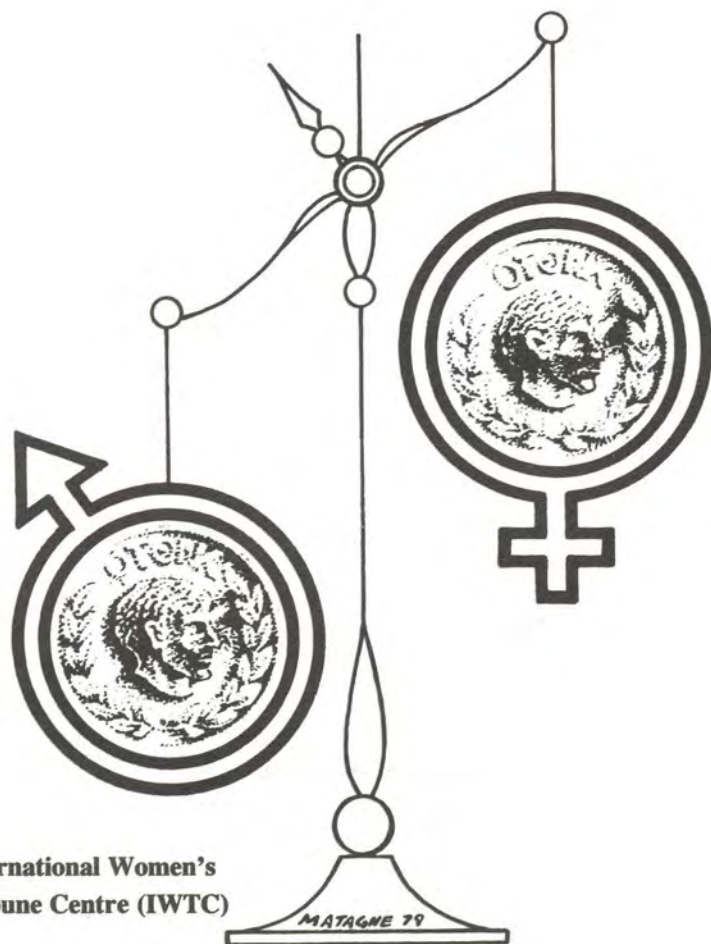


Women And Law



International Women's
Tribune Centre (IWTC)

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Women and Law

When discussing women and the law in the Arab World, it is imperative to remember that in most of these countries, unlike western countries, a Personal Status Code rather than civil codes legislates the rights and duties of women. The main objective of the Personal Status Code is to protect the family in various legal matters. It stipulates rules and regulations regarding marriage, divorce, inheritance and even work for women. The Personal Status Code in Arab countries is generally based on the religious dictates of the Koran.

In the case of Lebanon, where there are seventeen Christian and Moslem sects, each sect has its own Personal Status Code which it implements in its own religious courts. These various codes in Lebanon, like elsewhere in the Arab World, focus on family matters (marriage, divorce and inheritance). On the other hand, criminal laws, commercial laws and other matters related to public life are civil concerns of the state based on the Napoleonic Code. For instance, marriage being a personal status matter, civil marriages are not performed in Lebanon. Couples who wish to have a civil marriage are obliged to travel to nearby Cyprus or other European countries.

Unlike the Personal Status Code, the constitution of the State does not explicitly mention the rights of women; it speaks only in terms of Lebanese citizens in general. Some interpret this as a deliberate neglect of women. Others claim that it promotes equality between men and women, since a mention of women might imply a minority status to men. To say the least, such interpretations, especially regarding the fairness of laws towards women, are endless.

Therefore, instead of summarizing and analyzing specific texts of the civil codes and the different Personal Status Codes in Lebanon, we interviewed two Lebanese judges for this purpose. The first judge was a male and the second a female. Much to our surprise, there was no great difference in their attitude towards

the rights of women in the legislation. With some minor reservations, the judges seemed content with the clarity and justice of the laws of the State. They insisted that the texts promote equality between men and women, and offer equal opportunities at work. Hence, as you read the interviews, you may be swept with feelings of optimism and enthusiasm for the emancipation of women in Lebanon. What are women complaining about then? How come they are being taken advantage of in everyday life at work and in society?

Is there not a discrepancy between the laws themselves and the real status and treatment of women in society? With respect to this, the judges pointed out that the women themselves are not active enough in politics and the legislation. Thus, they are not aware of their rights and duties. It is, therefore, no wonder that men dare to claim dominance and dare to stipulate laws for women. What is stopping women from mobilizing the law to their advantage? The judges feel that sexual discrimination is not the main obstacle, although women claim that it exists. Instead, the judges attribute the problems to the war in Lebanon.

Nevertheless, the status of women in Lebanon is still far more advanced than that of women in some other Arab countries. For instance, there are no laws, civil or religious, which force women to wear the veil.

Furthermore, women in Lebanon can drive, go to schools and universities, and interact with men in public places without any legal restraints on their liberties. In other words, the basic grounds for mobility and improvement are already established in Lebanon. So, I agree with the judges when they say that it is up to the women themselves to push the wheels of progress further ahead by asserting their credibility and irrefutable worth to society.

Women and the Law in Lebanon

**Women Must Get Involved In The
Syndicate Movements In Lebanon**

Interview with Judge Dr. Mohamad Ali Chekhaibe

The Honorable Judge Dr. Mohamad Ali Chekhaibe is President of the Labor Court of Beirut since 1966. He is also President of the Collective Conflict Court, as well as Professor of Law at St. Joseph University and Professor of Law at the Judge Institute in Beirut.

Some of his most prominent publications in Arabic are:

- Al-Wasit Fi Qanoun Al'Amal
- Nizam Nihayat Al-Khedmah
- Al-Sarf Al-Tasi'fi fi 'Aqd Al-'Amal Al-Fardi



Political Rights and Participation in Politics

Q. While women are permitted by the law to run for parliamentary elections, this has been very rare in Lebanon. In your opinion, why is that?

A. Actually, two Lebanese women have held a seat in the Lebanese Parliament. The first was Myrna Boustani and the second was Mrs. Jermanous during the 1960's. Participation of women in parliament is minimal mainly because of the social system of our society. It is not a matter of sex-discrimination but rather a result of a social system in which both men and women of prominent families rule. The proof to this is that the two women who participated in parliament come from such families. Another reason for women's absence from parliament is their lack of participation in political parties. We have not yet women in high posts even in the parties which have women in their cadre.

Q. A woman is allowed to vote (like all Lebanese) by means of a national voting list. What is the procedure for getting her name on that list?

A. There is no discrimination between men and women in this listing. The list is revised every year by a committee headed by a judge. The names of eligible voters are added, those of ineligible or dead voters are removed, other names are transferred from one voting district to another according to their place of residence. Women do not have to go personally to get their names inscribed. Their names are added automatically upon eligibility just like all other Lebanese citizens regardless of sex. If a woman gets married, her name is transferred from her native district to the district of her husband.

Q. Are the women exercising their right to vote or not?

A. I don't think that the number of female voters is less than the number of male voters in Lebanon. Women are not being stopped from voting. However, the voting room is separated from the men's.

Q. Women tend to vote like their husbands. Do you think that this constitutes a form of submission?

A. I believe that members of the same family tend to have the same political opinion. For instance, up to 90% of the time, my wife, my children and I have the same opinion. Of course sometimes they may differ. But I don't think that there is any pressure from the man on his wife.

Q. The U.N. resolution "To end all forms of discrimination against women" has been explicitly adopted by many Third World and Arab countries. Why hasn't this been implemented in Lebanon?

A. Very true. Some of the countries that have adopted this resolution in their constitutions are Iraq and Egypt. Lebanon has not done so although it is clear in its constitution, which stipulates equality for all Lebanese citizens without specific mention of the sexes. Perhaps Lebanon feels that it goes without saying that men and women are equal. Take Europe for instance, the constitutions of developed European nations do not emphasize this sexual equality. It is a matter of fact. Maybe Lebanon feels the same way.

Commercial Laws

Q. A Lebanese woman needs the permission of her husband to work. Why?

A. The law allows women to work without written permission from their husbands. One theory behind the issue of permission is to account for how the wealth of the husband would be affected if she goes bankrupt. If distribution of wealth between the husband and the wife is not specified in the marriage contract, and if the wife works without permission, her bankruptcy has an unlimited liability on her husband's finances.

Q. Do you think that the law is more favorable towards single women than towards married women?

A. In real life, when a woman gets married she becomes a wife, a mother and responsible for the house work. The employer fears that because of this, her work may become secondary to her familial responsibilities. Therefore, he is more hesitant to employ a married rather than a single woman. But according to the law, the employer is not allowed to differentiate between the two.

Q. Is the traditionality of jobs held by women attributed to society, men or women themselves? Why?

A. Women themselves, maybe because of their physiology. We tend to see women in liberal professions like law and medicine more than in engineering for instance. Maybe their presence on the field is more difficult than it is for men. It is not that women are mentally less capable than men. Law is not easier than engineering. Furthermore, there is no doubt that the nature of the profession itself plays a role in attracting women.

Q. Some women will be displeased to hear about this physiological difference.

A. But it is true. For instance, pregnancy is a handicap for the working woman whether we like it or not.

Q. What is the line of reasoning behind the fact that women unlike men, need to have at least two male witnesses in order to draw a legal contract?

A. This is because of the Shari'a* which states that the testimony of a woman is equal to half the testimony of a man. But, this is only in the religious courts. In

the civil law of the Lebanese State, the testimony of a woman is equal to the testimony of a man. For instance, if you sell a car or draw any legal contract at a Public Notary or in any other public office a woman is not required to have any male witnesses or any more witnesses than the man needs.

Crimes of Honor

Q. Are there cases of crimes of honor in the Lebanese courts nowadays? Or are the majority of such crimes resolved in religious and familial settings?

A. Absolutely not, such crimes or any other crime cannot be settled in religious or familial settings. A crime is a crime, it is a public offense and it is punishable by the law. The Lebanese courts do have crimes of honor. The law does not, under any circumstances, allow the crime to go unpunished. The law only stipulates reasons for the severity of the punishment. Unfortunately, the law allows the judge to reduce a sentence if there is evidence that the crime was committed for moral reasons. It is part of the traditional mentality of our society. For why is it acceptable for a man to kill his wife if she cheats on him, but it is not acceptable for a woman to kill her husband if he cheats on her?

Personal Opinion

Q. What are the pros and cons of the Lebanese law with respect to the rights of the Lebanese Woman?

A. Most of the time, when we speak of the law, we speak in terms of employment, commercial laws and social security. We tend to say that they do not give women equal rights. But what we really should know is that these laws are agreed upon internationally. Lebanon has agreed in its constitution and laws to protect human rights and stipulates against any kind of discrimination on the basis of sex, race, color or religion. Therefore, there is no doubt, absolutely no doubt, that the Lebanese law protects the rights of women, and equality between men and women. On the other hand, the rights of women are often violated in the private sector. In this sector, the syndicates are the proper and capable institutions which can demand and achieve equality for women. Unfortunately, women are practically non-existent in the syndicates in Lebanon. Why? I don't know. The Lebanese syndicates have not reached the point of effectively demanding the rights of workers. One possible reason may be that women

* Islamic Law

have not taken an active part in syndical activities; they have not aggressively and effectively demanded their rights. It is essential that they do.

Q. Is there a need for amendments in the State's law regarding women?

- A. I believe that the law has reached the point where there is no differentiation between the sexes. The texts of the law are clear and right; they do not need any changes. It is the mentality that is backward. We must change mental attitudes not texts.

Interview with Judge

Miss Rola Shafiq Jadayel

The Honorable Judge Miss Rola Shafiq Jadayel graduated from the Judge Institute in 1983. She worked for one year at the Ministry of Justice. Since 1984 she has been a member of the First Degree Magistrate Court of Beirut.

We interviewed Judge Jadayel at her home in Beirut. Some of her replies are similar to those of Judge Chekhaibe. Consequently and in order to avoid repetition we chose to report only the replies which were different.

"Society itself decides what the laws should be. The laws only act to discipline, organize and encourage the development of society. Thus, a law is of no use to anyone if it does not serve a purpose."

Commercial Laws

Q. How would retracting the law concerning "husband's permission to work" for married women affect the status of women in the labor market?

- A. A retraction of the law will not change anything. Remember that although the law exists in the texts it is not applied in actual life. Women in Lebanon are practicing their right to work without the objection of their husbands.

Q. Is the traditionality of jobs held by women attributed to society, men or women themselves?

- A. There are professions which seem to be socially more acceptable for women such as secretarial work. Nevertheless, women have proved themselves in other professions which were previously considered only for men such as: medicine, law. There are other fields which are simply unsuitable for women

like truck driving, foreman and others. Still women should tackle new fields more aggressively, especially politics. Remember that the law itself does not stop or discourage women in any of these areas.

Q. Why is the testimony of a woman equal to half the testimony of a man. i.e. the testimony of one man is equated with the testimony of two women?

- A. We must differentiate between civil laws and Personal Status Code. In the civil law the testimony of one woman is equal to the testimony of one man. The two to one principle exists in the Personal Status Code. There is a theory about this which says that a woman is likely to forget some details due to the diversity of her chores at home. She, therefore, must be reminded by another woman.

Crimes of Honor

Q. Are there cases of crimes of honor in the Lebanese courts nowadays? Or are the majority of such crimes resolved in religious and familial settings?

- A. All over the world there are situations where crimes are not reported. When such crimes are reported the law plays its legal role. However, the law reduces the punishment of the perpetrator in circumstances of "flagrante delicto." If however, he commits the crime days or months later, then the excuse of initial anger is not admissible.

Q. Is there any legal discrimination against women regarding adultery?

- A. Yes, women are always punished for committing adultery. But men are only punished if they commit adultery in the conjugal home or if they publically admit to having extra-marital relations. Otherwise they can do as they please as long as they are discreet about it.

Personal Opinion

Q. What are the pros and cons of the Lebanese law with respect to the rights of the Lebanese woman?

- A. The Lebanese law in general does not discriminate against women. However, some amendments must be made especially in the domains of commercial laws, social security and family pensions. Thus, a husband is permitted to collect the family pension of his employed wife, but she is not allowed to collect the family pension of his employment. Laws like these must be changed.

Becoming A Lawyer



Women Have More Instinct For Justice Than Men

Miss Fadia Ghanem is a 23 year old law trainee in a Beirut law firm. She graduated from the Law School of the Lebanese University on December 4, 1989

We interviewed Miss Fadia Nimr Ghanem as a young female law trainee in her office. Miss Ghanem has an earnest ambition to become a lawyer. She feels that being a female is an asset rather than a disadvantage, both in terms of her working abilities and the growing encouragement that society gives women nowadays.

Q. did you choose to become a lawyer?

A. I have always wanted to study law. I feel that I can achieve self-fulfillment.

Q. Who supported you financially and psychologically?

A. Both my father and my mother encouraged me to study law. My mother would stay up at night to help me and my brothers with our studies. My father was convinced that I would succeed in law judging from his knowledge of the profession since he himself is a Notary Public.

Q. Did you encounter any discouragement from other people around you because of your sex?

A. No, we are in an era of progress in which women are succeeding just like men, if not more. Even at work,

we get more encouragement than our male colleagues because we have more instinct for justice than men.

Q. Did your professors treat you differently from your male colleagues?

A. No, treatment was not based on sex differentiation. It was rather based on mutual respect and the extent to which we took our studies seriously.

Q. Which area of the law do you wish to specialize in?

A. As soon as I get the chance I plan to continue my studies to become a Notary Public. Female public notaries are very rare in Lebanon.

Q. Did you ever consider a profession other than the law?

A. Law was always my first choice. At one point, I thought of studying political science in order to become an ambassador. At that time I was very impressed by a friend, Mrs. Lina Bazzi, who was appointed to represent Lebanon in one of the Emirates of the Gulf.

Q. Are there any branches of the law that you consider to be "areas of concentration for women"?

A. Not particularly. It is a matter of preference that has nothing to do with sex-roles. Personally, I don't like criminal law. I prefer commercial law.

Q. How many females graduated in your class? compared to the males?

A. I think that they were equal. However, I remember that during the first three years of law school, the number of girls who attended classes was greater than the number of boys. Eventually, a lot of students, both male and female, drop out for various reasons. By the fourth and last year, the remaining boys realize the importance of graduation and therefore make extra efforts and work as hard as the girls.

Q. In your opinion, does the Lebanese Law give women their due rights?

A. Well, the laws date back to 1943. They represent the society of that time. Now, society has changed. People are more aware of the intelligence and abilities of women. Therefore, I think that some laws must be updated accordingly. For instance, working facilities for women are restricted once they get married. It is a shame that a country like Lebanon, with its liberal society, decrees that women should obtain permission from their husbands in order to work.

Participation of Women in the Profession of Judges in Lebanon

In another interview, we approached Judge Dr. Mohamad Ali Chekhaibe as a Professor of Law in the Judge Institute. We asked him to share with us some of his observations about women in the profession of judges in Lebanon. We also asked him to describe the behavior of female students in his classrooms at the Judge Institute. His remarks were rather encouraging.

The Female Students Are More Brilliant Than Their Male Colleagues At The Judge Institute

- Q. Is there what you might consider a significant number of women:**
(a) As Student-Judges. (b) As Active Judges. (c) As members of the legislative body: both lawyers and Judges?
- A. (a) Yes there is a very significant number of female student judges. In the Judge Institute, more than 1/3 of my students are female.
- A. (b) Unfortunately, the number of active female judges is not significant. Up until now, we have not had a prominent female judge. The number was increasing significantly in the 70s, before the war. The war may have affected this trend. Furthermore, judges are usually appointed to locations away from the city in the earlier phase of their careers. This makes it difficult for women to commute especially during the war. So you see, the situation in Lebanon does not allow us to draw an accurate conclusion about the participation of women in the profession.
- A. (c) The number of female lawyers and judges is very significant. However, the strange thing about it is that women lawyers work three, four or five years. Then they get married, work for another two years and all of a sudden they disappear.
- Q. Do you detect any discrepancy between the number of female student and the number of active female judges.**
- A. Fewer females practice their profession as judges than those who study it.
- Q. In which areas of the law do Lebanese women judges have the greatest tendency to participate?**
- A. It is not up to the judge to choose his area of

speciality. He/she is appointed to a territory in which all areas of the law are covered. With seniority judges are gradually promoted to the city courts and appointed to specific areas. Up until now, areas of speciality for women have not appeared in the profession. The same applies to women lawyers.

- Q. What is, in general, the age group of female student-judges compared to their male colleagues?**
- A. Between 25 and 30 for women and a bit older for the males.
- Q. Do clients tend to state a sex-preference for the judge presiding over their cases?**
- A. Clients do not choose their judges. The judge is appointed by the State. I don't think that women are discriminated against in this respect.
- Q. What are some of the difficulties that female judges face in the course of their education and career?**
- A. The main difficulty is in being appointed to remote rural areas. It is even more difficult in the present situation of the country.
- Q. Do your female students speak up in class as much as their male colleagues?**
- A. Usually, the girls are more reserved, but they are also more brilliant and more attentive than the boys. Academically they ask just as many and even more questions than the boys. Unlike the boys they don't speak up just for a laugh. It is within the feminine nature.
- Q. What is your advice to females who are part of the legislative body?**
- A. It is a difficult job. But I ask them to broaden and expand their general knowledge as much as they can. They should not limit themselves only to the law. After all, one must be a total human being in order to deal fairly and be just to other human beings.
- Q. Some literature on women propose that participation breeds influence and consequently produces change and equality. Others say that changes are needed in order to allow women to participate more, and to participate more effectively. In your opinion which theory is true?**
- A. She must participate first. She has to be an active member of the syndicates. Demands are not enough without actual participation. She must get in there in order to get her rights.

A Historical Overview of the Personal Status in Tunisia

In 1924 and 1929, **Monoubia Ouertani**, and **Habiba Menchari** took the initiative to provoke the issue of removing the veil off Tunisian women. Consequently, a commotion between conservatives and reformists, nationalists and socialists, took place ⁽¹⁾.

The conservatives and nationalists, on one hand, assigned to women the passive role of the guardians of values. They argued that Tunisia, being a highway of exchange, is subject to intrusions of foreign nature. They claimed that if customs like the veil and traditional sex - roles are modified, then cultural heritage and national identity will be destabilized. Therefore, they insisted that by virtue of their traditional role, women should not actively engage in debating legislation and the struggle against colonialism.

The reformists and socialists, on the other hand, welcomed the movement of Ouertani and Menchari as a first step towards the emancipation of Tunisian women. They argued that the active participation of women is indispensable for the well-being of society. Thus, they insisted that women like men should be called upon to play their proper role towards the improvement of the environment and the support of the people in their daily chores ⁽²⁾.

Many debates over these issues continued over the years. In 1930, "Our Woman in Law and Society" was published by **Taher Haddad** denouncing the veil, polygamy, sex segregation and the rights of repudiation of the husband. Although Haddad's book was banned from Koranic schools as being heretic, his ideas played an important role in the evolution of Tunisian women⁽³⁾ (Al - Raida). Thirty years later, it was President Bourguiba who finally brought about legislative reforms mobilizing Tunisian women.

A Personal Status Code replaced Koranic law in the areas of marriage, divorce and children's rights in Tunisia ⁽⁴⁾. The new Personal Status Code especially forbade polygamy, making Tunisia the first Arab country to prohibit the practice explicitly. More generally, the Code made marriage and divorce civil matters. Unilateral repudiation by the husband was outlawed and religious prohibitions against women marrying outside the faith were revoked. The Personal Status Code also established a minimum age for marriage, fifteen for girls and eighteen for boys, discouraging the practice whereby families arranged the marriage of a very young child.

During Bourguiba's administration, programs specifically designed to meet the needs of women were also established. For example, the National Union of Tunisian Women (UNFT) was created to promote a new understanding of women and to stimulate women's participation in national life. The Union held numerous meetings to discuss problems of health, child care, birth control, professional opportunities for women, and other similar concerns. Other programs designed to change the traditional status of women included official efforts to promote political participation among women and aimed at giving women professional training. Consequently, in 1959, UNFT President Radhia Haddad was elected to the National Assembly. In the 1966 municipal elections, forty-four women were elected councillors (Moukhtars) in eleven different urban centers. Furthermore, projects under the Ministry of Social Affairs involved teaching, reading and writing to illiterate women and training them in home economics. Other projects prepared girls for work in hotels, offices and medical establishments.

Because of these changes, Tunisia acquired a reputation as the Arab Country in which women were making the most progress. Tunisia had a higher proportion of women enrolled in primary schools than any other Arab country except Lebanon. Further, Tunisia had a higher proportion of students enrolled as a whole than any other country except Lebanon.

The authors conclude by stating that this progress was hindered by the political controversies which produced significant obstacles and opposition to the continued emancipation of women. A Tunisian sociologist said in 1972, that the country has begun a "reactivation of tradition". Consequently, attitudes about women changed and diminished support was found among both men and women. Hence, the Tunisian women may have covered significant legal and social grounds in the journey towards emancipation and liberation, but they still have to deal with the fluctuations of the influence of traditions on prevailing mentalities.

(1) Marzouki, Ilhem. *Le Voile Des Colonisees* (Tunisie 1924-1936) Revue de l'Institut des Belles Lettres Arabes *IBLA*, 51eme année 161, Premier Trimestre, 1988.

(2) Op. cit p. 78.

(3) Accad, Evelynne. *Women in Contemporary Tunisia*. Al-Raida. Beirut: Institute for Women's Studies in the Arab World. Vol. VIII, No. 33, August 1, 1985.

(4) Excerpts from an article "Women's Emancipation in Tunisia" by Mark A. Tessler, Janet Rogers and Daniel Schneider, from the book *Women in the Muslim World* edited by Lois Beck and Nikki Keddie, Massachusetts: Harvard University Press, 1978.

Empowerment and the Law: Strategies of Third World Women

Editor: Dr. Margaret Schuler,
Washington D.C.: Overseas
Education Fund, OEF International,
1986.

Empowerment And The Law is about Third World women and the law. It discusses the role that society plays in reinforcing female oppression; of women's efforts to confront that oppression and the empowerment of women who suffer the double burden of being poor and female.

Beyond "Nairobi and the 1985 Third World Forum On Women, Law and Development", the book presents a pioneering and comprehensive analysis of the emerging field of Women, Law and Development with empowering strategies that enable women to achieve equity in both their personal and public life. **Empowerment And The Law** is about women uncovering the legal, cultural, political, and economic underpinnings of inequity and subordination. It is about women gaining the skills needed to enforce the law and to challenge it in order to assert rights, redress injustices and access economic and political resources. Innovative women from 32 countries in Asia, Africa and Latin America document in fifty cases the strategies and programs they are using to take their place as contributors and beneficiaries of development; linking multifaceted analyses to action, and including a cross-disciplinary bibliography.

In addition to the introduction by Dr. Schuler, the book includes four parts: Part I offers "An Approach to Women, Law and Development" and involves "Conceptualizing and Exploring Issues and Strategies". Part II speaks of "Confronting Patriarchal, Class, and Ethnic Biases in the Law". Women from the three continents speak about "The State, Law and Development"; "Customs, Religion, Ethnicity and Law"; "Violence and Exploitation". "Strategies for Using and Challenging the Law" appear in part III. Some of the strategies presented are "Educating and Organizing"; "Changing the Law"; and "Advocating for Justice" in "Family-Oriented Centers", "Centers Addressing Violence and Abuse" and "Advocating Labor and Land

Rights". Part IV reports the texts of the addresses presented at the Nairobi Conference and recommendations for the empowerment of women.

Empowerment And The Law is an innovation and contemporary collection of ideas, grievances of women and potential strategies and solutions. It includes the works of women like Asma El-Dareer (Sudan), Laure Moghaizel (Lebanon), Rashida Patel (Pakistan), Ghandermani Chopra (India), Rosa Parades (Venezuela), Nawal El-Saadawi (Egypt), A.R. Jiagge (Ghana) among other prominent women from the relevant continents.

The editor, **Dr. Margaret Schuler** is Director of **Women, Law and Development Program of OEF International**. She is involved in developing regional networks and centers for development of women in Asia, Africa and Latin America. Among the activities of Dr. Schuler and the OEF Women, Law and Development Program was a meeting for women lawyers in Washington D.C. in June 1989. The meeting was to further plans for regional networks of lawyers and others working on development issues. ⁽¹⁾

Still in the context of development, another association, **The Association For Women In Development** held a conference in Washington D.C. on November 17-19, 1989. This conference focused on women's empowerment for sustainable development in political and economic life, educational access and cultural expression. This conference aimed to link practitioners, policy makers and researchers in relating the experiences of women from industrialized and developing countries. ⁽²⁾

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1. From **The Women's Watch**, International Women's Rights Action Watch, IWRAW, Volume 3, N° 2, October 1989, p. 7.
 2. From **Women In Action**, ISIS International Women's Information and Communication Service, 2/1989, p. 26.

**The Arab And Mediterranean World:
Legislation Towards Crimes of Honor
by Laure Moghaizel
From Empowerment and the Law**

The paper of Laure Moghaizel examines a number of legislative measures dealing with crimes of honor in the Arab World namely Egypt, Iraq, Jordan, Kuwait, Lebanon, Lybia, Syria and Tunisia; and in five Mediterranean countries like Spain, Italy, France, Portugal and Turkey.

Thus, while the penal code condemns the perpetrator of intentional homicide to punishment as serious as execution, the provision concerning crimes of honor may permit a full or partial excuse, thereby reducing the penalty or exempting the perpetrator from any punishment altogether. A full excuse exempts the culprit from any punishment altogether. A partial excuse does not prohibit punishment, but rather it lessens the sentence established by law. A partial excuse reduces the sentence to a greater degree than does any circumstantial evidence. Factual justification eliminates the infraction entirely; excuses do not.

With the exception of the Jordanian, Lebanese and Syrian penal codes; the other Arab legislative measures under study do not grant full excuses, only partial ones. The circumstances and conditions necessary for the application of the excuses are as follows: The perpetrator surprised his victim (s); the victim was caught "flagrante delicto" i.e. in an adulterous act; for the case of a full excuse, the perpetrator committed his act during the initial period of anger. Only momentary anger sparked by witnessing the offense is excused. Thus, the law establishes a presumption that the liberty of the perpetrator is in abolition at the moment.

In simpler terms, if a brother proves that he has surprised his sister "flagrante delicto" and committed his act at that very moment, he is not responsible to prove that he acted in a moment of unreflected anger or that his feeling of infuriation abolished or diminished his liberty. Moreover, the public defender is not permitted to admit evidence that the accused did not act on a sudden impulse. Subsequently, the person is absolved of the penalty of his actions.

Likewise, the law established a presumption of reduced liberty of the person who surprises his victim in "questionable attitude"; his punishment is subject to

mitigation. The "questionable attitude" of the victim is left to the discretion of the judge and can be interpreted in a narrow or broad sense. This concept which is determined by the judge is unique to Lebanese and Syrian law. The other relevant Arab jurisdictions do not provide for the questionable attitude. They are more precise, they require the act flagrante delicto.

The notion of "questionable attitude" has been greatly abused. For instance, a brother sees his sister with a teacher on the street. He kills her and claims the protection of a partial excuse on the grounds of a questionable attitude on the part of his sister. This questionable attitude should be interpreted in a restricted sense. Only an attitude that creates doubt about the occurrence of adultery or sexual relations, or more precisely, an attitude which indicates a sexual act has occurred or is about to occur, should be called questionable attitude.

A Comparative Analysis of Crimes of Honor

The Spanish penal code provides for a partial excuse for a husband who surprises his wife in an adulterous situation and kills her or causes serious injuries. In the case of less significant injury, he is totally exempted from punishment. These rules also apply to parents of women less than 23 years of age who live in the family household.

The Portuguese penal code reduces the punishment of the husband if he kills his wife or inflicts a degree of bodily harm covered by Portuguese statutes. He is, however, absolved of all punishment if these physical attacks are not serious in nature. These also apply to the parents of women less than 21 years of age and are still under parental supervision.

The Turkish penal law lessens the punishment of the husband, wife, son, daughter, grandmother, or grandfather for violations of the law under any circumstances.

The Italian penal code provided for partial excuse for the male member of the family in cases of homicide or personal injury for motives of honor. These measures, however, were struck down in 1979.

The French penal code provided an excuse for a husband, who murdered his wife or her lover at the moment he surprised them "flagrante delicto" in the family household. This measure was struck down in 1975 by the divorce reform laws.

The Excuse Discriminates Against Women

Who profits from the granting of an excuse? In reality, any direct male relative fulfills the legal requirements. The victim is always a female. In regard to a spouse, only a husband benefits from the possibility of an excuse. The term husband is used expressly in all legislation except the Lebanese and Syrian penal codes, which use the term spouse. But the intent of Syrian and Lebanese laws is that only the husband can benefit from the excuse.

Strategies and Legal Measures to Abrogate the Excuse of Crimes of Honor

In Lebanon, a committee of male and female jurists has been appointed to work towards abrogating the measures on crimes of honor. This committee made the necessary studies, conducted a large information program, proposed new laws, and presented their recommendations to the parliament and the government. The newly proposed legislation was adopted by a member of parliament, who passed it on to the Commission for Administration and Justice. The Commission held two hearings to which the committee was invited. However, efforts have been paralyzed by many events, notably the political and security situation in Lebanon. The abrogation of the legal text regarding crimes of honor is part of a larger understanding, started some time ago, to align national legislation with international standards, and the due protection of human rights.

EMPOWERMENT AND THE LAW

Strategies of Third World Women

Edited by Margaret Schuler



1990, International Literacy Year



The moment the United Nations declared 1990 as International Literacy Year, the international literacy movement began to consider how the year could strengthen the movement in every corner of the world. The U.N. plan of action is to "help member states in all regions to eradicate illiteracy by the year 2000". A UNESCO statement says that "International Literacy Year (ILY) should not be a 'celebration' but a summons to action". UNESCO will be encouraging action among member states and increasing public awareness and popular participation.

In this framework, the International Council For Adult Education (ICAE) initiated an International Task Force On Literacy (ITFL) to facilitate the involvement of primarily Non-Governmental Organizations (NGO) and the grassroots of the literacy movement in preparation for the year.

The Task Force envisions a year which will mark the beginning of a ten-year intensive effort to: dramatically reduce illiteracy in the world; mobilize resources from the grassroots and factory floors through governments and educational institutions; recognize that illiteracy is a problem of both industrialized and non-industrialized nations; not confuse a campaign against illiteracy with a campaign against illiterate people; link literacy to the achievements of social, economic and political democracy; strengthen the organizations of women, the poor, the jobless and the landless; result in

increased empowerment of people not increased dependency; and results most importantly in strengthened permanent structures for promoting literacy and adult education at governmental and non-governmental levels.

The Arab Regional Literacy Organization (ARLO)

The Arab world is not exempted from the efforts to combat illiteracy. For the years 1989 and 1990, the Arab Regional Literacy Organization (ARLO) has provided concerned bodies in Arab States with a practical guide on planning informational and promotional work in the field of Literacy and Adult Education. ARLO has produced a series of the Pan-Arab T.V. Literacy Program: "An el-Awan" ("It is high time") for all Arab States and a pilot series of a T.V. program for neo-literate women. These series are directed at literacy learners, the educated, policy-makers and the public in general.

Furthermore, beginning the year 1989 through 1991, ARLO plans to stimulate debate on **Cultural Literacy**. This Arab concept of literacy is based on the belief that "the real illiteracy is the illiteracy of society as a whole. Illiteracy is the result and cause of social development"¹. Thus, the plans of ARLO to promote cultural literacy will take place through:

- a symposium on the role of popular arts in the comprehensive confrontation of illiteracy;
- a panel of experts on the state of NGOs active in adult education;
- a seminar on the concepts of literacy and adult education;
- a workshop for educationally concerned media people on the mobilization of public opinion as a means of solving illiteracy problems;
- a field study to evaluate the practice of the comprehensive literacy campaigns;

ARLO guarantees an opportunity for participation in these events to any interested Arab literacy and adult education departments and NGOs.

Sources: Voices Rising: A Bulletin About Women and Popular Education, Vol. 4, No. 1, Jan/Feb. 1990.

¹**1990, International Literacy Year**, A Newsletter of the International Task Force On Literacy. This newsletter is available in English, French and Spanish free of charge by writing to ITFL Coordinating Office, 720 Bathurst St., Suite 500, Toronto, Ontario, Canada, M5S 2R4.

The Implications Of A Gender Perspective In Literacy

1990, International Literacy Year (ILY) presents an opportunity for reflection on the feminist challenge to literacy. It offers an opportunity for emphasizing literacy as one of the primary aspects of the emancipation of women in the world. The main relationship between the issue of literacy and women can be traced to the fact that the majority of illiterate people in the world is female.

The official estimate of illiterate women in the world is 561 million (UNESCO, 1988). In her paper, **Literacy: A Tool For Empowerment Of Women?** presented at a symposium on **Women And Literacy: Yesterday, Today And Tomorrow** in Stockholm June 1989, **Agneta Lind** reports that sixty percent of the world's approximately one billion illiterate people is female⁽¹⁾. Lind also reports that the proportion is steadily rising and that the greatest increase is in Asia (109 million between 1960 and 1985).

Arab female illiteracy is also substantially high. In their paper, **Trends In Women's Education And Employment In The Arab World**, **Byron Massialas** and **Jamileh Mikati** confirm this fact⁽²⁾. They present statistics which show the comparative rate of illiteracy by sexes between various Arab countries. Thus, female illiteracy is highest in the Yemen Arab Republic (YAR), Somalia, Morocco and Saudi Arabia. On the

other hand, it is lowest in Kuwait, Lebanon, Qatar and Jordan.

According to Massialas and Mikati, these countries attempt to combat illiteracy by employing non-formal educational means. For instance, the Yemen Arab Republic (YAR), initiated a National Literacy Campaign in 1982. However, in spite of efforts, only 20% of the participants were females. Iraq's mass literacy campaign initiated in 1976 was more successful and included 70.6% female participation. The importance of this program is that it employed a repertory of strategies such as broadcasting, peer pressure, legislation and the like to encourage women and men to participate in some 23,804 literacy centers. Another successful female literacy program was established in Bahrain in October 1985. The curriculum of this program consists of basic skills in reading, writing, arithmetics, sewing and handicrafts. In Lebanon, various programs to promote literacy, social awareness and improvement of the living conditions of war afflicted families are sponsored by International organizations (UNICEF, Save the Children Federation, Catholic Relief Services, Terre Des Hommes, Medecins Sans Frontières and the International and Lebanese Red Cross).

Faced with the fact that 80% to 90% of Arab Women are illiterate, the Institute for Women's Studies in the Arab World (IWSAW) in Beirut decided to meet the challenge by developing the "Basic Living Skills Program." This non-formal integrated program includes material on health, child care, home management, civic education, family planning, nutrition, environment and legal rights. The kit contains eight volumes of self-explanatory lessons written in simple Arabic and accompanied by audio-visual material in the form of colored slides and hundreds of illustrations. The BLSP has been well received by many different groups and proved to be successful. The next step is to develop simple reading materials based on available texts for new literates to read.

Rates of Illiteracy in the Arab States for Individuals Over 15 Years of Age by Sex

Country	Year	Total %	Males	Females
Algeria	1982	55.3	42.7	68.3
Egypt	1976	61.8	46.4	77.6
Libya	1973	61.0	38.7	85.2
Morocco	1971	78.6	66.4	90.2
Kuwait	1980	32.5	27.2	40.9
Lebanon*	1970	—	21.5	42.1
Qatar*	1981	48.9	48.8	49.1
Saudi Arabia	1980	75.4	65.5	87.8
Syria	1970	60.0	40.4	80.0
UAE	1975	46.5	41.6	61.9
Yemen	1980	91.4	82.4	98.5
Mauritania	1978	82.6	—	—
Somalia	1980	93.9	89.4	97.3
Tunisia	1980	53.5	38.9	67.7
PDRY	1973	72.9	52.3	92.1
Jordan	1979	34.6	19.9	49.5

*ages 10+

Source: Statistical Yearbook, UNESCO, 1984.

Source: Women and Economic Development in the Arab World. Institute for Women's Studies in the Arab World, Beirut, Lebanon 1988.

- 1) Agneta Lind, **Literacy: A Tool for Empowerment of Women?** Taken from **Voices Rising**. A Bulletin About Women and Popular Education, Volume 4, No. 1, January/February 1990, pp. 4-7.
- 2) Byron G. Massialas and Jamileh F. Mikati, **Trends in Women's Education And Employment In The Arab World**. Taken from **Women And Economic Development In The Arab World**. Coordinator: Dr. Julinda Abu Nasr and Irene Lorring, sponsored by **The Institute for Women's Studies in the Arab World**, Beirut University College, Beirut, Lebanon, 1988.

Divorce by LELLA ABOUZEID

Translated from the Arabic
by M. Salah-dine Hammoud

The emaciated young man was suffering long moments of uneasy anticipation; he did not join his colleagues in their usual chat about the issues of the hour. He tapped his pen against his desk, looked at his watch, threw the pen down, crossed his arms and laid his head on them. Finally he rose angrily and left the office. "He's supposed to receive word about his application for promotion," explained one of the men.

A moment later, the emaciated young man returned with a dejected look in his eyes. He sat down and remained at his desk until it was time for him to go home. He walked down the halls, the rhythm of his steps in time with his breathing.

Outside in the street he got on his motorcycle and drove off recklessly, disregarding all traffic signs. He overtook a car from the right and swerved across the road. Moving like an expert roller skater, he attempted to pass a bus from the left, but as the bus came to a turn it blocked his way. He applied his brakes forcefully and was immediately thrown off the motorcycle into the middle of the road. The oncoming car that he had passed a moment earlier came to a sharp stop, its tires shrieking. The young man was bruised and scratched. A hole was torn in the right knee of his trousers as though that spot in his trousers had melted in the air. A small crowd of pedestrians collected around him and the driver of the car scolded him. Someone in the crowd helped him to stand up and handed him his motorcycle. At that moment he was overwhelmed with distress. He walked along, pushing his motorcycle on the sidewalk, and broke into sobs.

At home, his wife brought him some cotton and an iodine solution. She went back to the next room to tend to the children. They clung together, motionless, as they did every time their father came home in a bad mood. He, however, went on rubbing the palm of his hand and his knee with the iodine-soaked cotton. The sting of the solution hurt and he clenched his lips and shut his eyes tightly. He did not utter a sound. He lay on a mattress on the bare floor and silence fell on what seemed to be an empty house.

He lay on his back like a corpse for some time. The evening darkness became more and more overwhelming until his brother walked in and turned on the light. He

looked at the injured man's leg and heaved a sigh of relief.

"So what was rumored to be a broken leg is no more than a few scratches on your knee!" he exclaimed. "People exaggerate so much they distort the truth. Why don't you sell that motorcycle?"

There was no reply. Staring into his brother's face, he was able to see how very depressed he was. He remained silent for a while, until his injured brother finally spoke out.

"Life is depressing," he said. "I'm at a loss."

"Why? Are you going to let a small traffic accident destroy you?"

"It has nothing to do with the accident."

"Then what is it?"

"Just life in general."

"And only now you discover that things are bad?"

This question angered the emaciated young man. The veins on his forehead swelled and he shouted, "Of course not! I learned that when Father abandoned us."

"There you go again, back to the same old story! We're brothers, after all, let's be reasonable. You grew up a long time ago and Father was done with his responsibilities for you then."

"Then why did I leave school? Why did I marry a woman whom I found abandoned in the street? I am a failure on every score."

"Did anyone force you?"

"Poverty forced me! You know that well but you pretend you don't."

Silence fell back onto the house until it was interrupted by the call for the evening prayer. The emaciated young man listened attentively, and his anger dissipated. As soon as the prayer call was over, he spoke more calmly and even affectionately to his brother.

"I remember," he said, "when it used to get so cold in our room at home that I would be unable to fall asleep. But at school in the classroom I would feel the warmth spread all over my body and I would be overcome by sleep. School," he went on as a sad smile appeared on his brother's lips, "what good is school when you're hungry? Do you realize how many times Father was married? Perhaps we'll never know the exact number. Men like him, who produce delinquents, are a curse on our society. They should be banned."

"Your bitterness is too intense," put in the brother.

With a dejected, angry look on his face, the emaciated young man went on recalling. "If it had not been for holidays, we would never have seen the man at all. Remember when he insisted I go and show him who my father was? It was just before the Eid-al-Adha and

Source: *Women and the Family in the Middle East*, edited by Elizabeth Warnock Fernca, Austin: University of Texas Press, 1985, pp. 84 - 87.

we were playing ball as he was bringing home the sacrificial sheep.” I kicked the ball hard and it struck him right in the nose. It couldn’t have been a better kick if I had tried to aim it at his face. He grabbed my shirt collar,” he went on with a nervous laugh, his voice shaking, “he squeezed my neck so tightly that I thought he was going to strangle me. I vividly remember him looking me in the eye and saying, ‘Take me to see your father, you evil omen. I am not letting go of him until I see the filthy dog who fathered him!’ he yelled to the men who rushed to my rescue. ‘They are doing such a fine job, littering this country’s streets with outlaws.’ He was humiliated, however, when he heard one of the men shout: ‘He’s your own son! Let go of him! You are going to kill him’”.

“You always go back to the past, every time we meet, don’t you?” commented his brother. “I think your mind is deteriorating.”

“The world is what’s deteriorating. What on earth is happening to it?”

The two brothers remained silent for a while and only the regular rhythm of their breathing could be heard.

Then the emaciated young man further recalled, with a smile on his face, “Do you remember the story of the bicycle? I had become so obsessed by the desire to own a bike that my mother, bless her soul, was worried about me. She sold everything that was worth anything to buy me that bicycle. I was ready to die of grief if she hadn’t bought it for me. Children’s happiness is so essential, isn’t it? And it can be destroyed by a number of things, one of which is divorce. I know that. It marks children with psychological scars that never fade.”

“Well, I can’t stay much longer. I have to be at work at six in the morning, as you know,” said the visiting brother, looking at his watch and becoming somewhat restless. He slammed the door as he left. Silence returned to the house, which once again seemed deserted.

The next morning, the emaciated young man woke up and began to shout.

“What a mess this shirt collar is!” he cried. “Is this the shirt that I am supposed to wear to the office? I suppose I should hire someone to press it! Or should I simply go and drown in the ocean?”

His wife stood as motionless as a suspect indicted for a crime. Her children came to her for protection, and right before their eyes their father rolled the shirt in his hand and threw it in her face. Her voice climbed over his, and she shouted back.

“Don’t you dare assault us anymore with your

frustrations over your own failure! Don’t make things any worse than they are! Don’t add your behavior to everything else — depriving us of food and clothing!... Do you suppose I’ve not spoken up for so long because I worry about your own well-being? Of course not! My forbearance has been strictly for the children’s sake. Otherwise, I’d be happier being somebody’s maid!”

“Ah, the children!” he said. “Don’t think they are going to save you.”

He was flabbergasted by her boldness and taken by surprise that she was as discontented as he was. He was indignant that she was insulting his life-style and the way he treated his family. And because he was humiliated he resolved to discipline her.

But, encouraged by her own rebelliousness, she responded to his threats with another curse that made matters worse.

“You’d rather throw these children into the street, wouldn’t you?” she yelled. “Exactly like your father did to you. A family tradition you want to keep, huh?”

“Go on, go on turning them against me,” he said. “I know your ways.”

He started toward the door in disarray, putting on his djellaba.

“You’ll hear from me!” he shouted as he reached the door.

He walked away and she followed, still shouting back, “Okay. Okay. Be sure you do your very best and go through with all your plans!” she cried after him.

He rushed out and went straight to the *‘adil’s* office where he found them just opening the office for business. One of the officials ushered him in and insisted that he take a seat, as though he suspected the emaciated young man might change his mind and walk out. The two *‘adils* sat down at their desks.

“You are here to request a divorce, my son?” one of them inquired.

The emaciated young man nodded. The *‘adils* prepared to write. “I need names, and the date and place of marriage,” he said, and added, “I suppose you know our fees are set.”

The emaciated young man sat there reflecting upon these words when the image of a gravedigger flashed through his mind. He was suddenly amazed by the fact that some people live on the calamities of others.

“Names, please, young man. Date and place,” the *‘adil* repeated. He wrote them down as they were given to him and read aloud what he was writing, as if he were dictating it all to himself.

When he finished the emaciated young man handed him a fifty-dirham note and departed.

Publication Received by IWSAW

Our Institute, IWSAW, has recently received a book on women and the law and politics in the Arab World.

The book, *Al-Mara' Wa Al-Tatawor Al-Siyasi Fi Al-Watan Al-Arabi* i.e. **Woman And Political Development In The Arab Nations**, includes a literature review and empirical study on the issue. Thus, it presents a historical and theoretical account of woman and political development in the Arab Nations in general. Then it reports the results of an empirical analysis of the role of woman in the political legislation of Iraq.

The aim of the inquiry and the author, **Manal Younes Abd-Al-Razaq Al-Alousi**, is to define, in a scientific way, the link between the Arab woman and political development. The emphasis is that woman is a **core variable** that affects and is affected by political development, and that her role is not merely an

outcome of this development. In addition to woman being a core and independent variable that prompts change; economic, political, cultural and social aspects of development are examined in the book.

The book is an important reference for researchers and scholars who are interested in women's issues. It may also be useful to decision-makers in politics and the law who are interested in gaining a scientific insight into various aspects of society, especially since woman is a primary element of society.

Manal Younes Abd-Al-Razaq Al-Alousi, *Al-Mara' Wa Al-Tatawor Al-Siyasi Fi Al-Watan Al Arabi: Dirasah Tatbiqiyah Li-Tahlil Al-Siyasa Al-Tashri'iyah Fi Al-Khibra Al-Iraqiyah*, Baghdad: Dar Al-Shou'oun Al-Thaqafiyah Al-'Ammah, 1989, 349 pages.

We thank the Iraqi Women's Federation for their generous gift and we are fortunate that the topic of the book, Women and Law and Politics coincides with this issue of *Al-Raida* dealing with the same topic.

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