Bibliographical Essay

Below is a bibliographical essay prepared by Chibli Mallat proposing major references on the Lebanese legal system.

General

For a survey of Lebanese legal developments in English, the reader can consult my "Country Survey: Lebanon," in E. Cotran and C. Mallat (eds.), *Yearbook of Islamic and Middle Eastern Law, 1995,* London, Boston and the Hague, 1996, pp. 163-182; "Country Survey: Lebanon," *Yearbook of Islamic and Middle Eastern Law, 1994*, London, Boston and the Hague, 1995, pp. 204-224. The latter has also appeared in Arabic in the Arabic-language daily *al-Hayat.* In French, see the chronicles of Professor Ibrahim Najjar in the *Revue Trimestrielle de Droit Civil.*

Official sources and statutory compilations

The *Official Gazette* (*al-Jarida al-Rasmiyya*), which is now in its 137th year, is the main source for all decrees and legislation. It is divided into two parts. The first part comprises the laws (*qawanin*), decree-laws (*al-marasim al-ishtira'iyya*) and decrees and decisions by ministries (*al-marasim al-'adiyya wal-qararat*). These include articles of association for companies, by-laws etc. The second part includes official announcements, bankruptcy pronouncements, judicial announcements, property register announcements and public tenders, as well as some private advertising.

The *Official Gazette* is published each Thursday, but it is not indexed, although an annual index is produced privately. There are two major compilations of Lebanese legislation: *Majmu'at al-Tashri' al-Lubnani*, started in 1961, which is edited and updated by Salim Abi Nader and his successors in six volumes, with each volume divided into two tomes; and the eleven-volume *Majmu'at al-Qawanin al-Lubnaniyya,* started in 1968, which is published to date and edited by Antoine Barud and Michel Saleh.

Law reports

A useful thematic index of court decisions was published in March 1992 by IDREL (*Institut de Recherches et d'Etudes sur le Liban*). The *Fahras Ijtihadat al-Mahakem* includes a brief summary and headings for all decisions reported in the four main collections of case reports since the country's independence in 1943: *Al-Nashra al-Qada'iyya* (1945-1977, restarted recently by the Ministry of Justice); *Majmu'at Baz* (*Khulasat 'an al-Ahkam al-Sadira 'an Mahkamat al-Tamyiz al-Madaniyya*) (1950-to date); *Majmu'at Ijtihadat Hatem* (1949 to date, edited first by Hatem and thereafter by Shakib Qurtbawi), and *al-'Adl* (a journal published by the Beirut Bar, 1967 - to date). For the full text of the decisions, it is necessary to go to the collections themselves.

Two other compilations are useful: the journal *al-Muhami*, published from 1935 to 1966, includes several judgements, as does *al-Majalla al-Qada'iyya* (*Revue Juridique*, 1921-1959). The main administrative law decisions were collected in *al-Majmu'a al-Idariyya*, also known after its editor as *Majmu'at Shidyaq*

(1957-1976). The decisions of the *Conseil d'Etat* (*majlis al-shura*) were collected recently in four volumes by the bureau of the court in *Qararat Mahkamat Hall al-Khilafat wa Majlis Shura al-Dawla* 1973-1982, and in *Majallat al-Qada' al-Idari fi Lubnan*, in six volumes covering all the decisions between 1985 and 1993 (Beirut, 1995).

Law journals

Several law journals have been published over the years by the Bar as well as by law universities. Many also include a collection of decisions, sometimes with a commentary. The best known are *al-'Adl*, the aforementioned journal of the Beirut Bar, and *Proche-Orient Etudes Juridiques*, which started in 1944 as *Annales de la Faculté de Droit de Beyrouth*, and which was known as *Etudes de Droit Libanais* between 1964 and 1966. Analytical articles are also published in *al-Nashra al-Qada'iyya* and *al-Muhami*. New journals were recently launched, including the trilingual *Revue Libanaise de l'Arbitrage*.

Main laws and commentaries

Two introductory works on Lebanese law may be consulted: A. Gemayel (ed.), *The Lebanese Legal System*, 2 Vols., Washington, 1985. A similar work was published in French under the auspices of the Université Saint Joseph, but is slightly out of date: P. Catala and A Gervais (eds.), *Le Droit Libanais*, 2 Vols., Paris, 1963. A comprehensive bibliography covering Lebanese law up to the 1950s is A. Nasif, *Bibliographie de Droit Libanais*, Beirut, 1958.

Constitutional law

The Lebanese Constitution came into force on May 23, 1926. A major revision was carried out in the wake of the so-called Ta'if Agreement of September 1989. The Ta'if document, the official title of which is *Wathiqat al-wifaq al-watani* (the National Accord document), was integrated into the constitution in September 1990. The earlier and present text were conveniently published in 1991 as *al-dustur al-lubnani al-sader fi* 23 *ayyar sanat* 1926 *ma' jami' al-ta'dilat allati uqirrat wifqan li-wathiqat al-wifaq al-watani al-lubnani* (*ittifaq al-ta'if*), Beirut.

The best commentary on the pre-Ta'if constitution is by the late Edmond Rabbath, *La Constitution Libanaise*, Beirut, 1982. In Arabic, Anwar al-Khatib has published a seven-volume treatise of Lebanese constitutional law: *al-Majmu'a al-Dusturiyya*, Beirut, to 1962.

There is no full book on the new Constitutional Council, but the reader can consult my "Constitutional Law in the Middle East: The Emergence of Judicial Power," in the aforementioned *Yearbook of Islamic and Middle Eastern Law, 1994*, pp. 85-108. The decisions of the Council are published in the *Official Journal* and in the daily press.

Civil law

The Code of Obligations and Contracts (*qanun al-mujibat wal-'uqud*) of 1932 is the main civil code. The most extensive commentary of the Code is by Zuhdi

Yakan, *Sharh Qanun al-Mujibat wal-'Uqud*, in 14 Volumes (to 1969, covering the Code to Art. 939). Textbooks include Khalil Jurayj, *al-Nazariyya al-'Amma lil-Mujibat*, 4 Vol., Beirut, 1957-1960; George Siufi, *al-Nazariyya al-'Amma lil-Mujibat wal-'Uqud*, 2 Vols, Harisa, 1960 (Recently updated by Marcel Sioufi); Elias Nasif, *Mausu'at al-'Uqud al-Madaniyya wal-Tijariyya*, 6 Vols., Beirut, 1986. A comprehensive book on obligations was recently published by the judge Mustafa al-'Awji.

Commercial law

The basic text of the Commercial Code (*al-qanun al-tijari*) dates back to 1942. The classic commentary is by Charles Fabia and Pierre Safa, *Code de Commerce Libanais Annoté*, published in 1961 and regularly updated. The latest update is 1988. Main commercial law textbooks include Emile Tyan, *Droit Commercial*, Beirut, 2 Vols, 1968, 1970. Elias Nasif, Edouard Eid, and Mustafa Kamal Taha have each published in Arabic several books on Lebanese commercial law (e.g. by Nasif, *al-Kamel fi Qanun al-Tijara*, 4 Vols, 1982-1985; Taha, *al-Qanun al-Tijari al-Lubnani*, vol.1, 1975).

Family law

There are several personal status laws. Marriage, divorce, custody, wills, and inheritance, are governed for Muslims by their own codes and their own religious community judges. For Christians, only marriage, divorce and custody are so regulated. All the relevant statutes in this category have been assembled in a useful bilingual (Arabic and French) book edited by M. Mahmassani and I. Messarra, *Statut Personnel: Textes en Vigueur au Liban*, Beirut, 1970. Inheritance and wills are governed for the Christian communities by a law of 1959. A classic commentary of the law is E. Tyan, *Notes Sommaires sur le Nouveau Régime Successoral Libanais,* Paris, 1960.

On inheritance and wills, Yusuf Nohra's *al-Irth Lada Jami' al-Tawa'ef*, Beirut, 2nd ed., 1987, covers all the Lebanese communities. I. Najjar's extensive *Libéralités*, 2nd ed. 1983, and *Successions*, Beirut, 1983, are more specific to law applied to non-Muslims. Professor Najjar's books have just been updated and published as the two volumes of *Le Droit Patrimonial de la Famille*.

Books on Muslim family law generally include several treatises by Subhi Mahmasani, *al-Mabade' al-Shar'iyya wal-Qanuniyya*, 2nd ed. Beirut, 1959 (especially for Sunnis), by Muhamad Jawad Mughniyya, *al-Ahwal al-Shakhsiyya* , Beirut, 1964 (especially for Shi'as), and Bashir al-Bilani, *Qawanin al-Ahwal al-Shakhsiyya fi Lubnan*, Cairo, 1971.

Criminal law

The main Criminal Code (*qanun al-'uqubat*) dates from 1943, with important revisions in 1983. A commentary can be found in Mahmud Najib Husni, *Sharh Qanun al-'Uqubat*, 2nd ed. 1975. Extensive criminal treatment can be found in Mustafa al-'Awji, *al-Qanun al-Jina'i al-'Amm*, 13 Vols, Beirut, 1984-5 and Farid al-Zughbi, *al-Mawsu'a al-Jaza'iyya al-Lubnaniyya al-Haditha*, 16 Vols, Beirut, 1979.

Civil and criminal procedure

The Code of Civil Procedure of 1933 (*qanun usul al-muhakamat al-madaniyya)* was replaced by Decree-law 90/1983. Textbooks include the long treatment by E. Eid, *Mawsu'at Usul al-Muhakamat*, 1977-to date, in 20 Vols. The Code of Criminal Procedure of 1948 (*qanun usul al-muhakamat al-jaza'iyya*), and the law on judicial organizations (*al-tanzim al-qada'i*) of 1961 (*qanun al-tanzim al-qada'i*) were amended several times, notably by Decree-law 150, 1983. 'Atef al-Naqib, *Usul al-Muhakamat al-Jaza'iyya*, Beirut, 1986, is a useful treatment.

Property

The main property laws were passed in the 1930s, after the establishment of the property register following the German method known as Torrens. These statutes include *tahdid wa tahrir al-'iqarat*, 1926 and subsequent amendments; *qanun al-mulkiyya al-'iqariyya*, also known as Decision no. 3339 (*qarar raqm* 3339), 1930; Decision no. 188, 1926, amended 1932 and 1933, establishing the register proper (*insha' al-sijill al-'iqari*). A commentary can be found in Zuhdi Yakan, *Sharh Mufassal li-Qanun al-Milkiyya al-'Iqariyya wal-Huquq al-'Ayniyya Ghayr al-Manqula* (*Qarar Raqm* 3339), 2 Vols, Beirut, n.d (ca 1940). Textbooks include Béchara Tabbah, *Propriété Privée et Registre Foncier*, Beirut, 2 Vols, 1947, 1950; E. Eid, *al-Huquq al-'Ayniyya al-'Iqariyya al-Asliyya*, Beirut, 2 Vols, 1979, 1980.

Miscellaneous

Noteworthy books include, Emile Tyan, *Le Droit de l'Arbitrage*, Beirut, 1972, and his *Précis de Droit International Privé*, Beirut, 1966; On conflicts see also, Edmond Na'im, *al-Mujaz fil-Qanun al-Dawli al-Khass*, Beirut, 2nd ed. 1963; On administrative law, Jean Baz, *al-Wasit fil-Qanun al-Idari al-Lubnani*, 2 Vols, Beirut, 1971, 1974. On water law, Fayez Matar, *Nizam al-Miyah al-Khassa fi Lubnan*, Beirut, 1992. On water and environment law, a new book by Hyam Mallat is under press.