

**Communitarian Constitutionalism in Lebanon:
Safeguarding Sectarianism at the Expense of Individual Civil and Human Rights**

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POL499: Senior Study in Political Science

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Dec. 16, 2022

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Abstract

As a central part of its governing structure, Lebanon's sectarian system has been assessed under many lenses in previous literature. What is missing, however, is a constitutional reflection on sectarianism under the broader theoretical lens of communitarianism. Employing Latham-Gambi's modern constitutional imaginary, this study frames sectarianism as a form of communitarian governance and analyses its implications on individual rights. The study begins with a review of the communitarian theory and how, when applied in constitutions, it is paradoxical to rights-based constitutionalism. Then, an inspection of Lebanon's historical background helps determine the stages in which communitarianism on the basis of sect gained legal legitimacy. Finally, the current constitution is examined in order to determine if the priorities of communitarianism have, as prior literature discussed, obstructed the individual civil and human rights of citizens. The paper concludes by verifying the thesis statement and considering opportunities for progress under the Lebanese legal system.

Keywords: communitarianism, sectarianism, constitutional law, modern constitutional imaginary, rights-based constitutionalism

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Introduction

The Lebanese constitution has experienced various milestones in its evolution. Every major change in the state document arrived at a significant turning point in the country's history, the most recent being the end of the 1975-1990 Civil War. Interestingly, sectarian power-sharing has been prevalent in every one of the major developments of the constitution. In fact, most changes in Lebanon's form of government since the mid-nineteenth century have not simply included sectarianism but have come as a reaction to sectarian conflict. Lebanese populations have since not known a government system which did not function according to sectarian partitioning.

Today, Lebanon stands at a considerable point in its history. In October of 2019, uprisings were ignited across the country in protest of the deteriorating socioeconomic conditions. The revolutionary discourse was not homogenous, and protests against the standards of living were not always associated with an anti-sectarian rhetoric. Still, these protests gave activists and scholars a new opportunity to advocate for the abolition of the sectarian system, and large audiences were invested in anti-sectarian rhetoric. The significance of the Lebanese protests is often contested by many, including those who took part in them, but they undeniably introduced a new wave of activism against sectarianism in Lebanon (LCPS, 2017).

The current political system of Lebanon is characterized by sectarian power-sharing. Lebanon's experience with communitarianism has been a dominant discussion point in scholarly works on the country's politics, primarily because sectarianism has often been detrimental to the ability of citizens to experience their fully-realized human and civil rights. In order to properly

grasp this concept, it is most beneficial to refer to the state's constitution. Constitutional law is central to the culture and order of a society; acting as a literal social contract, it organises the population and both empowers and restrains the citizens. Therefore, examining the Lebanese constitution's approach to communitarianism and individual rights is of great importance at such a significant landmark in Lebanese history. This study will demonstrate that the Lebanese Constitution was enacted with the priority of protecting sectarian group rights, and this reality has obstructed the civil rights of women and the education rights of the population. In order to achieve this, a few questions must be addressed.

What is communitarianism and how does it appear in constitutions? How has sectarianism appeared in different forms of government in Lebanon across history? And, to what extent and in which ways do provisions of the Lebanese constitution prioritize sectarian power sharing at the expense of individual human and civil rights? In order to respond to these questions and verify the thesis statement, the first two chapters of the study will discuss the meaning of communitarianism and its relationship with rights-based constitutionalism. Then, the third chapter will explore the historical background which has yielded a Lebanese constitution which features sectarian elements. Finally, the fourth chapter will entail a qualitative analysis of three articles in the Lebanese constitution by understanding their meanings and examining their consequences.

The objective of this study is to determine the impact that communitarian constitutionalism has on the individual rights of Lebanese citizens. The paper aims at explaining the codification of sectarianism into Lebanese governments throughout history. It will also identify the articles in the Lebanese constitution that organize society along sectarian lines. Most

importantly, the study aims at demonstrating how these laws have hindered individual human rights in Lebanon.

In order to highlight how the sectarian nature of the Lebanese Constitution has obstructed the development of human and civil rights of citizens, the primary source will be the constitution itself. While a qualitative content analysis will be conducted on the parts of the constitution which specifically discuss sectarian rights, the analysis will not include articles or customs pertaining to the distribution of sectarian representation in the institutions of government. Therefore, the study will be limited in its analysis of individual rights, for it will encompass only civil and human rights, excluding political rights. The inclusion of political rights would require an elaborate analysis of the relationship between democracy and individual rights, which is beyond the scope of this research paper. This qualitative analysis process will examine the meaning of the law presented and then rely on secondary sources to outline the implications of the laws on individual human rights. The sections are as follows: Part One: Fundamental Provisions – Chapter Two; Part Two: Powers – Chapter One: General Provisions, Article 19; Part One: Fundamental Provisions – Chapter Two: Lebanese Rights and Duties, Article 10.

Theoretical Framework

While constitutions are today considered a linchpin of liberal democracy, their evolution across history has included legal and codified segregation and discrimination. The world's constitutions are in constant progress, but constitutionalism has often served illiberal governments which restricted individual human rights. Professor Jack Balkin (2011) developed a “constitutional imaginary” which entails all the values and processes of constitutional law across time. Acting as a web that encompasses all the features of constitutionalism, the constitutional imaginary recognises the historical discrimination against different peoples in history while also

capturing modern values and practices of constitutional law. Put simply, the constitutional imaginary is an analysis of all of the meanings and political interactions that guide constitutional theory (Latham-Gambi, 2021). If through the social imaginary, the norms, behaviours, and values of society across time are brought together into understanding, then the constitutional imaginary applies the same logic to the scope of constitutionalism rather than societies.

Alternatively, scholar Alexander Latham-Gambi established the “modern constitutional imaginary” (Latham-Gambi, 2021), which acts as a medium for the constitutional meanings and political practices of modern constitutional democracies. This theory applies the logic of Balkin’s constitutional imaginary onto liberal democracies.

In this paper, I will employ Latham-Gambi’s modern constitutional imaginary to guide literature on constitutional law. In a separate essay, Latham-Gambi presents the features and “common vantage points” (2020) of the modern constitutional imaginary. Accordingly, one can make the following conclusion: if the constitutional imaginary is built on common ideals of liberal democracy, then these same ideals serve as the functions of a constitution. These ideals include the notion of representative democracy and the conceptualisation of society as a *public* which engages in “public debate” and bears “public opinion” (Latham-Gambi, 2020). However, two common features are most relevant to the study at hand: the protection of individual rights and the establishment of social and political order.

Chapter 1. Defining Communitarianism and Sectarianism

Communitarianism is a philosophical and political movement which sees the preservation of the community as an integral component of good governance and citizenship. This movement is rooted in the rejection of individualism and the potential of an individualist society to create authoritarian regimes (Tam, 1998). This school of thought has been employed to explain legal

and political approaches for the organisation of populations along demographic lines. In the area of constitutional law, the term has been used loosely to refer to the organisation of ethnic, racial, linguistic, and religious communities (Brugger, 2004; Etzioni, 2014; McGarry & O’Leary, 2007; Salamey, 2017). Ultimately, literature on the communitarian school of thought is relatively scarce, and the term has been used fluidly to describe the context it is employed in (Etzioni, 2014).

Through the lens of German constitutionalism, communitarianism may either consider citizenship or religion to be the guiding variable of social groups (Brugger, 2004). Alternatively, the Iraqi constitution achieves communitarianism on the basis of both sectarian and ethnic lines (McGarry & O’Leary, 2007). Another view of communitarianism presented by Breslin (2004) sees it as contradictory to liberal democracy in the sense that the communities are the constituents of political representatives. From such a viewpoint, politicians are torn between upholding the constitutional values of liberal democracy and the needs of their communities. Regardless of what the “community” in question refers to, all forms of communitarianism are characterized by the notion of affiliation, association in factions, and the potential for common relationships. These factions are driven by the purpose of self-preservation, but they must also be conscious that they are situated in a pluralist society. Accordingly, communities must preserve their individual members’ rights while also contributing to their social environments (Brugger, 2004).

Communitarians are strongly defined by their sense of identity. In contrast to the liberal view, communitarianism does not see the individual as capable of constructing an understanding of the self which is independent of the social groups to which they belong. Unlike in Western constitutions which “define the basic unit of society as the individualized citizen” (Joseph, 2010,

p. 13), Arab states see the family as the basic unit of society. Consequently, citizens must entrench themselves in families and other subnational communities (Joseph, 2010).

If communitarianism places the protection of social groups at the forefront of its agenda, then sectarianism is the religious manifestation of this approach. A guiding feature of Lebanese political history, the phenomenon of sectarianism has been analysed from many lenses. The topic has been researched by sociologists, legal scholars, and political scientists, all in attempts to understand the reason for its constant prevalence in the country. Weiss (2009) divided the literature on sectarianism in Lebanon into two main categories. The first category of scholarly work sees sectarianism as an organic occurrence of the population which eventually translated into Lebanon's governments and constitutions. The second category regards sectarianism as a model of governance, which was externally imposed by colonial and imperial powers. Ultimately, the discourse on sectarianism must consider that the establishment and maintenance of such a structural system cannot be attributed to only one force at a singular point in history. In fact, it has been sustained through consistent practice and support by different local and foreign leaders, as will be made apparent in the following section of this study.

The most effective and consistent tool for the evaluation of sectarianism in Lebanon is the constitution. Constitutional law is the highest form of public law in a state. It manages the relationships between the state and the citizens on one end, and the relationships between the branches of government on the other. A constitution establishes the values and goals of a state and accompanies them with the guaranteed rights of citizens and their duties towards the state. The government is empowered when its powers are outlined, but it is also limited when the boundaries of its jurisdiction are clearly defined. Consequently, the constitution acts as a roadmap for the political and social organization of any given country. Communitarian

constitutions illustrate which parts of the government and society are structured along communitarian lines. Alternatively, rights-based constitutionalism would sacrifice the conservation of factions for the purpose of empowering the individual citizen. The two forms of constitutionalism are, arguably, mutually exclusive.

Chapter 2. Rights-Based Constitutionalism and Communitarian Constitutionalism

From the modern constitutional imaginary, two main features are relied on throughout this study. The first ideal is the protection of the individual rights of citizens; this is the pillar of rights-based constitutionalism. The second ideal is the notion of social and political order provided by law; a constitution offers citizens the opportunity to live their daily lives with a sense of predictability and the absence of disrupted expectations (Latham-Gambi, 2020). This study will employ these two common denominators to guide the literature on communitarian and rights-based constitutionalism.

The first feature of the modern constitutional imaginary is universally present in constitutions. An empirical study on the global trends of constitutionalism over the last sixty or so years revealed that rights-based constitutionalism has been at the forefront, as states adopt international human rights norms. This spread of rights-based constitutionalism has manifested in two phenomena that Law and Versteeg (2011) refer to as “rights creep” and “generic rights constitutionalism.” The former concept refers to more articles on individual rights appearing in constitutions and the latter to the commonality of rights appearing in more of these state documents. A successful case of rights-based constitutionalism is built on many pillars, starting with national bills of rights, and extending to the integration of international law into national legislation. As a subset of rights-based constitutionalism, the “theory of dual control” explains how both domestic and international laws must interact for the purpose of the public good

(Dávila et al., 2022). While this approach to constitutionalism has been increasingly internationalised, its successful implementation has not been consistent across all states. A critique of the approach identified the inconsistency between constitutional rights and their implementation, alongside the challenge of creating a balance between individual rights and social and public order (Khilnani, 2009).

The second feature of the modern constitutional imaginary is the maintenance of public order. In the case of communitarianism, group rights are pushed to the forefront and individual rights tend to be compromised. The rationale behind this may be linked to irredentism or fear of persecution. Brugger (2004) identifies communitarianism as an approach to assist social groups in their achievement of self-determination. Similarly, Salamey (2017) attributes communitarianism in the Arab world to irredentist ideologies. For him, the strive for self-determination and the fear of persecution are common denominators across communities. These tensions and ambitions which build communitarian societies tend to push for the protection of group rights. As a result, regardless of the demographic feature in communitarianism, there will always be implications on individual rights. In the case of the German constitution, for instance, Brugger notes that communitarianism on the basis of citizenship affects freedom of assembly and movement and even the labour rights of non-citizens (2004).

Alsarghali (2020) identified three methods in enacting a constitution in a sectarian society. The first would require some form of collaboration among all sects so that all parties may be involved in the process. The second method involves allowing one community to hoard the most power in the constitution; this community is typically the largest demographically. The third, which acts as a form of middle ground, is a power-sharing agreement among all sects in

government regarding political representation in government institutions. The Lebanese constitution, dating back to the first enactment in 1926, corresponds to the third method.

In the case of the Lebanese constitution, sectarian communitarianism supersedes rights-based constitutionalism. A heterogeneous society cannot achieve social predictability and public order if it 1) sacrifices individual rights for group rights, and 2) does not allow for the dual presence of both national laws and the “international human rights regime” (Rosenfeld, 2008). Even Lijphart, the leading scholar on consociational democracy, identified safeguarding individual civil rights as a major challenge for constitution writers (2004). In short, even when considering a communitarian approach to constitutionalism, the emphasis on individual rights is still imperative, and this is where the Lebanese constitution falls short.

Chapter 3. Lebanon’s Communitarian History

Lebanese sectarianism has been institutionalised at many points throughout the country’s history. Every new system of government entailed a power sharing component, until communitarianism was used as a framework for the division of powers in the constitution in 1926. One of the earliest institutions to govern Lebanon was the *Qa’im maqamiya*. From 1843 to 1860, each district was appointed a governor titled the *Qa’im maqam* (a Druze emir for the southern district and a Christian emir for the northern district), and each *Qa’im maqam* was assisted by two *Wakils*, a Christian and Druze (Traboulsi, 2012). This is one of the earliest institutional traces of a power sharing system, but it was not codified under a written constitution since it was built upon the foundations of the Ottoman Millet system. The *Qa’im maqamiya*, and the government systems that followed, provided each community (in the case of Lebanon, each sect) with autonomy in its control over personal affairs (Crow, 1962).

The sectarian power dynamics that preceded the *Qa'im maqamiya* emerged from each community's claim to ownership over the Mount Lebanon. On the one hand, the Maronites claimed that they were the earliest population of the Mountain who had welcomed the Druze upon their persecution from Egypt. On the other hand, the Druze were recovering from an era of dominance over Mount Lebanon such that it had been referred to as the "Druze Mountain". Under the *Qa'im maqamiya*, the southern district was still largely populated by Christians, which incited the Maronite leaders to demand authority over the Christian population. Ultimately, the Ottomans had imposed an egalitarian power sharing agreement on an area of disproportional sectarian distribution, which, in turn, meant disproportional representation for the Maronites and Druze (disproportional in that it was inconsistent with the demography of Mount Lebanon). Consequently, conflicts between the Maronites and the Druze began to arise in the South of Mount Lebanon (Traboulsi, 2012).

In 1860, the Maronites and the Druze entered a Civil War. The solution arrived in the form of a new power-sharing system: the *Mutasarrifiya* government of 1861. The *Mutasarrifiya* succeeded in improving upon the weakness of the *Qa'im maqamiya* by ensuring proportional representation for the different communities (Weiss, 2009). A Christian governor acted as the *Mutasarrif*, but he was a non-Lebanese Ottoman. Under his authority, the local population was represented through a multi-sectarian executive authority referred to as the Administrative Council (Salem, 1998). The *Mutasarrifiya* operated until the end of Ottoman rule in Lebanon and the instatement of the French mandate. Lebanese borders were then broadened as a result of French and British partitioning of former Ottoman colonies during the Sykes-Picot agreement (to the dissatisfaction of many Sunni leaders), and a new form of government was to dominate the country (El-Khazen, 1991). A French governor would have direct rule over Greater Lebanon,

and the local population was once again represented along sectarian lines in the Administrative Commission. This commission was initially established with disproportional representation in favour of the Christian population. However, after it faced Muslim resistance in the form of a mass boycott, the member count of the commission was increased in order to accommodate larger Muslim representation (Traboulsi, 2012). Eventually, Lebanese sectarianism was granted constitutional significance in the 1926 Constitution, as enacted by French, Christian, and reluctant Sunni-Muslim representation (Farha, 2017). Under the 1926 constitution, religious authorities acquired jurisdiction over personal status, and positions in the government and the public administration were distributed along sectarian lines.

The 1943 independence from the French mandate further consolidated the sectarian distribution of power in the country. The National Pact was an unwritten agreement between Riad El Solh and Bechara El Khoury that recognised Lebanon's independent Arab identity and reemphasised confessional power sharing. Under the new constitution, it was agreed that the presidential position was to be held by a Maronite Christian, the Prime Minister was to be a Sunni Muslim, and the Speaker of Parliament a Shi'ite Muslim. A controversial turning point in the country's history, the agreement came as a reaction to the French Mandate and a practical way to transition into independence, acting as a "communal approach to *realpolitik*" (El-Khazen, 1991). Ultimately, the agreement's power sharing agenda was a catalyst to facilitate the country's path out of the mandate. The consequent 1943 constitution did not make any changes to the sectarian structure of the 1926 document; it only reinforced Lebanon's national identity and granted equality among all Lebanese citizens.

The Lebanese Civil War ensued from 1975 to 1990. The start of the war has been attributed to two major events in Ain Remene, Beirut: a drive-by shooting on a church where

members of the Kataeb party was having a mass, and the shooting of a Palestinian bus passing through the area. Of course, many incidents preceded these, such as the presence of the Palestinian Liberation Organisation after the Black September, the Cairo Agreement of 1969, and the clashes with the Lebanese Army in 1973 (Chamie, 1976; Hudson, 1978; Mohti, 2010).

As the war was wrapped up with the Taif Accord, sectarianism became entrenched in the new Lebanese constitution of 1990. The agreements in the Taif Accord were to be implemented in the new Lebanese constitution (Karam, 2012). For example, formerly, government and parliamentary representation had been built on a 6:5 ratio between Christian representatives and Muslim representatives respectively. But the Taif had shifted this ratio to an equal 1:1 (Salem, 1998). According to the Taif, sectarianism was meant to represent a transitional period for the country, but the agreement was never fully implemented. Thus, the 1943 constitution was amended accordingly, and it is the final document that this paper will be analysing, including minor amendments since.

Chapter 4. Analysis of the Constitution

The preamble of the Lebanese constitution states that “Lebanon is also a founding and active member of the United Nations Organization and abides by its covenants and by the Universal Declaration of Human Rights. The Government shall embody these principles in all fields and areas without exception” (Lebanese Constitution, Preamble, 2004). It also states that “Lebanon is a parliamentary democratic republic based on respect for public liberties, especially the freedom of opinion and belief, and respect for social justice and equality of rights and duties among all citizens without discrimination” (Lebanese Constitution, Preamble, 2004). Therefore, Lebanon proves to fall in line with the global trend of rights-based constitutionalism. In spite of these remarks, the articles analysed below do not help ensure the equality of all Lebanese

citizens. In fact, they are laws which benefit the elites of the sectarian communities while neglecting the individual civil and human rights of the citizens.

It is necessary to classify the Lebanese constitution before conducting a qualitative analysis of its provisions. The Lebanese constitution is a written constitution which outlines a unitary government with a parliamentary system where elections occur every four years. It describes a political system which reflects the principle of the separation of powers rather than a system where power is centralised into one branch or governing body. The branches of government function in a coordinated manner, with their powers dictated in Part Two of the state document. Since Lebanon's constitution is written, this paper will analyse individual articles that grant Lebanon's religious communities control over civil and political freedoms.

Part One: Fundamental Provisions – Chapter Two: Lebanese Rights and Duties, Article 9

There shall be absolute freedom of conscience. The state in rendering homage to the God Almighty shall respect all religions and creeds and shall guarantee, under its protection the free exercise of all religious rites provided that 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 (Lebanese Constitution, Art 9, 2004).

The article introduces the Lebanese citizens' freedom of conscience and places all personal status laws under the authority of religious sects. Consequently, the Lebanese state has the highest number of personal status laws in the world, with fifteen different categories allowing religious courts exclusive legal authority. While these laws differ according to sect, they all commonly distinguish between "man", "woman", "adult", and "minor". Accordingly, the status of citizens relating to divorce, marriage, child custody, and inheritance are in the hands of

religious clergymen. There is no civil law in Lebanon that governs personal status affairs (UNDP et al., 2018); therefore, there have been cases in which citizens have legally registered under different sects to belong to those which most benefit them rather than the ones which they spiritually subscribe to. Mikdashi (2014) notes that there is a distinction between the personal status (*maddhab*) of a citizen and their sect (*tai'fa*); she stresses that the former refers to a state tool that determines the legal status of an individual. Thus, the *maddhab* is subject to manipulation so that one may obtain certain benefits or evade particular duties. Referring back to the definition of communitarianism in the first chapter of this study, this distinction between *maddhab* and *tai'fa* puts the notion of affiliation and the association in factions – two characteristics of communitarianism – into conflict with one another, since association no longer reflects spiritual belonging. Throughout Lebanese history, members of the political class have regularly moved through personal status, with examples including Emir Bashir and Walid Jumblatt, the latter of whom subscribed to Sunni Islam in order to marry a Sunni woman (Mikdashi, 2014). “Patterns of conversion” through personal statuses expose the unequal standing of the citizens; Catholic men may change their personal status to Islam in order to enjoy the marriage rights granted to Sunni and Shi'ite men, and men and women alike convert from Sunni Islam to Shi'a Islam to allow their daughters to earn more inheritance (Mikdashi, 2014).

Ultimately, the inequalities in these laws affect women the most, as they stand at the receiving end of religious patriarchal views of marriage. These courts follow religious law, which is legally legitimised by Article 9, despite the fact that these sectarian laws come in contradiction to the provision on citizens' equality present in the preamble. Sunni and Shia husbands can call for a divorce at any point on their own terms, but Muslim women face several barriers in such an affair. Sunni women can seldom pursue divorce without their husbands'

approval, and a prominent Sunni court even said that women's menstrual cycles prevent them from making sensible judgments. Alternatively, the Maronite church permits divorce to be initiated by either spouse, but it does not believe in violating the sacredness of marriage; therefore, it imposes a lengthy and expensive divorce process. Maronite couples looking to get divorced must then persuade the court's priest that they can no longer uphold the sanctity of marriage, and domestic violence and adultery are seldom considered substantial causes for marriage among the church (Salamey, 2014). Additionally, the age of marriage is lower for women across all personal statuses than it is for men. Women from non-Christian groups inherit less than their male counterparts. Due to the unequally predominate social and economic structure, divorce is prohibited in Catholic sects, which ultimately benefits men over women. Since the husband typically manages the household finances in Lebanon, women are not financially compensated for their caregiving responsibilities. As a result, women who are divorcing face far greater financial challenges and are not provided with substantial financial support. Across all fifteen personal status laws, there are few or no requirements for spousal maintenance during and after divorce (Salamey, 2014). Human Rights Watch (2015) conducted an analysis of a number of divorce trials in Lebanon and concluded that judges are frequently subjective and unfair. Men are not required to give adequate financial remuneration, frequently leaving women with less than the bare necessities for food and basic household expenses. These court decisions are not based on quantitative and objective factors such as the husband's salary or property. Specifically in Muslim sects, a *mahr* – a quantity for financial compensation upon divorce or death – is determined upon marriage by the husband in the marriage contract. This is the highest amount a woman can earn from a trial, and it may be deferred by the husband. Should

the judge consider the wife to be blamed for the divorce, the *mahr* is reduced (Human Rights Watch, 2015).

Even in practice, women struggle in court processes. Human Rights Watch (2020) spoke with many women who tried to pursue divorce under their personal status laws, but said they were prevented from accessing religious courts to enforce their rights. This was due to a variety of procedural challenges, including high costs to lawyers and to the courts which are not guaranteed to be returned after the verdict, drawn-out cases which require several sessions and consultations (increasing the financial burden), and a lack of “legal and material support” (Human Rights Watch, 2020).

Because of Lebanon’s reservations when ratifying Convention on the Elimination of All Forms of Discrimination Against Women, the state’s discrimination against women has been regarded as systematic and consistent. Lebanon did not address Article 16 Section 1 (c, d, f, and g) after ratifying the Convention on the Elimination of All Forms of Discrimination Against Women in 1997 because of its unconstitutionality. The government rejected the article because the subsections' discussion of abolishing discrimination in the domains of marriage and family would have gone against Article 9 on Freedom of Conscience and Personal Status Laws (UN CEDAW, 2015).

Part One: Fundamental Provisions – Chapter Two: Lebanese Rights and Duties, Article 10

Education shall be free insofar as it is not contrary to public order and morals and does not affect the dignity of any of the religions or sects. There shall be no violation of the right of religious communities to have their own schools provided they follow the general rules issued by the state regulating public instruction (Lebanese Constitution, Art 10, 2004).

This law allows religious authorities to have a large degree of autonomy in the education of their communities. This autonomy is not specific to religious education but extends to civic and history educational curricula. This section will elaborate on the implications of sectarian education and religious socialisation by focusing on educational curricula under sectarian authority and the educational institutions of different communities. Religious control over education presents a long-term threat to the civic engagement and political awareness of the population.

Over 60% of Lebanon's private schools are managed by confessional institutions (Kriener, 2018). According to sociological theory, the school is the first formal institution where most children's socialization is initiated. As argued by both Montesquieu and Smith, the existence of educational institutions within a free market and with the presence of restrained government authority has shown to be essential for the growth and progress of the youth (Glaeser et al., 2007). By its very nature, education empowers students and equips them with the tools to participate in political and civic life. In particular, peace and human rights education are crucial steps in ensuring that citizens comprehend democracy and its mechanisms as well as in fostering civic virtues of citizenship among a generation as a whole (Shuayb, 2015). Therefore, if education is integral to political socialisation, students can be socialised at a very young age to either critically assess their political environments or submit to authoritarian practices. What is most integral to an understanding of citizenship is one's assessment of their own rights and duties, as well as their relationship with the state. Hence, citizenship is a key to learn how to advocate for individual civil and human rights. Consequently, students who are knowledgeable and critically-minded pose a significant threat to a regime's established order. The commitment of Arab nations to producing independent and critical thinkers has been consistently low due to

self-preservation concerns being the main priorities of regimes (Faour & Muasher, 2011), and Lebanon has proven to be no exception.

When religious institutions take control over educational curricula and promote religious education, children are subjected to religious socialisation as a substitute to the political and civic socialisation priorly discussed. The educational programmes of religious institutions are designed by sectarian experts who face no interference from the Lebanese Ministry of Education. Thus, a 2018 content analysis of the textbooks used in different religious schools across Lebanon verified that education in religious schools promotes religious belonging as a priority over civic belonging. None of the books instruct readers on the relationships that sectarian communities in Lebanon have with one another and with the Lebanese population as a whole. Further, the political organisation of a multi-sectarian Lebanese society is a generally neglected topic in both religious textbooks and civic and history education. Religious curricula have also highlighted secularism as maintaining a strictly anti-religious agenda rather than entertaining the possibility of a tolerant secular society (Kriener, 2018). There are ultimately no state policies which fight the religious socialisation and sectarian polarisation present in these educational curricula (Fontana, 2016).

Aside from religious and civic education, history textbooks do not address the 1975-1990 civil war in Lebanon. With the complete elimination of one of the most significant historical events, history instruction in Lebanon ends in 1943 (Akar, 2019). Throughout the war, religious socialisation was at a peak, and has been credited to be a major systemic driver of the war (Fontana, 2016). The goal of history education in anomie-ridden societies is to help post-civil war nations come together as one, yet in Lebanon, this is the exact reverse of what has happened. Based on the above research, today's societal unrest in Lebanon can therefore be attributed to the

autonomy of religious education and the absence of a single historical narrative and civic educational curriculum (Akar, 2019). The Lebanese population lacks a national narrative which is consistent across the country regardless of sect (Abouchedid & Nasser, 2000). Accordingly, national integration – which is typically strengthened by history education – is weakened in confessional schools. Instead, it is substituted by the notion of affiliation which defines communitarianism (see Chapter 1). Sectarian narratives – and consequently, sectarian belonging – are consistently reproduced and strengthened through the educational system (Yoder, 2015).

On a macro level, a study on primary and secondary educational institutions across Lebanon demonstrated that different regions witnessed unequal rates of educational development. Christian areas, and thus their students, experienced more favourable education conditions overall (Diab et al., 2009). Christian schools of relatively higher educational calibre, however, tend to admit Muslim students. Whether or not Muslim students must practice the confessional education offered depends on the institution (Kriener, 2018). In terms of Muslim schools' development, there has been rapid progress among Shi'ite communities in the South of Lebanon after the 1975-1990 civil war. Still, the main drivers which contribute the state of unequal regional education emerge from social and political conditions rooted in the country's history, and they were subsequently strengthened after the civil war (Diab et al., 2009). Such inequalities cannot be reduced if education is in the hands of confessional elites.

Part Two: Powers – Chapter One: General Provisions, Article 19

A Constitutional Council shall be established to supervise the constitutionality of laws and to arbitrate conflicts that arise from parliamentary and presidential elections. ... The officially recognized heads of religious communities have the right to refer to this

Council laws relating to personal status, the freedom of belief and religious practice, and the freedom of religious education (Lebanese Constitution, Art 19, 2004).

According to this article of the constitution, any law enacted by the parliament may be appealed by the Constitutional Council at the request of religious leaders if the law relates to their legal jurisdiction. This article safeguards the religious control over both personal status laws and educational curricula. As such, past efforts to enact a civil marriage law in Lebanon have been consistently ceased across recent history as a result of Article 19. Such efforts include the initiative by Elias Hrawi in 1998 during his term as president, and in 2016 by the Beirut Bar Association (Yan, 2019). This right was also employed by religious leaders in 1997 to halt an initiative to produce a unified civic education curriculum by the Center for Pedagogical Research and Development (Kriener, 2018).

Conclusion

Ultimately, communitarian governance has been a part of Lebanon's history dating back to the Ottoman Millet system of the mid-nineteenth century. It has been consistently maintained by local and foreign powers who have seen considerable benefits in prioritising social order and stability. The aim of this study was to demonstrate that the priorities of the Lebanese constitution are sectarian power sharing rather than the provision of individual civil and human rights. The four chapters of this paper verified this statement as true. Scholarly work conducted in political science and constitutional law has argued, with reference to different communitarian systems, that communitarian constitutionalism is incompatible with rights-based constitutionalism. After presenting the theoretical component of this debate, this study practically inspected the history of Lebanon's codification of the communitarian system, and then analysed the Lebanese constitution. Articles 9, 10, and 19 all grant the priority in state policy to the confessional

communities rather than individual citizens. This system of government has proven to be successful in ensuring the stability and predictability of both the social and political order, which is one of the common vantage points in Alexander Latham-Gambi's modern constitutional imaginary. However, it has failed in maintaining a population's individual citizens with their fully realised human and civil rights.

Article 9 of the Lebanese constitution addresses the right to freedom of conscience. Indeed, such a freedom is guaranteed, and it is ensured to the extent that the personal status laws of the population are under the authority of communitarian sects. This yields favourable results for the survival of the community, but ultimately harms the Lebanese individual. Personal status laws include all matters of marriage and divorce, child custody, and inheritance. In contradiction to the guarantee of equal access to rights declared in the preamble of the constitution, different sects treat their communities differently in these matters, and all legally recognised sects treat men and women unequally. In the case of divorce, this materialises in financial obstacles for women, a loss of autonomy in determining marital status, and unfair verdicts which do not reflect the state of the case. There has also been a subsequent movement by Lebanese individuals through the legally recognised sects as they attempt to subscribe to the personal status which most benefits them. This article of the constitution is relevant to the definition of communitarianism present in Chapter 1 of this study, as it ensures the representation of all communities along sectarian lines and includes the idea of affiliation. However, the distinction between the *maddhab* of a citizen and their *tai'fa* which is made by Mikdashi (2014) brings into conflict the notion of belonging with sectarian association, another feature of communitarianism. As a result of this law, association to a sect no longer reflects belief or belonging, rather

association for the attainment of the most favourable individual rights. Therefore, these sects are represented legally as personal statuses rather than religious communities.

Another provision in the Lebanese legal system which serves a communitarian purpose is Article 10 of the constitution. Under this law, religious communities have the complete uninterrupted right to establish schools and educational curricula. Lebanese communities are therefore educated through civic education and religious curricula which fail to serve a purpose of national integration, civic awareness, or rights and peace education. Instead, these curricula build on the momentum of the 1975-1990 Lebanese civil war in order to further polarise sectarian communities. In reference to the definition of communitarianism, communitarian affiliation and belonging is consistently reproduced through the Lebanese education system. Further, the potential for common relationships on the basis of a shared culture increases when communities are taught the same historical perspective and religious culture. Therefore, the school as a primary agent of socialisation tends to favour religious socialisation which fragments and polarises the Lebanese population over political socialisation which enhances their understanding of citizenship, human rights, and peace. The state, in turn, and more particularly the Ministry of Education, has no legal mechanisms to interfere with religious education.

Finally, Article 19 of the Lebanese constitution safeguards the communities' control over personal status and education. This provision ensures the sustainability of the sectarian system in Lebanon and exposes that the priorities in place at the time of drafting the constitution were to maintain the survival of a communitarian system. This priority falls in line with the historical background of the country, in which groups from both the local population and external powers insisted on keeping in place a communitarian system which would allow Lebanon's religious pluralist society to exist without conflict.

Ultimately, communitarianism initially emerged as a movement which opted to protect individual rights. The increased individuality of societies led to concerns among communitarians that this would create a social climate which is highly susceptible to authoritarianism. However, in modern democracies, the communitarian system serves the opposite purpose. While it helps ensure the stability of the social order, it also fragments the population and produces a self-serving system at the expense of individual rights. What is most essential to citizenship is one's understanding of their rights and duties and the balance which must exist between them. Under the Lebanese constitution, there is no room for this political socialisation. Religious authorities take control over the educational curricula and the personal status affairs of their communities. Therefore, Lebanese citizens, and particularly women, must face compromised civil rights in marriage, divorce, custody, and inheritance. Moreover, all citizens must witness a compromised human right to education for the purpose of sectarian reproduction. This leaves Lebanese citizens unequal under the law in the attainment of their fully realised rights. Ultimately, the rigid state of the Lebanese constitution means that amendments are not easily applied. Articles 9 and 10 are not only protected by a lengthy and highly bureaucratic legal amendment process, but they are also safeguarded by Article 19. The absence of centralised reforms regarding personal status laws and educational curricula means that progress with regards to civil and human rights will never be homogenous. The state does not prohibit individual courts or schools from modernising, but the rights of citizens will not be safeguarded by the constitution. Therefore, even in its hope for progress, the Lebanese population cannot see a unified future, and the fight for individual rights fall in the hands of sectarian communities.

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