The Lebanese Constitution: A Hampered Transition from the Rule of Sects to the Rule of Law

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ABSTRACT

Lebanon's key features that distinguish it from neighbouring countries are embodied in its constitution: secularism, pluralism, and liberalism. The Lebanese Constitution sought to bring together the various religious sects under a single entity – a state that stands at an equal distance from them all. A "consensual democracy" was established, whereby positions within the central government are distributed along sectarian lines, and personal status laws are placed under the jurisdiction of the various religious sects. However, Lebanon's recent crisis has revealed the failure of the post-civil war political system to reconfigure the state and to consolidate the rule of law in a way that guarantees the basic rights of citizens and secures political and social stability. The question that ensues is whether the Lebanese Constitution is still a sound framework for the country to transition from a state controlled by sectarian logic to the rule of law.

The social contract between the various historically recognized sects was embodied in constitutional guarantees at the level of their participation in the central government and in their right to self-manage. However, the initial concept of a state superseding the religious sects declined with time. The idea of a state that fosters sectarian pluralism gradually transformed into a state subjected to the logic of sects and their leaders' factional interests. This eroded its authority, effectiveness, and sovereignty, and undermined what is supposed to be a direct relationship between the state and the citizen (I).

However, the Lebanese Constitution is built on principles and objectives that are compatible with the promotion of the rule of law. It lays the foundations of a civil, non-religious state whose sovereignty transcends its components, and guarantees basic rights and public freedoms, the scope of which was broadened through the constitutional amendments of 1990. It carries a promising vision that is embodied in the abolition of political sectarianism as a primary objective. It also includes social and economic objectives, enshrined in the principles of social justice and balanced development between the regions (II).

Keywords: *Lebanon, pluralism, secularism, political sectarianism, personal status, Constitutional Council, basic freedoms and rights, social justice, decentralization, balanced development between the regions.*

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Introduction

It may seem strange to consider the impact of the Arab Spring on the constitutional trajectory of Lebanon, as the country initially appeared as a mere observer unaffected by the upheavals and transformations taking place around it. However, it was inevitable that the repercussions of those popular protests would eventually surface in Lebanon, manifesting in various stages in the following years. They materialized through timid protests in the years 2012 and 2015, leading up to the popular movement that erupted following the severe financial and economic crisis that struck the country in October 2019. This protest movement transcended regions and sects and had a distinct youthful and female component. Lebanon, albeit belatedly, joined the caravan of countries that experienced what came to be known as the Arab Spring. This unequivocally indicates that Lebanon indeed has an "Arab identity and belonging," as stated in Paragraph (B) of the preamble of the constitution, in addition to being a founding member of the Arab League. It is organically linked to Arab states due to its geographical location, linguistic affiliation, and cultural ties. Lebanon is affected by the transformations the Arab states experience – whatever their nature – and interacts with them. There is no doubt, for example, that the Palestinian question and the Syrian war have directly impacted and continue to impact Lebanon's internal stability across its political, security, and economic dimensions.

However, Lebanon has distinct characteristics that differentiate it from neighbouring countries, which are reflected in its constitution. These can be summarized in three points: Lebanon is primarily a secular state, meaning that the state is not characterized by a religious nature. It has a pluralistic society and a liberal system. The Lebanese Constitution was built around the idea of religious and sectarian pluralism in its societal composition, bringing together various religious communities under a single entity. The state maintains a neutral and secular stance, keeping an equal distance from all religions and sects without adopting or endorsing the doctrines of any of them. The Lebanese Constitution was further drawn from Western liberal principles, particularly those of the Third Republic in France.

It is important to note the composition of Lebanon's multi-sectarian Christian-Muslim society, which forms the fundamental basis for the distribution of powers and governs all aspects of decision-making in the country. Lebanese society is composed of eighteen recognized religious sects, divided into twelve Christian sects, five Muslim sects, and one Jewish sect.[1] Religious affiliation plays a central role in Lebanese life, as personal status laws govern various aspects of the life of a Lebanese individual from their birth to their death, including marriage, divorce, and all matters related to personal status. It is worth noting that the Lebanese Constitution does not adopt a single term to refer to the religious groups that make up Lebanese society. Instead, it uses different designations in various articles,

1 The number of members of the Jewish community residing in Lebanon has become minimal.

such as "sect" or "sects" (Articles 10, 19, 24, 95(b))[2], "denominations" (Article 9), "communities" (Article 9), and "spiritual families" (Article 22) – all of them terms that were adopted in different historical stages.[3] It is worth noting that the constitution does not specify the recognized religious sects in Lebanon, but it can be inferred from Article 19 that certain constitutional rights are limited to "the sects recognized by law," leaving it to the legislator to recognize and regulate such sects, which are granted constitutional rights. The concept of "sect with a personal status system" was defined in Article 1 of Legislative Decree No. 60 of the Lebanese Republic, issued on 13 March 1936, as follows: "The sects recognized by law as sects with a personal status system are the historical sects whose organization, courts, and laws have been defined in a legislative instrument."[4] Lebanon has a central government based on the sectarian distribution of power, which is referred to as a consociational democracy. Father Georges Hobeika describes the sectarian system in Lebanon as "an inclusive system for heterogeneous components that have agreed to live peacefully together in the concord of diversity."[5]

The recent crisis in Lebanon has revealed the failure of the system of government since the end of the civil war in 1990 to rebuild the state, its institutions, and its judiciary, and to establish the rule of law, ensuring the basic rights of citizens and securing political and social stability for the Lebanese people. There is no doubt that the country's social, financial, and economic deterioration has multiple causes that cannot be dismissed in the context of this study. However, in terms of constitutional law, the current governance crisis raises several questions about Lebanon's consociational system of government, which was consolidated after the Taif Agreement and the constitutional amendments that followed in 1990, and its suitability. Our starting point is the concept of constitution as embraced by modern political societies, where the constitution is considered the founding act of the state. We also adhere to the theory that the constitution is not merely a set of legal rules that govern the organization of government and the relationship between public authorities, but that it encompasses, in its provisions and spirit, philosophical dimensions that express the values and principles of a society. Additionally, it carries within it a vision for a specific society.

All this leads us to formulate the question that is currently on the minds of many Lebanese: Does the Lebanese Constitution still represent the reality of Lebanese people? Does it genuinely reflect their aspirations and interests through the goals it set?

2 Article 95(b) of the constitution states: "The principle of sectarian representation is abolished, and expertise and competence shall be the basis for public office, the judiciary, military and security institutions, and public and mixed institutions, in accordance with the requirements of national consensus, and with the exception of Grade One positions or their equivalent. These positions shall be divided equally between Christians and Muslims without allocating any position to a specific sect, while adhering to the principles of expertise and competence."

3 Some of these terms were adopted upon the adoption of the constitution in 1926 and some others were introduced in 1990 following its amendment as per the Taif Agreement.

4 These sects were enumerated in Annex 1 of Decree No. 60, and recognition was later granted to the Protestant sect in 1938 and the Coptic Orthodox sect in 1996. The constitution also refers to the "abolition of political sectarianism" (Paragraph (H) of the preamble and Art. 95) and a "non-sectarian national election law" (Art. 22) that is placed "outside the sectarian framework" (Art. 24). Additionally, "sectarian representation" is mentioned within the two major religious groups: Islam and Christianity (Art. 24 and Art. 95).

5 Father Georges Hobeika, "Greater Lebanon and the Philosophy of Harmonizing Differences," *Nida Al Watan*, 25 June 2021.

Put differently, the question is whether the constitution requires reconsidering, or whether it continues to provide a sound framework for transitioning from a state controlled by sectarian logic and sectarian leaders to a state based on citizenship and the rule of law, where the recognition of sects is not exploited to undermine the state and restrict freedoms.

To this end, Part I of this paper will address the social and philosophical dimensions of the Lebanese Constitution, which represents a social contract between the religious sects. In turn, Part II will examine the pillars and objectives established by the Lebanese Constitution, which may serve as a supportive framework for transitioning to a state governed by the rule of law.

I. The Lebanese Constitution as Expression of a Social Contract between Religious Sects

The social contract between the historically recognized sects was reflected in the constitutional safeguards they were granted at the level of the central government and in the administration of their own affairs (A). However, the concept of a state that is supportive of religious sects has diminished in practice, resulting in a state that has retreated from regulating its relationship with them (B).

A. Constitutional Guarantees for Religious Sects' Rights at the Political and Social Levels

Renowned scholar Maurice Hauriou proposes the idea of the existence of two constitutions within a single text. The first is the political constitution, which concerns the organization and functioning of public authorities. The second is the social constitution, which reflects the political philosophy of a society, through the values, principles, and rights and freedoms of citizens it guarantees.[6] Looking back to the year 1926, we observe that the fundamental contract that emerged among the Lebanese prior to the adoption of the constitution, and that evolved over time until the 1990 Constitutional Amendments, revolved around the pluralistic sectarian reality in both its political and social dimensions. On the political level, it manifested itself through the distribution of public power and administrative, judicial, and security positions on a sectarian basis. On the societal level, it materialized through the recognition of sectarian components, granting them legislative and judicial authority in personal status matters, while ensuring their right to self-administration (Article 9) and the establishment of their private schools (Article 10).

[6] Maurice Hauriou, Précis de droit constitutionnel (Paris : Dalloz, 1929), 624.

1. Distribution of Positions of Power among Religious Sects ("Political Sectarianism")

Going back to the adoption of the Lebanese Constitution on 1 September 1926, it can be stated that it was primarily promoted by the French Mandate authority, six years after the establishment of "Greater Lebanon" with its current borders.[7] This is evidenced by the fact that the majority of its provisions are derived from the French constitutional laws of 1875, which governed the Third Republic at the time of the French Mandate. Furthermore, the constitution was originally drafted in French and later translated into Arabic. However, the 1926 Constitution is not limited to this Western influence as its provisions blend with the foundations and principles that uphold the country's specificity and its pluralistic societal structure. The Mandate Charter issued by the League of Nations obligated France to establish a judicial system that "ensures respect for the personal status system and religious interests of all inhabitants, regardless of their religious communities."[8] A drafting committee was formed for that purpose, composed of twelve members from the Representative Council at the time, and chaired by the President of the council, Moussa Nammour. The committee conducted consultations with the heads of the religious communities, as well as a number of influential figures and representative intellectual elites.[9] It directed a set of questions to them.[10] From these questions,[11] which mainly revolved around the system of governance and the sectarian distribution of positions, we can infer that the social contract on which the 1926 Constitution was based is a "contract between religious sects," with a predominance of Christian sects under French sponsorship. It is worth noting that, at the time, a segment of the Lebanese people, especially Muslims, rejected the new Lebanese entity and demanded to join Syria, which explains why some of these entities refrained from answering the questions directed to them. Despite the fact that the new constitution did not enjoy the support of all the Lebanese at the time, its Articles 9, 10, 24, and 95 embodied the country's specificity. The Lebanese Constitution, as initially adopted in 1926 under the French Mandate, enshrined sectarian representation in public office and in the formation of the Council of Ministers in its sixth chapter entitled "Final and Temporary Provisions".

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7 Some constitutional scholars have compared the making of the Lebanese Constitution to a constitution granted by the French state ("octroi" model). See, for example, Zuhair Shokr, *Al-Waseet fi al-Qanun al-Dusturi al-Lubnani*, Vol. 1 (Beirut: 2006), 184. However, we sustain that the Lebanese Constitution was not granted in the classical sense commonly accorder to it by constitutional law, especially because it was adopted by the Lebanese Representative Council.

8 Article 6 of the Mandate Charter, which was approved by the Council of the League of Nations on 24 July 1922, stipulated the following: "The Mandatory State in Syria and Lebanon shall establish a judicial system that fully safeguards the rights of foreigners and nationals alike, and also ensures respect for the personal status system and religious interests of the inhabitants, regardless of their religions or sects. The Mandated State, in particular, shall monitor the administration of endowments in accordance with the provisions of religious laws and the intentions of the donors." Furthermore, Article 9 of the Charter prohibited the Mandatory State from interfering in the administration of religious communities, their affairs, and their places of worship, which remained under their previous "immunities" explicitly guaranteed.

9 Those used to constitute "symbolically important forces in the country" as expressed by one of Parliament's members, Sheikh Youssef Khazen.

10 Rapport de Chebl Dammous, contenant le résumé des réponses au questionnaire adressé par la Commission de la Constitution aux notables et à l'élite intellectuelle du Liban, *in* Annex No. 7, Antoine Hokayem, *La génèse de la Constitution libanaise de 1926* (Antélias : Les Editions Universitaires du Liban, 1996), 342.

11 Especially Question 6: "Should sectarian representation be adopted in the distribution of seats in Parliament?" and Question 12: "Should sectarian parity be adopted in public positions, especially in the formation of the Council of Ministers?"

As for the sectarian distribution of seats in the upper chamber, it was defined in Article 96 of the constitution, which was swiftly abolished a year and a half after the adoption of the constitution (on 17 October 1927), reducing Parliament to a unicameral chamber – the Chamber of Deputies – which remains so to the present day.[12]

Although the Lebanese Constitution did not express the will of all Lebanese in 1926, political and constitutional developments led to a state of "negative coexistence" among all these components during the Mandate era, as expressed by Dr Zuhair Shokr.[13] Over time, the sense of belonging to the nation and recognition of its definitive entity[14] grew amongst most Lebanese, especially after independence and the National Pact that resulted from it in 1943, up to the adoption of the Document of National Accord (known as the Taif Agreement), which led to the 1990 Constitutional Amendments.

In its current formulation, the system of government in Lebanon is based on a sectarian power-sharing arrangement at two levels: equal power-sharing between Muslims and Christians and proportional representation amongst the various sects within each of these two major groups. As such, seats in Parliament are primarily distributed based on equal representation between Muslims and Christians, and secondarily in relative proportion among the different denominations within each of these two groups (Article 24 of the constitution). The sects must also be fairly represented in the formation of the Council of Ministers, as stipulated in Paragraph (A) of Article 95 of the constitution. The principle of sectarian representation is applied to Grade One positions in the state (and their equivalent), which are equally divided between Muslims and Christians. However, no position is allocated to a specific sect, and the principles of expertise and competence must be adhered to, in accordance with Paragraph (B) of Article 95. Furthermore, the sectarian distribution of the three presidencies in the state was consolidated through an informal, unwritten agreement in the period following independence. These presidencies are distributed among the three major religious denominations in Lebanon, whereby the President of the Republic is from the Maronite sect, the Speaker of Parliament is from the Shiite community, and the Prime Minister is from the Sunni community. It is worth noting that the Taif Agreement of 1989, along with the subsequent constitutional amendments of 1990, adopted rules that had been established through political practice, and which, according to some historians, have their roots in the National Pact of 1943,[15] and enshrined them in constitutional texts. However, no amendment was adopted to explicitly mention

[12] Knowing that Article 22 of the Constitution, as amended by Constitutional Law No. 18 of 21 September 1990, states: "Upon the election of the first Chamber of Deputies on a non-sectarian national basis, a new Senate shall be established, in which all spiritual families are represented, and its powers shall be limited to existential issues." However, no Senate has been established to this day.

[13] Shokr, *Al-Waseet*, 203.

[14] This is expressed in Paragraph (A) of the preamble, which was added in 1990: "Lebanon is a sovereign, free, and independent homeland. A definitive homeland for all its sons, unitary in terms of land, people, and institutions, within its boundaries as provided in this constitution and recognized internationally."

[15] The term "National Pact" refers to the oral agreement reached between Bechara El Khoury and Riad Al Solh on the eve of independence in 1943. Narratives differ regarding the content of the agreement, which is said to have laid the foundations for Lebanon's independence from the French Mandate, its Arab identity, and coexistence among its communities. The debate remains ongoing regarding the issue of the sectarian-based distribution of public positions mentioned in it.

the distribution of the three presidencies on a sectarian basis – this has remained an unwritten, informal agreement continuously upheld since independence to the present day.

It is further worth noting that the concept of justice and equality among sects, in the context of the prevailing sectarian social reality at the time of the drafting of the Lebanese Constitution in 1926, undoubtedly competed with, if not overshadowed, the concept of equality among individuals in its narrow Western sense. This led to a blending of the concept of individual equality, in its limited Western conception, with the principle of justice among religious sects and equality among their members, creating a certain tension between the two. It is important to emphasize in this respect that the guarantee of the rights of the sects, beyond their proportional representation at the level of the central government, is embodied in the self-autonomy they enjoy in managing their personal affairs and freely practising their religious rites.

2. Guaranteeing Religious Sects' Right to Manage their Own Affairs and Practise their Rites

Following the fall of the Ottoman Empire and the end of the French Mandate, Lebanon inherited a dual system at the legislative and judicial levels. The duality manifested itself in the coexistence of modern civil laws applied by state courts and religious laws applied by religious or spiritual courts in relation to personal status matters. The autonomy of the sectarian components materialized through the recognition of their legal personality and their granting of legislative and judicial authority in personal status matters, while ensuring their right to manage their own affairs (Article 9) and establish their own schools (Article 10).

A. The Recognition of the Historical Sects and the Guarantee of their Rights

The constitution recognizes the sects as religious entities with rights and guarantees. Article 9 of the constitution guarantees their freedom to practice religious rites under its protection, provided that public order is not disturbed. Additionally, Article 10 guarantees freedom of education, from which the right of religious sects to establish their own schools is derived. However, such schools must operate in accordance with the general regulations issued by the state regarding public instruction. It should be noted that all these guarantees and rights remain subject to the law and their exercise is limited by the compliance with public order by the religious sects, which is determined by the judiciary, including both the judicial and administrative courts.

Legislative Decree No. 60, issued on 13 March 1936, during the Mandate period, and which included the "recognition of the sectarian system," served as the cornerstone for the relationship between religious sects and the state. This decree is considered the law that complements the constitution,[16] and can be viewed as the "second constitution"

[16] As also indicated in one of its provisions, which states: "Based on Chapter II, Article 1 of the Lebanese Constitution issued on 23 May 1926."

of the Lebanese state. It acknowledged the legal personality of the historical sects listed in its annex and recognized their members' rights to fulfil their religious obligations, establish their own personal status system, and form their councils.

B. The Allocation of Legislative and Judicial Powers to the Religious Sects under Legislative Decree No. 60/1936

As mentioned above, the religious sects were entrusted with the authority to establish their own sectarian courts and legislate in all matters falling within their jurisdiction under Legislative Decree No. 60. However, the significance of this decree lies in the fact that it established a sect subject to civil law for personal status matters, allowing citizens to opt for that civil law instead of belonging to one of the religious sects recognized by the state. It distinguished between sects governed by personal status law and sects subject to ordinary law. This differentiation angered the Islamic sects at the time, prompting the High Commissioner to suspend its effects on Muslims (under Decree No. 53, dated 30 March 1939). This suspension marked the first instance of the state yielding to the pressures of religious authorities.

B. The State's Withdrawal from Regulating its Relationship with the Religious Sects

Since 1926, the Lebanese Constitution, complemented by Legislative Decree No. 60/1936, has regulated the relationship between the state and the religious sects, with the understanding that this relationship operates under the auspices and sponsorship of the state. However, over time, practice has revealed the retreat of state authority before sectarian authority, both in the realm of personal status matters and in terms of central governance.

1. The State's Failure to Regulate Personal Status Matters

Alongside the guarantee of the rights and self-autonomy of religious sects, the constitution recognizes absolute freedom of conscience for individuals (Article 9) and places it at the forefront of public liberties (along with freedom of opinion in its preamble, Paragraph (C)). Legislative Decree No. 60/1936 further guarantees freedom of belief for citizens, particularly concerning their personal status matters. With respect to Articles 9 and 10 of the constitution, it is evident that sectarian affiliation is a voluntary choice linked to the age of maturity and not a mandatory imposition by birth. It ensues that it is up to citizens to voluntarily express their affiliation to a particular sect.

Despite the fact that Legislative Decree No. 60/1936 recognized the possibility for individuals in Lebanon to not belong to a given sect, the state has failed to enact civil legislation that regulates personal status matters and that would cater to such individuals. This has placed individuals in Lebanon under the control of the religious sects, given the legislative authority granted to them in personal status matters, denying them individual existence outside of their sect, except in the event they contract civil marriage outside Lebanese territory. However, as previously mentioned, the application of Decree No. 60/1936 was suspended for Islamic sects, marking the state's first retreat before religious authorities.

Although Lebanese law guarantees the individual's freedom to change their religion,[17] due to ongoing pressures exerted on the state by religious and political authorities, the state has thus far been unable to introduce a number of laws that complement the rules established by Decree No. 60/1936. There follow a few examples:

- Failure to issue a unified civil code for inheritance that applies to the entire Lebanese population: The negotiations conducted between 1949 and 1959 with the Islamic religious authorities and the strike conducted by the Beirut Bar Association as the draft legislation was tabled prevented the promulgation of a unified civil code that applies to all Lebanese. Instead, the 1959 law that was adopted only applies to non-Muslim confessions – this is the Inheritance Law for Non-Muslims.
- The state's non-recognition of civil marriages concluded between two Muslims overseas (Article 79 of the Code of Civil Procedure[18]), which violates the principle of equality between these couples and others of different or mixed confessions.
- The state's lack of oversight over the functioning of Sharia and religious courts or their adopted court procedures to ensure the minimum standards of a fair trial for citizens.
- The state's incapacity to establish an optional civil marriage system that applies to all Lebanese people (noting the attempts that had been made in this regard: Brigadier General Raymond Eddeh's initiative and President Elias Hrawi's draft law).
- The crisis of civil marriages concluded before notaries public in Lebanon, which the Ministry of Interior and Municipalities currently refuses to register.

According to the constitution, the country's democratic parliamentary regime is founded on the principles of equality and social justice. It is worth noting that the principle of equality, guaranteed by the Lebanese Constitution, is of the utmost importance in the French constitutional system. It is considered a key element of the "French constitutional identity," and according to Ferdinand Mélin-Soucramanien, one of the main pillars of the state based on the rule of law (*État de droit*).[19] Maurice Hauriou further asserted that the principle of equality among individuals was "the driver" behind the French Revolution of 1789.[20]

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[17] The freedom to change one's religion was enshrined by virtue of Legislative Decree No. 60/1936, as well as by the law governing the personal status registry in 1951. Article 41 of the law stipulates the following: "Any request pertaining to a change of sect or religion should be sent to the personal status registry for the correction of the record. This request must be supported by a certificate from the head of the sect or religion that the applicant intends to embrace, including the applicant's signature. The official of the personal status registry summons the applicant and in the presence of two witnesses, asks whether the applicant insists on the request. If the request is affirmed, a record is prepared on the same request, and the record is corrected accordingly."

[18] Article 79 of the Code of Civil Procedure (Legislative Decree No. 90/1983): "The Lebanese courts examine disputes emanating from civil marriages concluded in a foreign country between two Lebanese citizens or a Lebanese and a foreigner according to the law of that country, while the Sharia and Druze courts apply the provisions of the Sharia Law to settle disputes between Muslim couples with at least one Lebanese citizen."

[19] Ferdinand Mélin-Soucramanien, «Le principe d'égalité dans la jurisprudence du Conseil constitutionnel. Quelles perspectives pour la question prioritaire de constitutionnalité ? «*Cahiers du Conseil constitutionnel* no. 29 (2010) : 89-100.

[20] Maurice Hauriou, *La science sociale traditionnelle* (Paris : Larose, 1896), 80.

The Decree that was adopted on 4 August 1789 to abolish the privileges of the nobility, followed by the Declaration of the Rights of Man and the Citizen a few weeks later, were the force that led to the abolition of the old monarchy that existed before the Revolution. This also explains the position that equality holds in the slogan adopted by the French Republic: "Liberty, Equality, Fraternity" (stipulated in Article 2, paragraph 4 of the 1958 Constitution). In contrast, the principle of equality among citizens seems to be a long way from occupying the same status in Lebanon, despite being enshrined in the Lebanese Constitution, for the above-mentioned reasons. The main dilemma stems from the incompatibility between the need to reconcile the principle of equality among individuals and the rights of the sects.

In addition to this failure to govern the relationship between the state and its sectarian components in a way that guarantees the freedom of individuals to choose a civil personal status system and establishes a direct link with the state in this regard, the state's authority also waned at the level of the central government, leading to an almost complete collapse of the state and its institutions.

2. The Decline of the State's Authority at the Level of the Central Government

We need to return to the circumstances surrounding the Taif Agreement in 1989. The majority of its terms was reflected in the constitutional amendments that followed in 1990. At the time, the aim was to find a framework that would end the war that had ravaged the country, establish security and stability, and reunite its citizens. In the period that followed the year 1990 however, the rule of leaders with factional and sectarian interests overpowered the logic of the rule of law. Instead of strengthening the state's institutions and their effectiveness and enhancing judicial power and its independence, quotas, nepotism, and clientelism prevailed over the rule of law, institutions, and equality among individuals.

The post-war period saw long eras of governmental obstruction and vacuum. The extension of Parliament's term three consecutive times between 2013 and 2017 was a reflection of the central state's inability to impose its authority on its own territory. Moreover, the constitution appeared incapable of resolving these crises over the years, which may be due in part to the ambiguity or gaps in the text.[21] It is therefore necessary to address the shortcomings of the constitution in terms of mechanisms that can solve crises and situations of vacuum that often obstruct and paralyze

[21] The presidential vacuum Lebanon has been witnessing since 31 October 2022, when President Michel Aoun's mandate ended, is sufficient proof. This was preceded by failed attempts to form a government with full powers since Prime Minister Mikati's government became a caretaker government following the last parliamentary elections of 15 May 2022 as per Article 69 of the Constitution. Some of the issues that have arisen in this context and for which the constitution does not provide a clear answer include: the complexity of the government formation process, which is not regulated by deadlines and timeframes; the ambiguity surrounding the process for the election of the President, with no texts requiring that one present themselves to that election as candidate, or specifying the majority required for their election in a second voting round; and the functioning of the Council of Ministers amid a presidential vacuum and the questions that raises (Can a caretaker government replace the President of the Republic? Do presidential decisions taken by the Council of Ministers require being adopted unanimously? Who issues laws, signs decrees, and publishes them in the Official Gazette? Can the Council of Minsters reject a law or challenge its constitutionality before the Constitutional Council, when exercising the competences of the President of the Republic in light of the provisions of Article 62 of the Constitution?).

the functioning of constitutional institutions. These mechanisms require an in-depth examination that cannot be included in the scope of the current study. However, it must be said that any technical constitutional amendment shall remain ineffective and insufficient as long as the political will does not prioritize public interest. To summarize, since the creation of the State of Greater Lebanon until this day, political practice has favoured factional interests over public interest in various degrees over the years, under the pretext of preserving the rights of the religious sects.

It would seem then that the idea of a state that fosters multi-sectarianism has gradually transformed in practice into a state that submits to the will of the sects and the factional interests of their leaders at the expense of public interest, preventing it from imposing its own authority, performing its duties, and bolstering its legitimacy through a direct relationship with citizens. This begs the question of whether the Lebanese Constitution can still be considered an appropriate framework to reconfigure authority, considering it carries within it the components and pillars that foster the rule of law.

II. A Constitution that Embraces the Rule of Law

The Lebanese Constitution includes pillars and components that may be suitable to build upon and transition to the rule of law (A). Its provisions also carry prospects that may be promising for Lebanon, in the form of main objectives, particularly those introduced in 1990 (B).

A. The Pillars and Components of the Lebanese Constitution

The Lebanese Constitution set the pillars of a secular civil state whose sovereignty rises above all other components (1). It further guaranteed fundamental rights and public freedoms and expanded their scope through the 1990 Constitutional Amendments(2).

1. The Secular State and its Superiority with respect to its Sectarian Components

The constitution laid the foundations for an authority that is based on a set of fixed and inclusive rules and guaranteed the sovereignty and unity of the state. The state takes the form of a unitary state, meaning that citizens are subject to one authority, that of the state. The constitution emphasizes the unity of Lebanon and its territories in multiple passages, affirming that it is not permissible to fragment or divide them. Under the constitution, the President of the Republic is the symbol of the unity of the state and is tasked with its protection and the protection of the constitution itself (Article 49 – Head of State and Article 50 – Oath). At the internal level, the most important manifestation of state sovereignty lies in its authentic and comprehensive legislative authority.[22]

[22] Article 27 of the Lebanese Constitution, as amended by the constitutional amendment laws of 17/10/1927 and 21/1/1947, stipulates: “A member of the Chamber of Deputies represents the entire nation. No restriction or condition may be imposed upon his mandate by his electors.”

The constitution stipulates that the regime in Lebanon is that of a democratic, parliamentary republic based on the separation of powers. The state is impartial towards all its sectarian components and stands at an equal distance from them all. This was elucidated by Chebel Dammous, the Rapporteur of the constitutional drafting committee in the session that was held on 20 May 1926, during which the Representative Council promulgated Article 9 of the Constitution. When asked by a member of parliament, "What does the sentence 'The State performs its duty of homage to Almighty God' mean?" Dammous replied: "It means that the country comprises a group of religions and all of them are minorities and the state does not belong to any of them but is "secular" and respects them all". This was the difference between the Lebanese State and the Ottoman State for instance, as the Sunni Hanafi sect was the state's adopted religion and it was the general law that applied to all subjects of the Sultanate, with the exception of the privileges that were granted to other religious confessions. The Lebanese State does not differentiate between sects. It guarantees their rights equally in the management of their own affairs. However, the authorization given to the sects to adopt their own laws and regulations is not absolute. Their adoption and implementation remain under the supervision of public authority and the protection of the law, as explicitly stated in Article 2 of Legislative Decree No. 60.[23]

Furthermore, Article 27 of the constitution states that members of parliament represent the entire nation. Based on this constitutional rule, the electoral system adopted the principle of one electorate only, through which the Lebanese elector has the right to vote for all candidates within an electoral district, regardless of the number of parliamentary seats they are running for according to their sect. Some of the recent electoral draft laws that proposed to limit the vote for candidates from a certain sect to the people of that same sect within an electoral district, thus excluding electors from other sects, were dismissed as they clearly and explicitly contradict the constitutional rule contained in Article 27 of the constitution. Lebanese law further found a way to mitigate the sectarian distribution of parliamentary seats for minorities by giving candidates the right to run in any district they desire, allowing minorities to be represented in Parliament, regardless of their district.[24]

2. The Guarantee of Fundamental Rights and Freedoms and the Expansion of their Scope along with the Establishment of the Constitutional Council

The Lebanese Constitution guarantees many fundamental rights and freedoms for the Lebanese people. Their scope was expanded with the reference to the Universal Declaration of Human Rights that was included in the preamble of the constitution. These rights and freedoms were further guaranteed through the establishment of the Constitutional Council.

[23] Article 2 of Legislative Decree No. 60: "The legal recognition of a sect with a personal system has the effect of giving the text defining its system the force of law and placing this system and its implementation under the protection of the law and the control of the public authority".

[24] Issam Suleiman, "Political, Economic, and Social Rights from a Constitutional Perspective," *Yearbook of the Constitutional Council* 4 (2009-2010): 416.

A. The Constitutional Guarantee of Fundamental Rights and Freedoms

The Lebanese Constitution mandates the guarantee and safeguard of public freedoms in its preamble and first chapter. Article 7 stipulates that "All Lebanese shall be equal before the law. They shall equally enjoy civil and political rights and shall equally be bound by public obligations and duties without any distinction." Paragraph (C) of the preamble places the freedoms of opinion and belief at the forefront of the rights and freedoms guaranteed by the constitution, while Article 9 grants freedom of conscience absolute value. This means it cannot be limited and that the state guarantees the right of individuals and groups to enjoy this freedom and to exercise religious rites under its protection and within the limits of public order. Moreover, Article 10 of the Constitution guarantees the right to education, along with a number of fundamental rights and freedoms cited in the second chapter of the Constitution, entitled "The Lebanese: Their Rights and Obligations," that were put under the protection of the law,[25] including personal freedom and the principle of legality for crimes and punishments (Art. 8), the principle of equality in holding public office (Art. 12), freedom to express one's opinion orally or in writing, freedom of the press, freedom of assembly, freedom of association (Art. 13), the inviolability of the place of residence (Art. 14), and private property (Art. 15).

The reference made to the 1948 Universal Declaration of Human Rights and its relevant covenants in the preamble was one of the most important amendments that were introduced by the Taif Agreement to the constitution in 1990 in terms of promoting fundamental rights and freedoms. This declaration holds special significance for Lebanon as the Lebanese Charles Malek was a member of its drafting committee chaired by Eleanor Roosevelt at the time.

B. The Role of the Constitutional Council in the Protection of Fundamental Rights and Freedoms and the General Constitutional System

The Constitutional Council, established in 1990 under Article 19 of the Constitution, made giant strides toward the realization of the rule of law. Since it became operational at the beginning of the nineties, it established its role in protecting liberties, consistently adopting in successive rulings, similarly to its French counterpart, the principle of "constitutional bloc". It thus affirmed that the preamble, including the Universal Declaration of Human Rights and the international covenants explicitly mentioned therein, constitute an integral part of the constitution and have constitutional status. The jurisdiction of the Constitutional Council thus extends to the public freedoms and fundamental rights that are directly enshrined in the preamble,[26] as well as those that are contained in the international

[25] Chapter 2 of the Constitution entitled "The Lebanese: Their Rights and Obligations," guarantees a number of fundamental rights and freedoms, such as personal freedom and the principle of legality for crimes and punishments (Art. 8), the right to education (Art. 10), the principle of equality in holding public office (Art. 12), the freedom to express one's opinion orally or in writing, the freedom of the press, the freedom of assembly, and the freedom of association (Art. 13), the inviolability of the place of residence (Art. 14), and private property (Art. 15), and places these rights and freedoms under the protection of the law.

[26] The first decisions to acknowledge the constitutional value of the preamble: Constitutional Council Decision No. 4/96 of 7/8/1996 (Law No. 530/1996 of 11/7/1996 on the amendment of the provisions of the parliamentary elections law of 26/4/1960) and Decision No. 1/97 of 12/9/1997 (Law No. 654 of 24/7/1997 on extending the mandate of municipal councils and municipal committees).

covenants and conventions that are explicitly referred to in the preamble, which the council has considered principles with a constitutional value.[27] Moreover, the council stressed that general constitutional principles must be applied in the absence of a clear constitutional text,[28] and that constitutional laws enter into force and are applicable upon their promulgation. It conscientiously emphasized the importance of public freedoms and fundamental rights by introducing the principle of the "ratchet effect," which forbids any restriction on these fundamental rights or freedoms when enacting new legislation or amending existing legislation.[29] As such, the council has guaranteed numerous principles and objectives with a constitutional value, despite its limited powers, especially after being stripped of its authority to interpret the constitution as was explicitly stated in the National Accord Document.

In addition to its role in protecting fundamental rights and freedoms, the Constitutional Council is first and foremost the entity that ensures the constitutional system is respected and the balance between authorities upheld.[30] It has consistently stressed the importance of the principle of the separation of powers as a main pillar of the democratic system, specifying in many of its decisions the duties of each of the public authorities and their obligation to remain within their jurisdiction and not overreach. The council also defined the concepts of balance and cooperation between public authorities[31] and endorsed the principle of reserved jurisdiction, which stipulates that certain matters figuring in the constitution fall under the exclusive competence of Parliament, such as nationality and public freedoms in general. Competences related to reserved matters cannot be delegated to another authority, especially the executive authority.[32]

The Constitutional Council affirmed the principle of the sovereignty of Parliament and the principles of comprehensive competence and a general legislative mandate that derive thereof, and what this entails with regard to the regulation of the affairs of religious sects. The council further addressed the relationship between the state and the religious sects as legal entities in a number of its decisions and affirmed that Article 9 of the constitution stipulates the separation of

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27 Decision No. 2/2001 of 10/5/2001 (Request to annul paragraph 2 of the new Article 1 of Law No. 296 of 3/4/2001 on amending some of the provisions of the law put into effect by Decree No. 11614 of 4/1/1969: The law of acquisition by foreigners of real estate in Lebanon). In this decision, the council ruled for the first time that the international covenants explicitly mentioned in the preamble of the constitution form an integral part of the constitution.

28 Decision No. 1/2001 of 10/5/2001 (Law No. 295/2001 of 3/4/2001 in merging, dissolving, and forming ministries and councils).

29 See: Constitutional Council Decision No. 2/95 of 25/2/1995 (Law regulating the Sunni and Jaafari judiciary), Decision No. 1/99 of 23/11/1999 (Law establishing the Board of Trustees for Druze Endowments), Decision No. 5/2000 of 6/8/2005 (Law No. 679 of 19 July 2005 on postponing the examination of reviews before the Constitutional Council), and Decision No. 23/2019 of 12/9/2019 (the 2019 general budget and supplementary budgets)

30 As expressed by French jurist Pascal Jan: "*Or le Conseil constitutionnel est une juridiction, dotée de nombreuses attributions, qui répondent au concept classique de la juridiction, mais également à celle dégagée à l'instant. C'est là son originalité et celle de l'instance ouverte devant lui, en clair le procès constitutionnel si l'on veut bien donner à ce terme une dimension purgée de toute référence aux juges ordinaires. Que le juge constitutionnel statue sur une demande contentieuse ou non contentieuse (gracieuse) n'a pas réellement d'importance dès lors que, dans les deux hypothèses, sa mission est de garantir le respect de l'ordre constitutionnel.*" Jan, Pascal, *Le procès constitutionnel*, 2ème éd. (Paris : L.G.D.J., 2010), 25.

31 Constitutional Council Decision No. 2/2012 of 12/17/2012, annulling Law No. 244/2012 regarding the promotion of inspectors in the General Directorate of Public Security.

32 Constitutional Council Decision No. 1 of 31/1/2002.

the state from religion while guaranteeing the autonomy of religious sects in managing their own affairs and religious interests. It also endorsed the principles of legislative sovereignty and a deputy's representation of the entire nation, drawing the boundaries of the autonomy of the sects. It affirmed that Parliament has a right to legislate regarding the organization of the affairs of the sects, considering its sovereignty and its general legislative mandate, within the limits set by the constitution, and without infringing on the autonomy of the sects, or replacing them, in the management of their own affairs.[33] It considered the state's right to legislate a sovereign right deriving from the people and applied by the state through its constitutional institutions on its territories and their residents. It limited legislative power to Parliament in many of its decisions, considering that it is a true and absolute power attributed by the constitution to a single body – Parliament – as per Article 16 of the constitution.[34]

As such, the Constitutional Council put a clear end to the sects' tendency to encroach on the powers of the state, recalling Parliament's sovereignty and general legislative mandate, even with regard to personal status affairs, while setting regulations to maintain a certain balance between the competences of the state on the one hand, and its obligation to respect the rights of the religious sects on the other, which are also guaranteed by the constitution.

All these pillars and constitutional principles that are stipulated in the Lebanese Constitution, and have been further consolidated by the Constitutional Council, form the pillars and components upon which the rule of law is built. In addition, the constitution defined a number of principles and key objectives that can be drawn from the preamble that was added in 1990 and other constitutional articles that could further reinforce the rule of law in the future.

B. Future Constitutional Objectives and their Potential to Reinforce the Rule of Law

The Lebanese Constitution carries in its fold a future project reflected in the objective stipulated by Paragraph (H) of the preamble (the abolition of political sectarianism) and Articles 22, 24, and 95 of the constitution (1). It also

[33] Constitutional Council Decision No. 2 of 8/6/2000 stating: "Whereas the state's right to legislate is a sovereign right drawn from the people and applied by the state through its constitutional institutions on its territories and their residents. And whereas legislative power is a true and absolute power limited by the Constitution to a single body, Parliament (Article 16 of the Constitution). And whereas Parliament has the right to legislate regarding the organization of the affairs of the sects, considering its sovereignty and its right to a general legislative mandate, within the limits set by the constitution, and without infringing on the autonomy of the sects, or replacing them, in the management of their own affairs." Similarly, Decision No. 1 of 1/2/2000 and Decision No. 1 of 31/1/2002, stating: "Whereas the Constitutional Council had also previously decided that Parliament enjoys a general legislative mandate as per Article 16 of the constitution, which means that its jurisdiction is not limited to the matters explicitly set by the constitution, but that it has the right to legislate in terms of any subject it wants through a law issued by its members, on the condition that it is in compliance with the provisions of the constitution and the general principles of constitutional value, even if it the subject pertains to a regulatory matter, …."

[34] See Constitutional Council Decision No. 3/95 of 18/9/1995 (request to annul certain articles of Law No. 453 of 17/8/1995 amending some of the provisions of the law regulating the Sunni and Jaafari judiciary) and Decision No. 2/2000 of 8/6/2000 (request to stop the implementation and annul Law No. 208 of 26/5/2000 on the organization of the Unitarian Druze Community).

includes other social and economic objectives that are rarely mentioned, by guaranteeing social justice and balanced regional development as general principles that were transferred from the Taif Agreement to the preamble (2).

1. The Abolition of Political Sectarianism: A Realistic or Fictional Goal?

Paragraph (H) of the preamble states a main national objective, the abolition of political sectarianism, to be achieved according to a gradual plan. This objective is also included in Articles 22, 24, and 95 of the constitution. In parallel, the constitution reinforced the sectarian system of government, with Articles 24 and 95 stipulating the sectarian distribution of seats within Parliament, the government, and Grade One positions in the state or their equivalent, noting that it rendered this distribution exceptional and temporary. Despite the fact that the Taif Agreement set the abolition of political sectarianism as a main, national objective, to be achieved gradually, it did not specify a timeframe for the process. It also failed to address the personal status system which requires the establishment of a unified civil system for all Lebanese nationals, even if optional, in order to guarantee the freedom of belief and build a direct relationship between the state and its citizens in this regard.

In fact, it is evident that political practice has gone in an entirely opposite direction from the gradual plan stipulated by the constitution, further embedding the rules of sectarian distribution upon which the Lebanese system still stands on paper and in practice. Political sectarianism has been strengthened, while the country has failed to enter into a transitional phase towards the abolition of sectarianism, deemed a national priority by the constitution. This leads us to raise the question of whether the system based on political sectarianism is temporary and could therefore disintegrate or, whether, on the contrary, it is embedded and rooted in the Lebanese regime, in which case the French proverb applies: Only the provisional lasts.

In this context, we need to go back in time to 1926 to recall the reply of the Patriarch Elias Hoayek and the Synod of the Maronite Church to the sixth question posed by the drafting committee of the constitution at the time: "Should parliamentary representation be sectarian or not? And why?" To which the reply was: "The country comprises different sects. Not only are they different from one another in terms of religious belief, but also in social traditions, norms, ethics, and opinions. Electing on a sectarian basis allows for these sects to be represented to a certain extent in this council. They meet, unite, and each one of them compromises something in favour of a give and take dynamic, which gradually leads to unifying politics. Abolishing the sectarian basis at this time would end such balance and allow for one sect to outweigh the other, resulting in envy and hate. For this reason, we believe representation must be on a sectarian basis."[35] Patriarch Hoayek's answer so clearly echoes Article 95 of the constitution and the gradual plan mentioned therein to achieve the abolition of political sectarianism. Perhaps the wisdom of the Maronite bishops of the past could be an intimation that the time has not yet come and that cohesion and harmony between the various segments

[35] The Documents of Patriarch Elias Hoayek, Document 46 A, File 45 (mentioned in: Hobeika, "Greater Lebanon and the Philosophy of Harmonizing Differences").

of society must be reinforced with shared values and goals, set by those in charge of public affairs who must actually work on achieving them. This leads us to the other objectives set by the constitution.

2. Building Foundations Based on the Principles of Social Justice, Balanced Regional Development and Expanded Administrative Decentralization

The Lebanese Constitution includes an economic roadmap based on the principles of social justice and balanced regional development, in parallel with the principle of individual initiative and the right to private property, as well as a project for expanded decentralization, which was listed among the main reforms of the Taif Agreement.

A. An Economic Roadmap Based on Social Justice and Balanced Regional Development

Since the 1950s, the Lebanese system has been based on the idea of economic liberalism, as per Paragraph (F) of the preamble, which stipulates that "The economic system is liberal and guarantees individual initiative and private property." The severe financial and economic crisis of the past three years in Lebanon has certainly shown the limitations of this unrestrained, liberal economic model. It has also revealed a pressing need for state intervention in financial, economic, industrial, and other productive sectors to, at the very least, regulate them to forestall the risks resulting from favouring factional interests over public interest. It has uncovered the need to adapt the tax and fiscal policy and develop medium and long-term government development plans to encourage individual initiative and investments and promote the considerable capacities of the private sector. It has further revealed that intervention is necessary in vital sectors such as health, education, housing, transportation, and others to guarantee fundamental economic and social rights that ensure a decent life for the people in Lebanon. It is interesting to note that there are laws regulating rent for instance in countries that are considered models of liberalism, such as the United States, and particularly in New York among other states. Both the executive and legislative powers in Lebanon have failed to achieve, or even attempt to achieve, these objectives, which has led to an unprecedented economic, financial, and social crisis that is ongoing since 2019. These two authorities have exhibited remarkable inaction in developing public financial, social, and health plans and policies that can achieve social justice and balanced regional development, such as housing, which is an objective with a constitutional value, as ruled by the Constitutional Council in its Decision No. 6/2014,[36] as well as public transportation, pensions, and hospitalization, among others. The Constitutional Council's recent decision on the 2022 Budget Law and the two violations contained in it, reported by two of its members, have all indicated the gravity of the situation when the executive and legislative powers do not ensure the submission of the financial accounts for every year, contrary to Article 87 of the constitution. This has been happening since 2004 and it reflects a disregard for the simplest rules of credibility and transparency regulating financial laws.[37]

36 Constitutional Council Decision No. 6 of 6/8/2014 (Rent Law).

37 Constitutional Council Decision No. 1/2023 of 5/1/2023 (Law no. 10 of 15/11/2022: The 2022 Budget Law), published in the Official Gazette No. 49 of 15/11/2022.

This role of the state is consistent with the vision drawn up by the constituent authority in 1990, whereby the principles of social justice and balanced regional development[38] were erected as two pillars of the democratic system and the unity of Lebanon, alongside the rights of private property and individual initiative as constitutional principles. The Constitutional Council had already addressed the concepts of social justice and balanced regional development and linked them together in its Decision No. 6/2014 on the aforementioned Rent Law. It considered that "Democracy is not limited to political and civil rights and its realization also requires the realization of the economic and social rights of citizens," and that "the aim of balanced regional development is to achieve social justice and provide decent living conditions for all citizens." In this decision, the council highlighted the state's duty to provide housing, considering it an objective with a constitutional value.[39]

However, the 1990 Constitutional Amendments did not mention expanded administrative decentralization, which was listed among the necessary reforms of the Taif Agreement.

B. The Ambiguous Expanded Administrative Decentralization Project

The Taif Agreement mandated the adoption of expanded administrative decentralization across all smaller administrative units (districts and below) by electing a council for each district, chaired by a district administrative officer (*kaymakam*), to ensure local participation.[40] The idea of decentralization was thus linked to the concept of balanced regional development, as the agreement stipulates in the same paragraph the need to "adopt a comprehensive, unified development plan for the country, capable of developing Lebanese regions economically and socially."

The idea of administrative decentralization is not new and is currently being applied in Lebanon on a municipal level. However, the Taif Agreement affirmed in its articles on reform to an "expanded administrative decentralization" project. The term "expanded" is ambiguous. To some, it is aimed at expanding the scope of jurisdiction of the

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38 Paragraph (G) of the preamble stipulates: "The balanced development of regions at the cultural, social, and economic levels is a cornerstone of the unity of the state and the stability of its system". See also Constitutional Council Decision No. 6/2014 of 6/8/2014 (Rent Law).

39 The aforementioned Constitutional Council Decision No. 6/2014.

40 Paragraph (a) of Article 3 of the Taif Agreement stipulates the following:
"III. Other Reforms: A- Administrative Decentralization:
1. The State of Lebanon shall be a single and united state with a strong central authority.
2. The powers of the governors and district administrative officers shall be expanded and all state administrations shall be represented in the administrative provinces at the highest level possible so as to facilitate serving the citizens and meeting their needs locally.
3. The administrative division shall be recognized in a manner that emphasizes national fusion within the framework of preserving common coexistence and unity of the soil, people, and institutions.
4. Expanded administrative decentralization shall be adopted at the level of the smaller administrative units [district and smaller units] through the election of a council, headed by the district officer, in every district, to ensure local participation.
5. A comprehensive and unified development plan capable of developing the provinces economically and socially shall be adopted and the resources of the municipalities, unified municipalities, and municipal unions shall be reinforced with the necessary financial resources."

relevant local authorities, while to others it refers to the geographic dimension of decentralization, which should not exceed the boundaries of the district, to avoid the fragmentation and classification of local units on a sectarian basis. The latter interpretation seems more likely as it aligns with the idea of the unity of the territory and the people, which was certainly a concern in 1990.

In contrast, the idea of balanced regional development was not associated with administrative decentralization in the constitution, but with the concept of "the unity of the state and the stability of the system," considering balanced regional development a pillar of such unity and stability. The terms "administrative" or "financial" were not used in Paragraph (G) of the preamble, which refers to balanced development across regions at the "cultural," "social," and "economic" levels. It therefore becomes clear that the constituent authority was aware of the need to establish balanced development across the various Lebanese regions to achieve the desired unity, while avoiding the use of the term "administrative decentralization." The reason for not introducing decentralization by way of the 1990 Constitutional Amendments would seem to be a concern with promoting the unity of the people and of the state and its territories, and fear that the idea of expanded decentralization would be considered from a divisive perspective. It was thus left out of the constitution.[41] This was confirmed by a number of parliamentarians who participated in the drafting of the Taif Agreement and the subsequent 1990 Constitutional Amendments.

In all cases, the idea of expanded administrative decentralization has returned to the foreground recently and it is time to rediscuss this project seriously, especially that the recent crisis has made it clear that local authorities must assume greater responsibilities and exercise broader powers than those enjoyed by municipalities at present.

Conclusion

I conclude with a question: Does Lebanon still stand as a project for a state based on consensus power-sharing and coexistence?

The pillars and principles mentioned in the constitution and discussed in this paper constitute solid foundations for the rule of law, if only there were a political will for its establishment. It would be unfortunate for those gains and components to go to waste, should we fail to optimize and promote them to build the state we aspire to have: a unified state, capable of asserting its sovereignty over all its citizens, components, and territories, and of providing social and economic stability, as well as a decent life for its citizens. The question is whether the rule of law can be achieved by maintaining the sectarian foundations of the system of government while introducing appropriate corrective mechanisms, as proposed by theories based on consensus democracy, or by abolishing political

41 One must recall the circumstances under which the Taif Agreement was adopted to end the war that had been raging in Lebanon since 1975, dividing the state, its territories, and its capital Beirut on a sectarian basis.

sectarianism, through the mechanisms stipulated by the constitution, or according to other formulas. Only the future can tell. However, any constitutional amendment would, without a doubt, require broad consensus, or even unanimity, among the ruling political powers. The constituent authority opted for a rigid constitution, rendering the amendment process complicated. In all cases, any serious constitutional amendment process must be widely participatory and transparent, extending beyond the active political powers to comprise all segments of society, including professional and trade unions, civil society organizations, and the wider public. These stakeholders must all be parties to the discussion on crucial matters for the constitution to represent a genuine social contract among all citizens, and to realize their hopes and dreams of a better future.

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