

Report

Puzzle of Lebanon: Giving birth to a non-sectarian electoral law, by means of sectarian forces



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According to the Lebanese constitution and its amendments, especially from the 1989 Ta'if Agreement, elections for the 128 members of parliament – half Christian and the other half Muslim – take place every four years. The Christians are allocated thirty-four seats for Maronites, fourteen for the Greek Orthodox, eight for Roman Catholics, five for the Armenian Orthodox and one seat each for Armenian Catholics, Evangelicals and other Christian minorities. Muslims have twenty-seven seats each for Sunnis and the Shi'as, eight for the Druze and two for Alawis.

It is important to note that the Lebanese constitution - which has been in effect since the country's independence in 1943, the 'National Charter' - which is considered an unwritten constitution and the first statements of the first two governments after independence all assert that political sectarianism is only temporary. Statements of the first two governments further state the the abolition of the sectarian arrangement would be 'a blessed moment in the history of the homeland'.

The Ta'if Agreement was signed in the hopes of ending a fifteen-year civil war. It recommended the formation of a national committee to study political sectarianism, and temporarily allowed the distribution of senior posts and top-ranking political positions based on sectarian divisions. But this committee is yet to be formed. Meanwhile, sectarianism has not been brought to an end but has increased, and now influences all administrative, security and political designations from the lowest to the highest ranks. Parliamentary elections have become a major national event that reflects this polarization in the most disturbing political-sectarian manifestation.

While Lebanon is on the threshold of legislative elections due to take place in June 2013, it does not have an agreed electoral law and the time left before the elections is hardly enough to announce nominees and prepare for an election that would be barely democratic.

A small parliamentary committee, based on sectarian lines and headed by attorney Robert Ghanem, was formed in January 2013 and continues to meet regularly to produce an election law that might be accepted by all political groups and supported by a majority in parliament (fifty per cent plus one of its members). The law will then be presented before in front of a special general assembly for approval before the ministry of interior commences the actual procedures for managing the elections. It must be kept in mind that the Lebanese government had approved a bill based on proportionality and the division of Lebanon into thirteen constituencies. However, this bill lacks the necessary parliamentary majority to pass, which meant it was stillborn, similar to other bills that had been proposed.

Lebanese officials who are busy trying to reach a consensual electoral law must demonstrate their ability to assume responsibility without Syrian guardianship. Previously, election laws would come from Damascus 'ready for consumption', and almost no internal Lebanese debate was held over them. Today, each party bases its calculations on the future of the Syrian regime and consequently refuses any electoral law that may lead to losing even one seat in the forthcoming elections. The problem is that all bills under discussion allow each of the parties to predict the results and estimate gains and losses, enabling them to choose to support or reject these bills accordingly.

The 2005 and 2009 elections: Between guardianship and influence

The assassination of Rafik Hariri on 14 February 2005 was a significant turning point in the contemporary history of Lebanon and had direct and serious consequences, including the sharp divisions between the two movements born as a result of the assassination – the March 8 and March 14 alliances – as well as the departure of Syrian forces from Lebanon under international and popular internal pressure. The mandate of the Council of Deputies had expired and it was obligatory under the pressure of popular protests opposing Syria and its allies to hold new elections in light of the absence of any agreed law and the fact that the government of Prime Minister Omar Karami had resigned.

Due to the fear of a constitutional vacuum in an atmosphere of extreme tension, all parties agreed to hold elections according to Ghazi Kanaan's Law of 2000, so named for the commander of Syrian intelligence in Lebanon who had imposed the law on Lebanon. The need to ensure peace led to the formation of a quartet electoral alliance – which claims to be apolitical – between Hizbullah, the Amal movement, Tayyar Al-Mustaqbal (Future Movement) and Al-Quwwat (Lebanese Forces) party. The election resulted in the March 14 alliance winning the majority of parliamentary seats and forming a government, one third of which was opposition members. The four-way alliance ended when the elections did and a new alliance was entered into between Hizbullah and General Michel Aoun in 2006.

The parliamentary election of spring 2005, the first of its kind, was held after Syria's exit in keeping with the will of the international and regional powers to avoid a constitutional vacuum in Lebanon and because of the agreement between Saudi-Syria which stated that a balance must be maintained between two sides – Syria and Iran on the one hand, and Saudi Arabia and USA on the other. Hence, discussions over the application of UN Resolution 1559 and the fate of armed resistance groups like Hizbullah were postponed. The electoral law had no central importance under the international and regional agreement because it was the responsibility of those charged by the international agreement to produce a council that would preserve such a balance.

Many events took place in 2006 and 2007 (the July War, resignation of Shi'a ministers from Prime Minister Fouad Siniora's government, in protest against its signing of a protocol calling for an international court to investigate the assassination of Hariri, a parliamentary then government vacuum due to the failure to elect a new president after the mandate of President Emile Lahoud had expired, sit-ins and tensions that put the country on the brink of explosion, and so forth).

Hizbullah's military operation in Beirut in response to a government decision in May 2008 resulted in immediate regional and international intervention by France, Turkey, Iran, Saudi Arabia, Qatar and Syria. The result was a meeting in Doha that brought together rival Lebanese leaders. The Doha Agreement, which included items relating to parliamentary and presidential elections and the formation of a Lebanese government, was signed. Lebanon resorted to an electoral law, with minor modifications, that was used in the 1960 elections. Using an outdated, half century-old law was necessary because the conditions did not allow the negotiation of a new law. This law was based on majority vote and the rule of large constituencies. This therefore entrenched the phenomenon of 'sectarian princes' and 'road rollers' (influential individuals who attract large numbers of votes) as described by speaker of parliament Nabih Berri, because it guaranteed that all members of winning parties entered parliament. It was agreed that the use of the law was necessary just once but would not be used in the 2013 elections, and that the next Lebanese government would formulate a new law that would guarantee a fair representation of the Lebanese people.

The 2009 election brought the March 14 movement to power with a slight majority. It formed a government with Sa'ad Al-Hariri as prime minister, while the March 8 alliance won a third of seats plus one. This allowed it to dissolve the government in autumn 2010. This was encouraged by Syria's President Bashar al-Asad as a result of his disagreement with Saudi Arabia and Hariri. Thereafter, Walid Jumblatt joined the March 8 movement, enabling it to secure the parliamentary majority required to form a new government headed by Najib Miqati in February 2012. After extensive negotiations and discussions, that government managed to agree on a new election law based on proportional voting and the division of Lebanon into thirteen constituencies. But the new law was not sent to the parliament for approval because Jumblatt and the Future Movement had refused. Although the government had officially adopted a neutrality policy regarding events in Syria, none of its components or rivals abided by this policy. It became clear that Hizbullah was taking an active part in supporting the Syrian regime, while the Future Movement supported the Syrian opposition. Furthermore, Jumblatt professed his hostility towards the Syrian regime while expressing support for Hizbullah.

It is on the basis of these serious developments that a new law for parliamentary elections is being sought, one that will enjoy support of the majority and agreement

between the major players. The difficulty is that a parliamentary majority cannot protect the country should a major party, backed by an influential regional ally, decide to boycott the elections. This may lead the country into many crisis-ridden years if it is unable to withstand the political, economic, and security implications. Since no one will accept a law that will cost them power, what is required is a law based on the famous 'win-win' rule which has been the core of the difficult negotiations being held.

2013 elections without guardianship or influence

Although the 2005 and 2009 elections took place in the absence of direct Syrian tutelage, Syria maintained its influence through its allies, which was evident when those allies toppled Sa'ad Hariri's government at the request of Bashar Asad; Hariri had resigned when the opposition constituted one third plus one members of parliament. But this year's election is taking place without Syrian influence and guardianship because of the bloody events that threaten the very existence of a Syrian regime which is in greater need of its allies than they are of it.

Many proposals were discussed, with the constant concern being the authenticity of Christian representation. Christians in both camps complain that the majority of their parliament members are determined by non-Christian voters. The reason is that the proportion of Muslim voters is just over sixty per cent while the proportion of Christians is less than forty per cent, most of whom are scattered in areas with relatively mixed sectarian demographics.

In addition to the proportional electoral law approved by the government, the Lebanese Forces with the Phalange Party proposed a majoritarian representation and called for Lebanon to be divided into fifty constituencies. This system, they claim, would be the closest to proper representation because voters in smaller constituencies support candidates they know. But the opponents of this proposal claim it encourages vote buying and allows powerful families to influence the elections and entrench isolation and divisions in a homeland that needs openness between its different components. Furthermore, the proposal is in violation of the Ta'if Agreement. This bill did not gain the support of the 'Aoun and Jumblatt parties and it was stillborn. Its proposers themselves decided to support a draft by former deputy parliamentary speaker Eli Ferzli on behalf of the 'Orthodox Meeting' in parliament. Most of the discussion time was dedicated to this bill, while other bills passed without any obstacles.

This bill suggests conducting the elections on a proportional basis, with all of Lebanon being one unified constituency but each sectarian group electing its own representatives. This proposal solves the problem of Christian representation and creates competition between political parties at a country level and not at the level of small or big constituencies. Ferzli justified it by saying, 'The dual Sunni-Shi'a axis in the country finds

it joyful to give birth to Christian deputies, which is in contrast with the constitution....Are Christians paying the price of their [demographic] distribution in Lebanon? Indeed, Sunnis bring forth their deputies, Druze bring forth their deputies, Shi'a bring forth their deputies. Why is it forbidden for Christians to bring forth their deputies?' The bill was supported by all Christian parties and caused disagreements within the March 14 movement which temporarily suspended its meetings due to the Future Movement's rejection of the bill. Even Hizbullah supported it as a token of respect for its ally 'Aoun. It makes this the only bill that enjoys the support of an overwhelming parliamentary majority, despite its illegality and potential to cause legal splits and disintegration. It is supported by President Michel Suleiman and 'Aoun, who considers it a good bill in that it grants each side its legitimate rights. 'Aoun has launched an attack against objectors to the bill.

Among its critics was Future Movement president, Sa'ad Hariri, who described it as a 'ticking bomb', as well as Fou'ad Siniora, head of the Future Movement's parliamentary bloc. Siniora asked: 'How will Lebanon stabilise in light of the attempt to adopt an act that will transform Lebanon into quarrelling sectarian and factional groups? Do the parties who support such a law want stability in Lebanon?' In his view the bill is the beginning of Lebanon's division and the collapse of coexistence among its different groups. Prime Minister Miqati also believes the law is 'based on the splitting of the Lebanese people according to religious and sectarian rules, and revitalises federalist ambitions that the Lebanese do not want. He added that any violation of the Ta'if Agreement 'turns the clock back to the pre-Ta'if period with all its problems and negative manifestations, and may today lead to what is much worse in light of the charged regional atmosphere and the increasing sectarian division.'

Future Movement parliamentary member Ahmad Fatfat said, 'What is happening concerning the election law is a plot by Hizbullah to control the country by manipulating parliament....Any proportional system would allow Hizbullah to lay its hand on the country, overriding others and seizing the country's arms....As under the Ta'if Agreement, parliamentary elections are conducted at provincial level and not at constituency level. Additionally, the constitution's preamble dictates that Lebanese people shall not be classified on the basis of any affiliation or fragmentation or division, and this is why what is being proposed is very dangerous.'

Fatfat added, 'The group which laid its hand on the Christians is the same group that laid the foundations for the elections law of 2000, which Frezli justifiably described in 2008 as "the law of conspiracy" against Christians. This law was passed then by Ghazi Kanaan, and we voted against it while Frezli voted for it, which means that Frezli is the one who conspired against the Christians at that time.' He concluded: 'There are twenty-four Christian deputies in the parliament elected by non-Christians, as well as ten Muslim

deputies elected by non-Muslims. This is coexistence and all talk of the sixtieth law as being a tool used by one sect to dominate another is not true, Christians play their role in full.'

It should be mentioned that Michel 'Aoun threatened that the elections would not be run on the basis of this law, even if this meant postponing it.

Samy Gemayel proposed the 'Orthodox bill' based on majority and not proportionality, but his proposal was rejected immediately. Former deputy Naji al-Bustani proposed a bill that recommended dividing Lebanon into thirty-four constituencies. His proposal is the middle ground between the proposal for fifty constituencies and the law of the 1960s. Deputy Akram Shuhaib from the Jumblatt bloc called for the implementation of the Ta'if Agreement which states that elections must be conducted outside sectarian restrictions, with the formation of a senate in which all denominations would be represented. This was supported by the Future Movement, but was immediately rejected by all the Christians.

Walid Jumblatt, the head of Jabhat al-Nidal, on the other hand, supports only the 1960s law which guarantees him keeping his share. Some believe Jumblatt is trying to waste as much time as possible until the law becomes a reality. And the fact that he is a cornerstone in the current parliament means that he is capable of toppling any bill that is not agreed upon between all components of March 8 and March 14 groups. If such an agreement is reached, he will be the biggest loser in the next parliamentary formation.

Elections or no elections? And based on which elections law?

Any party that rejects any proposed bill does so as a means of self-preservation, and a party that favours a certain bill does so only because it thinks it will be among the winners, and in that case it will not be difficult to find legal, constitutional and national arguments in favour of the bill. Due to the demographic distribution of the supporters of the Shi'a Hizbullah-Amal coalition, this coalition is at ease with almost all proposed bills because it has a sweeping Shi'a majority in the areas where it is active. But this is not the case with other parties whose support base is scattered in areas that also have people affiliated with different sectarian or factional groups. Consequently, the parliamentary representation of such parties is dependent on the election law and the division of constituencies.

The debate around the proposed bills was drawing rivals closer to each other and pushing allies apart, and they failed to attain the required consensus among the different parties. Berri can certainly not bear the responsibility of calling for a plenary session to approve a law that is considered illegal by one of the major groups and is contradictory to the Ta'if Agreement. The ideal law is one that is consistent with the constitution and

the Ta'if Agreement and which makes it difficult to manipulate the results of the elections. Attempts to find such a law are underway while Lebanese diplomats are eager to ensure that elections are held on constitutional dates.

That was when eyes turned towards reviving a bill that was previously submitted by the commission led by former foreign minister Fouad Boutros. It merges the majoritarian and proportional systems with fifty per cent for each of them, but only after amendments were made to it in terms of the number of elected seats based on both systems and the decision to compensate presumed losers through electoral – and not necessarily political – alliances with rivals in one of the constituencies. Not to mention the intention to divide the constituencies, as if cutting a cake, to satisfy those who have suspicions about the bill and started to criticise it.

Although some believe that the electoral debate is only a waste of time in light of developments in Syria, Lebanese officials are serious about reaching a satisfactory formula. President Michel Suleiman, who supports the proportional law, launched public criticism directly at the ministers of 'Aoun, who adopted the law inside parliament but promoted other bills outside. He said, 'It is disgraceful that we have not been able to agree on an election law for the first time without external guardianship.'

Failure carries enormous risks; the new parliament is to elect the new president next year and a vacuum may make Lebanon a failed state with negative implications on its economy, independence and stability. No one inside or outside Lebanon want such a scenario

In the end, no Lebanese person can dismiss another, irrespective of the election results. The country is subject to the formula of 'no winners and no losers' and to consensual democracy where application of numerical democracy is not possible because of sectarian and religious fanaticism.

This means that the results of the election might equate the losers with the winners when a national unity government is formed, as has been the case previously. This is the best solution to keep the country out of the furnace of the Syrian war. Hizbullah has already declared that the results of the election will change nothing in the balance of power and the equation of 'the army, the people and the resistance' will remain intact and will be espoused by the future government in its ministerial statement, as was done by its predecessors. Hizbullah leader Hassan Nasrallah reminded ambassadors of major countries that are hostile to his party and who hurried to ask Miqati's government (which is considered by some to be Hizbullah's government) not to resign after the assassination of General Wissam al-Hassan in November 2012. Even French president Francois Hollande visited Beirut especially to affirm the need to avoid any constitutional

vacuum in these difficult days. This means that regional and international powers will be ready to help the Lebanese people out of a stalemate when needed.

Will they prove this time that they no longer need it?

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