differed; the Maronite church opposed civil marriage because it was against Christian jurisprudence. On the other side, Father George Khodor (Greek Orthodox) stated his full support for the creation of a personal status law, arguing that people should not be coerced into following a sect. The Evangelical Church was in favor of the proposed law ( Baydoun,1999)

The argument of members of political and religious denomination elites that were against the civil marriage law was that it was not time to abolish confessionalism. Other controversial parts of this discussion were inheritance, intra-religious marriage, and the abolition of polygamy. (Salloukh,2013)

Following the rejection of El Hawri draft of a personal status law debates over civil marriage have been resuscitated several times but there was imminent pressure from the sect powers to have it neutralized. In 2013, the debate derived in the declaration of Sheikh Muhammad Rashid Qabbani former Mufti that “any Muslim official in the legislative and executive branch who agrees to legislate and legalize civil marriage, even if it is optional, is an apostate and outside the religion of Islam and is not washed, shrouded, prayed for after his death or buried in Muslim cemeteries.”(Fayyad, 2019).

### **3.6.3. Case Khouloud Succariyeh and Nidal Darwish**

The first ever Lebanese non-religious marriage was conducted in 2012 by Kholoud Succariyeh (Shia) and Nidal Darwish (Sunni) both were motivated by the need of secular institutions in Lebanon to have a non-religious wedding. They had to go through a long procedure before their civil marriage could be registered. First, they had to remove the religious affiliation from their personal records. Consequently, after almost a whole year of bureaucratic procedures, a public notary accepted their marriage contract on the 10<sup>th</sup> of November 2012. Following this, they asked for their civil marriage to be registered in the Lebanese civil and not in the religious denomination courts. Even though they removed their religious denomination affiliation from their personal registration they are still on the list of their religion.(Panchetti, 2017)

Their actions restarted the debate of civil marriage in Lebanon. In this case, the prime minister decided to avoid the topic arguing that it was not time to debate this when they are more important issues to be discussed in Lebanon. On the other hand, political leaders like Saad al-Hariri, Aoun, Jumblatt, and President Suleiman, favored the making of a civil marriage law. As expected, the religious elite was against civil marriage and Mufti Qabbani declared that “every Muslim who enters into a civil marriage to be a sinner,



who was bound to be denied proper Muslim burial rites”, Hezbollah also denounced it. (Salloukh,2013)

Marwan Charbel, Minister of Interior and Municipalities, stated his support for civil marriage but cautioned that such weddings remain illegal because of a lack of a law to control them. Consequently, civil weddings were ruled lawful and legitimate in Lebanon by the Higher Committee for Consultations, a department of the Ministry of Justice. The committee ruled that a public notary can marry Lebanese who do not adhere to any religious denomination or have chosen to have their affiliation removed from state records; and in the absence of a civil personal status law, the couple can choose any foreign civil law approved by the Lebanese state. (Abillama,2018)

Shakib Qortbawi, Minister of Justice accepted the ruling of the Higher Committee of Consultations and sent it to the Ministry of Interior Municipalities (MOIM), with this the first civil marriage in Lebanon was registered on the 25<sup>th</sup> April 2013 in the General Directorate of Personal Status Record with the signature of Charbel. The minister recommended the couple to follow their religious denomination personal status law until a civil marriage law is accepted in Lebanon. (Panchetti,2017)

In February of 2014, Nohad Machnouk from the Future Movement took over MOIM, refusing to recognize civil marriage and thus eliminating everything that Charbel and the Committee made. He didn't sign the recognition of any of the civil marriage contracts, deciding to refer the issue of civil marriage to the civil courts backtracking the issue to square one. (Chbaro ,2015)

Even though political leaders like Saad Hariri and Aoun expressed their support for a civil marriage law they didn't make any political effort for any draft of a proposal. In 2015, Christian parties (Free Patriotic Movement, Lebanese Forces and Kataeb) tried to pass a civil marriage law and the President of the Republic Sleiman endorsed the first official draft of a civil marriage law but it didn't pass again. (Panchetti,2017)

The couple had to seek refuge in Sweden, because of the amount of threats and attacks they received against them and their newborn for having their first civil marriage in

Lebanon bringing back the debate. (Abillama ,2018) All of this demonstrates to us the road behind the lack of civil marriage in Lebanon and how the first civil marriage arised disagreements between politicians.

#### **3.6.4. Religious denominations opinions on civil marriage law**

This section is going to study the religious denomination's opinion of a civil marriage law in Lebanon. With the aim of understanding the different positions that Lebanese parties have and the religious leaders. Taking into consideration politics and religious denominations are bound in Lebanon we are going to explain the position of the main ones ( Sunni, Shia, Christians and Druze).

Sunnis' biggest political party is the Future Movement, they define themselves as a secular party and part of the March 14 alliance (Anti Syrians movement). Saudi Arabia is one of their external supporters. Its most known leader is Rafic Hariri who was assassinated in 2005. The leader of the party after the death of Rafic is Saad Hariri. Even though the future movement characterizes themselves as secular they still have bonds with the religious denomination leader. In the case of marriage, Rafic Hariri didn't approve of the personal status law that was promoted by El Harwi arguing that "the general situation in the country is not conducive for the instatement of civil marriages." On the other hand, Saad Hariri in an interview expresses his hopes for a civil marriage law and that it is necessary to have a "real dialogue" about it also he declared that Qabannis declarations were "unacceptable" and that the Sunnis' who accepted civil marriage were "apostates" (Yan,2019).

In the case of Sunni religious leaders, the Grand Mufti declared that any person that accepts a civil marriage is an apostate. Even when the independent Lebanese parliamentarians asked for a civil marriage law, he expressed that these parliamentarians don't represent the Sunnis and that it is haram to have a civil marriage. (Abillama,2018)

Shias have two main political parties: Amal Movement which is a conservative party that forms part of the March 8 alliance (Pro-Syrian) ; their leader is Nabih Berri who has

been Speaker of the Parliament of Lebanon since 1992. Even though Berri had a neutral view of the Kholoud Succariyeh and Nidal Darwish civil marriage he is against legalizing civil marriage and declares that is “not on the table and no one tolerates it” (Ad-Diyar, 2019). The second most powerful party for Shias is Hezbollah, Hassan Nasrallah is their leader, and they are part of the March 8 alliance. They defined themselves as Islamism, anti-zionism and anti-western for them the state should follow the sharia so civil marriage is not acceptable. In addition, Shia religious leaders don't accept it, the Higher Islamic Shi'a Council Ayatollah Mohammad Mehdi Shamseddine all rejected it. (Ad-Diyar, 2019)

The Druze party with more representation in the parliament is the Progressive Socialist Party, defined as secular and with a social democracy ideology its leader is Walid Jumblatt. Jumblatt has endorsed civil marriage since the El Hawri draft for a personal status law, he argues that with a civil marriage law we could help to pave the way for the elimination of sectarianization in the country. The Head Sheikh of the Druze is against a civil marriage law, taking also into consideration that Druze can't marry non-druze. (Salloukh,2013)

In the case of Christians, the party with more parliamentarians is the Lebanese forces part of the March 14 alliance, their position is liberal, conservatism and Lebanese nationalism. Their leader is Samir Geage, who hasn't taken any position in civil marriage but one of his sons had a civil marriage in a foreign country. The Free Patriotic Movement, part of the March 8 alliance is the second biggest Christian party and his chairman is Gebran Bassil, they have a big role in Lebanon, taking into account that Michel Aoun president of Lebanon from 2016 till last year when he resigned to his position is part of their party. Aoun is in favor of the creation of a civil marriage law. In addition El Hawri, who was the first president to endorse fully and pressure for a civil marriage law is Christian Maronite but from an independent party.(Abillama,2018) Also former president Suleimani endorsed civil marriage arguments that “Personal freedom is one of the steps towards getting rid of sectarianism and living together”(Naharnet,2013).

In the matter of religious leaders in the Christian sects, the Maronite church is against it, and in favor, the Evangelical and Greek orthodox church. (Salloukh,2013)

In last year's parliamentary elections, independents gained more seats, most of them gained power during the protests in Lebanon because of their advocacy for a change. Sunnis Halime Kaakour, Ibrahim Mneimne and Waddah Sadek reopened the debate about civil marriage law in Lebanon after they were chosen by the population as parliamentarians. The positions themselves in a television debate in favor of it, religious authorities were outraged with their declarations and Sheikh Hassan Merheb part of the highest Sunni authority in the country accused them of not representing the Sunnis and told Sunni followers to “spit in their faces” The parliamentarians got a lot of threats after the debate and Kaakour told “They used mosques and religious men against me; they even tried to incite the people to be violent with me”.(Tomas,2022)

### **3.7. Reasons behind the lack of civil marriage law**

A lack of a civil marriage law can be seen as something irrelevant or simple, but in Lebanon, it has deep political reasons for not being created. A civil marriage law could spark a total reformation of the government.

As mentioned before, Lebanon has a confessionalism system where the power positions are divided by the different religious denominations. Parliamentarian seats are distributed equally between the Christian and Muslims, legalizing civil marriage in Lebanon would create the possibility for citizens to follow civil law in terms of personal status matters and not their courts which can result in the end of the institutionalized religious denomination and lead to the abolishment of the confessionalism system.

#### **3.7.1. Religious**

Religion and politics are linked in Lebanon because the parties are affiliated to one of the 18 religious denominations, and there is a big opposition from the religious elite to civil marriage. One of the reasons for the rejection of the bill by religious leaders is that it will take the power invested in them and make individuals abandon religious denomination laws.in this way Through this, it will disturb the role played by their institutions in creating sub-identities in Lebanon and controlling their personal status matters. (Abilama,2018). In this part we shall analyze the political-religious reasons and not the ones linked to faith, even though the main argument of Mufti Qabanni, Maromite Church, and Shias Leader is

that civil marriage law does not go in line with the religion. We would go deep into the motives for religious denominations to not agree with the bill.

Until now, religious marriage has been the way that religious denomination courts could gain income, because they receive funding from legal and “illegal routes” (Salloukh,2013,p.41) when settling personal status matters. The power invested in them to decide whether or not they would marry a couple is the feature that they monetize. El Hawri during his pressure for the bill of personal status matters argued that religious leaders didn't want it approved “because it would have ended the state financing of sectarian courts and the payrolls of sectarian judges” (Salloukh,2013,p.40). If civil marriage is legalized in Lebanon around 6,000 jobs could be lost in religious institutions and the state could save around 6 million dollars annually. (Salloukh,2013)

These courts receive funding from the state and generate money by mechanisms relating to personal status matters (divorces,marriage, inheritance, children). Annually there are around 40,000 religious marriages which cost the state \$9.800.000 in 2010 divided into sectarian courts: the largest expenses go to Shia courts \$2.966.666,66 then Sunni courts % 2.868.00, and Christian courts 3.160.000\$. If a civil marriage law is approved, the funding for sectarian courts will be reduced and their revenue, taking into consideration that they make around \$15 million annually from procedures pertaining to personal status matters. (The Monthly,2011)

Arguments in religious opposition “less people began to resort to civil laws and to abandon sectarian laws. This would sabotage the role played by sectarian institutions in producing sectarian subjects and interfering in the private—namely the family—sphere. It would strip from them this power of governing the private/family domain as well, which would open up possibilities for a new kind of citizenship in the country”(Azzi,2013)

An example of the extent to the power posed by the religious denomination in Lebanon is the reform of a law of domestic violence that the Muslims didn't want to pass the law but passed anyway because marital rape was striked off from the definition of domestic violence. Taking into consideration that marital rape is under the legislation of sectarian courts because it is; case of personal status law. This example is useful to understand

the power the sects have because Muslims Christians and Druze courts considered domestic violence to be in their jurisprudence. (Salloukh,2013)

Religious authorities and leaders condemn that civil marriage is against God's law and that the ones that don't follow them are haram and will not get to heaven. But on the other hand, they accept marriages made in foreign countries. (Salloukh,2013).Finally, people see the passing of this law as an imposition for a secular imposition against religion. That's why it needs to be an option not an obligation to have a secular marriage.

Another one of the religious reasons behind the lack of civil marriage is the fear of religious denominations entities, because it could arise from inter-religious denomination marriages. If the population starts to mix they may lose their power to govern personal status matters, it may weaken their position in the state. We can conclude 4 religious reasons: less revenue from personal status matters, the fright of the dissolution of their authority, safekeeping of religious denomination identities, and disagreement over family law (inheritance and divorce)

### **3.7.2. Politics and Sectarianization**

The state of Lebanon has failed to create one single identity and a united Lebanon. It is a plural society in which the political leaders of each religious denomination use confessional power to their advantage creating various identities depending on the religious denomination. By approving the law, the start of a single identity without any religious affiliation can disturb their power and influence in Lebanon. They will need to reform the confessionalism system, resulting in a redistribution of power to create a balance in the country.

The last census made in Lebanon was in 1932, they haven't new one because of the same reason. If they conduct one, it can be dangerous because actually there are more Muslims than Christians citizens and the demographic has totally changed (CIA World Factbook,2022).Resulting in a redistribution of the religious denomination quotas. A report made by The Nation referred to it as "the world's most dangerous census"(Barshad,2019). A professor at Ostfold University College argued that the

census “is part and parcel of this elite-driven democracy—we have the 18 communal groups, and they have their elites which discuss [governance]. It has also created a manifest understanding that what has been should be, would always be, should always be!” ( Barshad,2019).

Lebanese biggest political parties don't want to implement the constitutional reform agreed during Taif, because it will mean a restructuring of the electoral basis and political structure. Politics and religion denomination affiliation have been linked since the *reglement organique* and a new system means the losing of their power. (Muhanna,2013)

Here is where we can link sectarianization with the lack of civil marriage law. This is used as a strategy for the politics and religious leaders so the population doesn't mix, divide and control them so the status quo doesn't change, and they can stay in power gaining resources for their religious denomination and advantages to them. If they open the way for different religious denominations to relate, they lose their narrative of dividing and that the only security they have.

The Constitution of Lebanon declares in its preamble that “the abolition of political confessionalism shall be a basic national goal and shall be achieved according to a staged plan” ( Lebanon's Constitution, 1995) but they haven't made even a plan for its abolition and every time they mention the topic to the politician, they say that know the country is passing through a crisis and they are more important things to be discussed.

The law can create the possibility of a new kind of citizen who doesn't want to affiliate to any religious denomination and just wants to be Lebanese this would create problems in the election system and the distribution of the seats in the parliament. Considering what was explained in the part of the electoral system and political system, Lebanon's parliament's seats are divided proportionally by religious denomination. By this, the population that doesn't belong to any religious denomination wouldn't have representation so it would mean a need of reforming the system or giving them a quota in the parliament.. (Muhanna,2013)

Abolishing confessionalism in Lebanon will not only affect the political system, but public offices also which are divided among religious denominations based on their internal agreement. This will put in risk the system the politician and elites have already created to their benefit. Chatham House has expressed that, “the ‘power-sharing’ system has resulted in a symbiosis of the sectarian political elites and their private sector allies in a way that has rendered the state a parasitic vehicle for self-enrichment and strengthened various sectarian clientelistic network.”( Chatham House,2021,p.6).

Citizens that choose not be affiliated to any religious denomination will not have any parliamentary representation they don't have the right to vote actually because like it was mentioned in the part of the electoral system for being in a voter lost their religious denomination affiliation needs to appear also they don't have legal protection regarding family issues they are not allowed to apply to public jobs or to be elected as a member of a parliament. So, accepting this law will mean a complete change of the system which the government has been trying to avoid since the Taif Agreement.

Following a study made in 2013 revealed that 51% of Lebanese support civil and optional civil marriages. In addition, there has been an increase in the conversion of religious denominations. Some people change their affiliation for several issues: eligibility for jobs that are reserved for people of certain sects, nationality, monogamy, divorce issues, and inheritance. Furthermore, in the study of a million citizens surveyed 192,274 had intra-sectarian marriages. Young citizens want a change, and the leaders don't want to give up on their power. (Salloukh,2013)

Finally, we can conclude that the main political reason for the lack of civil marriage law is that it will open the way for the abolishment of the confessionalism system. Affecting politicians, religious denomination leaders and the elite who have used marriage as strategy of sectarianization. It will create the possibility of a new identity the secular Lebanese.



#### **4. Conclusion**

To conclude, the lack of a civil marriage statute in Lebanon is a highly contentious subject rooted in the country's historical developments, state formation, sectarianization and religious denominational institutionalization. The confessional system, which is deeply embedded in Lebanon's political system, has caused a schism between religious communities, and sustained religious tensions. The absence of a civil marriage legislation has enormous political ramifications since it would challenge the confessional system by establishing a legal framework that is not based on religious traditions and would ensure that all individuals' rights, regardless of faith, are safeguarded and citizens are treated the same between the 18 religious' denominations.

The investigation lead us to the conclusion that one of the primary reasons for the absence of a civil marriage law is that it is not in the best interests of major political leaders to relinquish power and dismantle the confessionalism system. They have been evading the primary objective of the Taif Accord which was a plan of transition for the abolishment of confessionalism. In the same line, they have been avoiding discussing civil marriage and have been reluctant to endorse any reform that may jeopardize the control they have over the government and their network of internal agreements. However, since the first civil marriage executed by Darwish and Succariyeh, there has been growing support in Lebanon for the legalization of civil marriage, which reflects the opinion of new generations toward a secular Lebanon, and the elections of 2022 demonstrated it with the winning of independent- secular parliamentarians and the loosing of seats of Hezbollah (BBC,2022). Civil society organizations and advocacy groups have been working to raise awareness of the issue and advocate for change and the abolishment of the confessionalism system. (Allison & Azzam,2020)

It can also be concluded that even though the political reasons are a huge part of the lack of civil marriage law, a study made by Haykal in 2014 revealed that 59% of shias were against civil marriage, even though it is only a sample and it doesn't represent the actual opinion of all Shias in Lebanon, they are the ones with the biggest percentage of affiliate

against the law. (Haykal,2014,p.12). There is still an important part of the population mostly ( Shias) that don't agree with a civil marriage law because its *haram* there is till a social norms influence over the population by religious denominations in personal status matters. Also, religious leaders are against the law, which would eliminate funding and revenues proceeding from personal status matters.

In the case of electoral law, a civil marriage law would implicate a restructuring in the quotas, the section of electoral law demonstrated that the actual system doesn't give a place for secular citizens and that the distribution is made by an outdated census that doesn't represent the actual demographic. An amendment is needed if the law is approved, so that the quotas are re-distributed, and seculars have an opportunity to be run for a public position or vote. This is unlikely to happen in Lebanon, taking into consideration that in law 44 which was promulgated in 2017, six new seats were approved for representing the expatriate community but then the article was eliminated because they couldn't agree for what religious denomination they would be given and the redistribution of the quotas.

To summarize, Lebanon's absence of a civil marriage legislation is a complicated subject that is firmly ingrained in the country's political and religious past. The confessional system has widened the gap between religious denominations and created an obstacle for a singles united Lebanese nation identity. Even though, at the begging a civil marriag law could be seen as a simple topic it political ramifications, since it would call into question the current power-sharing structure (confessionalism) and make Lebanon advances in a legal framework more in accordance with international human rights norms which could be a beginning of a state where all citizens are treated the same and their rights are protected by the government. To ensure that all people have equal representation in parliament, the legalization of civil marriage would necessitate considerable changes to election law.

In terms of the recollection of information, Lebanon's situation makes it difficult to recollect accurate information about its political system and the procedures for marriages. The official page of the government is outdated and the information in libraries is few. We can conclude that most of the constitution is not followed and that personal status courts work

as they fit. The situation of Darwish and Succariyeh demonstrated that the government doesn't have a plan for a civil marriage law and the registration of secular individuals.

To conclude, even though the actual political system in Lebanon is highly criticized because of its consequences (instability, crisis, corruption, divisions, sectarianization...). It has managed to avoid major conflicts in a highly unstable area given that it has borders with Syria and Israel two countries that have played an important role in their policies and the sectarianization. The system has prevented any of the religious denominations from taking complete control of the country, but in the other hand it had created a divided nation where instability and the inability of the government of taking decision in the usual.

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