



The Arab Center for the development of the Rule of Law and Integrity

“Promoting the Rule of Law in the Arab Countries” Project

Report on The State of Parliament in Lebanon

Second Draft

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The present report tackles the establishment, development and performance of the Parliament in the Lebanese Republic, in the light of the principles and indicators required for the Parliament to fulfill its tasks fully and achieve the set goals, especially the establishment of good governance.

Chapter one: Contextual Background

1- Beginning of the Political Representation in Lebanon and the Parliament

The birth of the Lebanese Parliament took place during a historic development of the participation in power through commissions having a representative aspect. The system of Mount Lebanon Province, set up in 1861, stipulated in article two the establishment of a large council of 12 members elected by secret vote at two levels; its mission was not to legislate but rather to assist the ruler in fulfilling his administrative functions. The statute states that the Council of Administration imposes taxes, monitors revenues and gives its counseling opinion regarding all the issues submitted to him by the ruler.

Regarding the distribution of seats in the Administration Council, it was established at a confessional level. Pursuant to the temporary statute established in 1861, the Council consisted of 12 members, which means two members for each of the following confessions: Maronite, Greek Orthodox, Greek Catholic, Druze, Sunnite and Shiite. The Council of Administration was thus considered as representing the confessions. The vote therein took place on the basis of the confessions, meaning that each confession shall retain only one voice in the Council. This rule, however, was cancelled in 1864 and replaced by the vote on the basis of the members. The seats distribution was also modified: Christians obtained 7 seats (4 Maronite, 2 Greek Orthodox, and one Greek Catholic) against 5 seats for Muslims (3 Druze, 1 Sunnite and 1 Shiite). Therefore, the number of any confession's votes in the Council equaled the number of its representatives. The Council of Administration seats were distributed following the proportional rule based on the number of each confession's members. By virtue of the statute, the inhabitants of each village shall elect a mayor or a Sheikh to control the local affairs and the villages' Sheikhs shall elect the members of the Council of Administration.¹

After World War One, Lebanon's control went from the Ottoman rule to the French Mandate, and the State of Grand Lebanon was announced in 1920. The French High Commissioner General Gouraud issued a decision stipulating the annulment of the Council of Administration and the establishment of a General Administrative Commission whose members were appointed on the basis of their denominations. Its

¹ Issam Sleiman, *Federalism, Pluralist Societies and Lebanon*, Dar al Ilm lil Malayeen, Beirut 1991, pp.103- 105.



powers were the same as the former Council of Administration. In March 1922, a law was issued stipulating the establishment of a four-year Representative Council of 30 members representing all the regions and confessions. This Council shall be elected by voting at two levels, on the basis of the provinces and through two secondary delegates who were directly elected by the people.

In 1926, the French High Commissioner voiced his will to draft a Constitution for the State. The Representative Council convened and elected a commission of deputies entrusted with drafting the Constitution. The said Constitution was declared in May 23, 1926. Thus, the Representative Council became a drafting Council and then a parliamentary Council, for the Constitution stipulated the establishment of a Parliament. The High Commissioner appointed, in addition to the Parliament, a Senate of 16 senators. However, this Council was abolished by virtue of the constitutional law of October 17, 1927, and the Lebanese Parliament consisted afterwards of one Council, that is the Parliament. Article 16 of the Constitution stipulates: “Legislative Power is vested in a single body, the Chamber of Deputies.” Until 1939, all the Parliaments were formed of elected as well as appointed deputies. But after the said date, all the Parliaments were elected and no deputies were appointed. However, exceptionally and for the purpose of implementing the Taif Agreement², in 1991, 55 deputies were appointed and added to the ancient deputies that were still alive, and the Parliament’s members totaled 108, equally apportioned among Christians and Muslims. However, this appointment was not well regarded by many of the Lebanese.

2- Factors behind the establishment of the political representation in Lebanon and the emergence of the Parliament

Following this historic overview, it appears that the political representation emerged first in Mount Lebanon, which enjoyed independence under the Ottoman Empire, when the Province system was set up. Historic factors contributed to this emergence, some of which were related to the Ottoman Sultanate itself, others to the events in Mount Lebanon in the mid 19th century, while others had to do with the influential European countries in Mount Lebanon.

The Ottoman Empire underwent much European pressure at that time, which incited the Sultans to follow an open policy towards the liberal ideologies starting to sweep the societies that were subject to the Ottoman rule.

² The Taif Agreement is a convention reached in autumn 1989, at a meeting held by the Lebanese Parliament in the city of Taif in the Kingdom of Saudi Arabia with an Arabic assistance and an international consent. It aimed at ending the Lebanese civil war and at the establishment of civil peace and the reconstruction of the country. It included provisions related to the political system reform as well as other reforms in addition to the extension of the sovereignty of the State of Lebanon over all its territory, and the liberation of Lebanon from the Israeli occupation and the Lebanese-Syrian relations.



This was made clear with the adoption of the Tanzimat (organizations) policy, by implementing the edict called Hatt-I Sharif of Gulhane (Noble Edict of the Rose Chamber), which was the first charter for individuals' rights and freedoms regardless of their confession and affiliation, and without any discrimination as to their religion, gender or language. Sultan Abdul Magid confirmed the principles of the Gulhane proclamation in 1865 by adopting another proclamation in which he recognized the rights of the Christian confessions after defining them in details, in order to allege the French and British pressure against him in the Corm war. This political orientation adopted by the Ottoman Sultanate laid the groundwork for adopting the representation principle in the Mount Lebanon governance system during the Province era.

Regarding Mount Lebanon, the collapse of the emirate and the rise of the conflicts between Maronites and Druses was due to internal sociological, demographic and economical factors, as well as external factors resulting from the intervention of European States in the affairs of the Ottoman Empire on one hand, and the outburst of conflict between Maronite peasants, led by Tanios Chahine, and the Maronite and Druze Feudal lords on the other hand. The intervention of the five big States: France, Prussia, Britain, Austria and Russia, was direct and aimed at finding a new governance formula in Mount Lebanon that guarantees its stability and ends the confessional conflicts on one hand and the conflicts between peasants and feudal lords on the other hand. This led to the adoption of the Mount Lebanon statute, the system of Provinces which cancelled the feudal system.³ Thus, the principle of the confessional popular representation was adopted in forming the Council of Administration. The new system was able, through its different institutions, to comprise the majority of the social forces which took part in the old conflicts. The feudal lords who lost their privileges found in the administrative functions to which they were assigned the best means to compensate their losses. Yet, the proportional representation regarding the confessions representation in the Council of Administration, granted the Maronite confession the control of the Province system.

Dr. Edmond Rabbat declares that the Council of Administration, and since its establishment, represented the core of a Parliament. Its members were similar to the deputies of the people. The spirit of democracy which was fully represented in the establishment of the Council, wore a confessional aspect that remained throughout history.⁴

3- The relation between the Parliamentary representation and the social structure:

Since the early 19th century, the religious confessions started forming socio-politic entities in Lebanon. These confessions emerged under the influence of several historic factors. Each denomination gained an internal composition variously coherent, according to the social and political conditions it underwent. These entities also gained a political

³ Article 5 of the statute stipulated equality before the law and the abolition of all feudal privileges.

⁴ Edmond RABBATH, *La Constitution Libanaise*, Librairie Orientale, Beyrouth, 1982, p. 215



perspective with time and were rooted in the Lebanese reality. The confessional affiliations overpowered the social class and the political affiliations. Although every confession included members of different social classes and various political orientations, which sometimes conflicted with each other, the Lebanese society seemed basically formed of religious confessions, despite the existence of social and political forces that transcend beyond the confessions.⁵

The drafters of the Lebanese Constitution in 1926 attempted to reconcile the demands of the Lebanese reality in its social and confessional composition with the principles in force in the democratic parliamentary systems. Thus the Constitution guaranteed the liberties and rights of individuals as citizens as it also guaranteed the freedoms and rights of the religious groups. Article 7 stipulated that “All Lebanese are equal before the law. They equally enjoy civil and political rights and equally are bound by public obligations and duties without any distinction.” The Constitution not only guarantees the civil and political rights, but also “the absolute freedom of conscience” and “it also guarantees that the personal status and religious interests of the population, to whatever religious sect they belong, is respected”. (Article 9 of the Constitution). The Constitution went even further as to stipulate in article 95 the following: “On a temporary basis, and to achieve justice and harmony, all the confessions must be fairly represented in the administrative functions and in the Government formation without causing any harm to the State’s interest.” This article was amended in 1990 within the Taïf Agreement. It stipulated the establishment of a national assembly to abolish political confessionalism, and stated the fair representation of the confessions, in the temporary period, in the Government formation, as well as the distribution of the first category public functions equally among Christians and Muslims. It is worth noting that the temporary period was not specified.

Thus, the religious confessions and their political rights were formally recognized in the Constitution. It was normal for this to affect the parliamentary representation. The rule of confessional representation adopted in the Province system was consolidated in the parliamentary electoral laws defining the number of deputies and their distribution among the confessions and constituencies. Shebel Damous, the rapporteur of the constitutional commission justified the principle of the confessional representation in the Parliament by stating that the parliamentary representation must reflect the country’s reality. He added that since this reality is based on confessions, it is necessary that these confessions be represented. Moreover, he stated that the confessional representation preserves the rights of the minorities and leaves no room for protests, and that the solidarity among confessions has not yet reached a level allowing the abolition of confessional policies.⁶

4- Distribution of parliamentary seats

Before its amendment in 1990, the Constitution did not stipulate the distribution of the parliamentary seats among the confessions. However, the different electoral laws drafted

⁵ Issam Sleiman, *op.cit*, pp.119-125

⁶ In, Pierre RONDONT, *Les institutions politiques du Liban*, Publications de l’Institut d’Etudes de l’Orient Contemporain, Paris 1947, p. 80



during the mandate and after the independence, all adopted the principle of a proportional confessional distribution for the parliamentary seats. The Representative Council set up in 1922 was elected in conformity with decision 1307 which divided the seats among the confessions following their quantitative importance. All the electoral laws that were issued so far have always respected the seats' distribution principle in the Parliament among the confessions. Prior 1943, the number of seats allotted for Christians exceeded the number of the seats granted for Muslims by 2 to five seats, according to the total number of seats. Yet, the electoral law of 1943 set to 55 the number of parliamentary seats, 30 for Christians and 25 for Muslims, which means 5 seats for Muslims against 6 seats for Christians. Since then, until the Constitution was amended in 1990, all the electoral laws adopted this five-to-six ratio rule. The number of seats apportioned in all these laws came as a result of the multiplication of a certain number by 11 to preserve this ratio (since $5+6=11$). The number of parliamentary seats increased from 55 to 77 then reached 44, and 66 before increasing to 99 seats, in order to abide by this conventional law.

The electoral law issued in 1960 set the parliamentary seats at 99, 45 for Muslims and 54 for Christians. These seats are apportioned among all the Christian and Muslim confessions according to this table:

Christians		Muslims	
Maronites	30	Sunnis	20
Greek Orthodox	11	Shiites	19
Greek Catholics	6	Druses	6
Armenian Orthodox	4		
Armenian Catholics	1		
Evangelical	1		
Minor groups	1		
Total	54	Total	45

The balance in the confessional participation in power caused many disagreements between the Lebanese and was one of the reasons behind the beginning of the armed



conflicts in 1975. When a settlement was reached in the Taïf Conference in 1989, political reforms were adopted for the formula of governance and the parliamentary system in force in Lebanon, including the parliamentary representation. The Constitution was amended in 1990 and thus, it included the principle of seats' distribution among the confessions. Article 24 stipulated the following: The Chamber of Deputies is composed of elected members; their number and the method of their election is determined by the electoral laws in effect. Until such time as the Chamber enacts new electoral laws on a non-confessional basis, the distribution of seats is according to the following principles:

- a. Equal representation between Christians and Muslims.
- b. Proportional representation among the confessional groups within each religious community.
- c. Proportional representation among geographic regions.

The Taïf Agreement set the parliamentary seats at 108, 54 for Christians and 54 for Muslims. The seats allocated for Muslims were raised from 45 to 54 to equal the seats of Christians. By virtue of the Taïf Agreement and the constitutional amendment, certain MPs were appointed by the Government, exceptionally in the newly added seats and the ones vacant due to the death of some deputies.⁷

In 1992, the electoral law issued in 1960 was amended, and the parliamentary seats were raised from 108 to 128, 64 for Christians and 64 for Muslims. This number remained as such in the elections of 1996, 2000 and 2005; however, the electoral constituencies were amended in each electoral session, except for the elections of 2005 held on the basis of the 2000 law.

The parliamentary seats were distributed among the confessions as follows:

Christians		Muslims	
Maronites	34	Sunnites	27
Orthodox	14	Shiites	27

⁷ Many Parliamentary seats were vacant due to the death of some deputies, since the Parliament elected in 1972 was prorogated during war and it became impossible to hold the elections. Thus its mandate went on until 1992. It has preserved its unity through the bloody conflicts that have ravaged the country and destroyed its union between 1975 and 1990. It has also elaborated the Taïf Agreement by virtue of which the Constitution was amended.



Catholics	8	Druses	8
Armenian Orthodox	5	Alawites	2
Armenian Catholics	1		
Evangelical	1		
Minorities	1		
Total	64	Total	64

The electoral laws set the Parliament's mandate at 4 years, except the 2000 law which set the Parliament's mandate, exceptionally and for once only at 4 years and 8 months⁸.

5- Role of the Lebanese Parliament

Michel Chiha, the most eminent drafters of the Lebanese political system, states that the Parliament in Lebanon is a basic factor in the political life. The united confessional minorities need a collective representation to remain as such, because if anyone of these confessions dominates the country, it will threaten the existence of the State. If the various components that form Lebanon, do not deem themselves well represented in the Parliament, they may disintegrate. This fact was well understood by the representatives of the European countries in 1860 and 1864. Michel Chiha goes further and explains that the modern Lebanese history has proven that every time the Parliament was absent from the political life, and the representation principle was ignored, pure confessional power replaced the Parliament, and confessional Councils emerged on the scene. When confessions have no political representatives, it is normal for the religious and confessional leaders to become their representatives. The confessional cause explodes instead of melting away in the national life.⁹

The Parliament in Lebanon, likewise having the role of legislating and monitoring, likewise its financial and judicial powers and its functions as an electoral body, has a fundamental role not only limited to representing the population; however, it also represents a space for constant dialogue between religious confessions, in order to strengthen cohabitation and national unity and achieve stability. It does so by understanding the confessional reality and transforming the confessional status into a national and unifying one, in which the national affiliation takes over the confessional affiliation. Thus, the Parliament is supposed to fulfill its role in elaborating policies in

⁸ The mandate of the Parliament became four years and eight months for the parliamentary elections do not take place in the same year of the presidential election, which means in 2004, and for the electoral Parliament elects the President in 2000.

⁹ Michel CHIHA, *Politique intérieure*, Ed. DuTrident, Beyrouth, 1964, pp.54-56



order to reach this very noble objective on which depends the fate of both the State and the nation and leads to a comprehensive national identity.

If this was considered a fundamental function for the Parliament, due to the singularity of the Lebanese reality, the Parliament's role as a space for dialogue, interaction and understanding between the entire Lebanese society components, not only its confessions, must not be marginalized. Along with the confessions, and even within the confessions, there exist political, social, economical, professional and other forces whose interests and aspirations must be taken into consideration and whose problems must be solved; thus, it shall be necessary that all forces be represented at the Parliament.

Chapter 2: Analysis of the Principles

This chapter reveals to which extent just and fair representation and participation were achieved in the Lebanese Parliament, the Parliament's dependence level in fulfilling its functions, as well as its performance level and the required integrity, based on the principles and indicators adopted in studying the good Parliament at both textual and practical levels.

1- Representation and Participation

The Parliament shall fairly and justly represent the largest social strata. In the democratic systems, "people are the source of authority", this was stipulated by the preamble of the Lebanese Constitution.¹⁰ In order for power to express popular will and enjoy legitimacy, it should in fact represent the broad majority of the people. The larger the popular representation of power is, the stronger its legitimacy is.

Just and fair representation requires achieving equal opportunities in the elections among the candidates. Democratic elections are based on free and equal competition, during which the candidates start from parallel positions and in the frame of indispensable equal conditions.

Just and fair representation is linked to a deeper objective that is achieving the participation in power through the Parliament. This was confirmed by the Lebanese Constitution in its preamble when it stipulated that the people are the source of powers which they shall exercise through the constitutional institutions. The constitutional institution that must express more than anything else the will of the people, and therefore ensure participation in exercising power, is the Parliament since it is elected directly by the people.

¹⁰ Paragraph D of the constitution's preamble stated the following: "the people are the source of powers and the holders of sovereignty that they practice through the constitutional institutions"



1-1 Just and fair representation

Just representation entails that the deputies truly represent the largest social strata since they shall be elected by a broad majority, formed by the various social categories. The composition of the Parliament shall reflect the social composition, and no category shall be marginalized or deprived from its right in representation.

Lebanese parliamentary laws stipulated the distribution of parliamentary seats among religious confessions and regions, according to certain proportions that were agreed upon. This distribution was confirmed in a constitutional text in 1990. The proportions were amended in distribution, and the parliamentary seats became equally divided among Christians and Muslims and proportionally divided among confessions and regions.

Distributing the seats among religious confessions and regions guaranteed the establishment of parliaments comprising deputies of all confessions and regions. Therefore, the Parliament reflects the social composition, at the confessional and regional levels. However, this distribution of seats does not necessarily lead to a just representation. The latter depends on an electoral law that adopts an electoral system within convenient electoral constituencies, and guarantees equal opportunities among the candidates. It also depends on holding the elections in an atmosphere of freedom and integrity.

When examining the elections held in Lebanon, after the war and the constitutional amendments in the Taïf Agreement, in other words the elections held in 1992, 1996, 2000 and 2005, we notice they were all held under laws conflicting with basic constitutional principles and the Taïf agreement itself. Electoral constituencies were divided according to certain interests in order for certain people to win and others to lose. The majority vote system was adopted in larger constituencies where sometimes representation reached 28 seats and where the electorate can vote for all of them. This led to the victory of candidates who have no popular representation, thanks to certain votes gained through the heads of the electoral rolls. Certain MPs reached the benches of the Parliament without having any representative status, nor a political background. Progressively and throughout the successive electoral rounds, the parliamentary representation was monopolized in a number of electoral constituencies, and many categories were marginalized and remained without any representation. Proportional majorities in the large constituencies controlled the election results, and thus, many categories remained without any representation, and sometimes reached half the voters in certain constituencies. This is generally the result of the majority system in large constituencies. This system does not achieve a just representation except in small or individual constituencies that include only two to three seats maximum. The more the number of rival candidates and lists is in the large constituencies with a majority system, the less the representation is. In the 1992 elections, the winner with the larger votes in Beirut was Prime Minister Selim Hoss, winning only 55.55 % of the votes, while the winner with the least number of votes was Yeghia Hajji Gergian with 10.65 % of the votes. The average for the winners in these elections reached 22 % of the votes. Due to the abstention of the majority of Christians from participating in the elections, participation only reached



16.24 %, meaning that a large percentage of the voters remained without any representation.

In the 1996 elections in the Beirut constituency, Rafik Hariri won 63.93 % of the votes, while the winner with the least number of votes in this constituency, Ghassan Matar, only clinched 22.92 % of the votes. The average for the winners in this constituency was 42.5 % of the votes and the participation in this constituency's elections reached 32.6 % of the registered voters.¹¹

In the 2000 elections, Beirut was divided into 3 constituencies, in which the Rafik Hariri lists won; in the first constituency, they got 62.9 % with a 40.2% participation rate; in the second constituency they got 56.7 % of the votes with a 35.3 % the participation rate; and in the third constituency they got 58.1 % of the votes with a 31.8 % participation rate.¹²

The 2005 elections, however, cannot be taken into account while studying the elections in the constituency of Beirut since most of its candidates won uncontested due to the fallouts of the Hariri murder, and the popular mobilization around his son Saad Eddine Hariri. Therefore, we will take the example of the second constituency in the North, which is a large constituency of 17 seats, where the competition was fierce between a list supported by Saad Eddine Hariri, and another supported by General Michel Aoun.

Participation in this constituency reached 45.23 %. The average votes grabbed by the list of Reconciliation and Reform supported by Saad Eddine Hariri hit 97721 votes, which means 55.1 % of the total votes, while the average votes grabbed by the List of the People's Decision supported by General Aoun numbered 71489, meaning, 40.31% of the total votes.¹³

After reading the above figures, one concludes that many voters in the 1992, 1996 and 2000 and 2005 elections remained deprived from any representation, and that the representation rate decreases if we take into account the voters present in Lebanon during the elections and who did not participate therein, because they were convinced their votes will have no effect. The electoral law, the formation of the candidates' rolls by some influential figures, as well as the method adopted in holding the elections, sufficed to determine the elections results in advance in many constituencies.

¹¹ Refer to the study undertaken by Issam Sleiman, and published in the book: The parliamentary elections 1996, The Lebanese Center of Studies, Beirut, 1998, pp. 163-197.

¹² Kamal Feghali, The Lebanese Parliamentary Elections 2000, Beirut 2001, pp.166- 172.

¹³ Abdo Saad, The Parliamentary Elections of 2005, Readings and Conclusions, Beirut Center for Researches and Information, Beirut 2005.



Moreover, the fact of adopting big constituencies in a majority vote system leads to the control of uni-confessional majorities over the parliamentary seats slated for other confessions; thus the minimum representation for these confessions was lacking.

All the above confirms that the just representation is not ensured in general. However, one cannot deny that some MPs have a strong representative power, while others have no such power and made it to the Parliament through the formation of electoral lists in the light of a majority vote system in large constituencies, under which the electoral rolls became a means for certain MPs to reach the Parliament benches.

In similar situations, it is normal that representation is not fair, and that every category and political power is not represented by a number of MPs according to their popular basis. Some forces were represented in the successive electoral rounds since 1992 by a certain number of deputies larger than their popular basis, and some were represented by a number of deputies lesser than their popular basis, while other forces were not represented at all over successive electoral rounds. This was the case of the Free Patriotic Movement headed by General Michel Aoun, and which was not represented in the Parliament before the 2005 elections, as well as the Lebanese Forces.

The Syrian meddling in the Lebanese internal affairs, through its apparatuses, and the authoritarianism of the Lebanese parties allied thereto, had the biggest role in distorting the parliamentary representation in the 1992, 1996 and 2000 elections. However, in the 2005 elections, based on the 2000 law, the confessional and denominational fanaticism played a major role in defining the electoral results.

If the parliamentary seats distribution among confessions and regions established a certain balance in their representation, without ensuring enough just and fair representation, the women's representation in the Parliament remained largely feeble. The number of women in the parliaments elected between 1992 and 2005 ranged from two to six, despite the development of the feminist movement in Lebanon and the integration of the Lebanese women in the social and political activities for long.

Trade unions are not represented in the Parliament, and their only role is to exert pressure, knowing that a number of deputies are part of the Unions of liberal professions (lawyers, doctors, engineers...), and represent the political force they belong to; yet one cannot say they truly represent their Unions.

When talking about the Parliament's social class composition, we notice that the eminent capitalists' category is represented in the Parliament, while the middle class is also represented through the Unions of Liberal Professions. Yet, the poor class seems almost not represented.

1-2 Equal opportunities of candidates

Equal opportunities are essential for a just and fair representation, and requires organizing the electoral information and advertisement, setting the ceiling for the



electoral campaign expenditures, finding a convenient mechanism to control the expenditures and donations for the electoral campaign after having set the ceiling for donations, imposing a system of sanctions upon the contraveners, and defining the authorities who have the right to impose these sanctions.

1-2-1 Equal access to media

Electoral laws in Lebanon have not yet tackled the organization of electoral information, in order to guarantee the use of the media, whether audio, visual or the press, by all candidates on an equal foot, regarding the duration granted for the candidate, the timing in which the media is used, the costs thereof and the sanctions against the contraveners. It is worth noting that Lebanon needs to organize the electoral information more than any other country, since the audio and visual media are owned by political parties who got the licenses by virtue of the Audiovisual Law in the framework of the political allotment that took place. These parties control the elections and transform the information media they own to media for electoral advertisement; while the rival candidates may not own any media and thus have no possibility of campaigning in any media due to the lack of financial resources.

To compensate the shortcomings in the electoral law regarding the organization of the electoral information, the electoral law stipulated in article 68, the banning of any electoral advertisement in the non political audio and visual media and the press during the electoral campaign that starts since the electoral bodies are called upon until holding the elections and announcing the final results, at the risk of suspension and final closure by a decision from the press court in the Deliberations Chamber. However, the audiovisual media, including State-owned Tele Liban and non political press, published electoral advertisement largely in the 1996 and 2000 elections. Article 68 was not applied, while it was applied in the by-elections of 2002 in the North Metn; a judicial decision was issued against MTV television imposing its total closure. Article 68 was selectively implemented in order to serve the influential political forces. The text in article 68 was not convenient in this case. A law organizing the electoral information and advertisement should have been drafted to guarantee equal opportunities for all candidates in the media. The Government elaborated a draft law in 2000 regarding the expenditure and its limitation in the electoral campaign as well as the equal opportunities in the electoral information and advertisement. The draft was referred to the Parliament by virtue of Decree No. 2299 in January 27, 2000, but sank into oblivion and was not discussed. At the beginning of 2005, the Cabinet ratified a draft law on the expenditure in electoral campaigns and the organization of electoral information and advertisement. It was then forwarded to the Parliament by virtue of decree 14087 in January 31, 2005 without being discussed and decided upon in the Parliament. The elections in 2005 were held in the same media chaos as in 2000¹⁴.

¹⁴ A high rate of the deputies involved in the survey (74%) confirmed that the candidates do not enjoy equal opportunities in private and governmental media allowing them to communicate with their constituents. Moreover, the majority of voters who participated in the survey said that equal opportunities among candidates do not exist.



1-2-2 Equal access to public space campaigning

The electoral law in Lebanon stipulated the organization of electoral advertisement. Article 64 stipulated that “the administrative authority shall determine in every city or town certain spots to post electoral advertisements all through the polling period, and shall prohibit holding banners in the streets. It is forbidden to post any advertisement or photo of the candidates elsewhere than the spots set for advertisement.”

Article 66 of the electoral law stated that “it is forbidden to distribute any handbill or notice in favor of or against one or more candidates on the elections day. In the event such contravention is committed, the handbills, pamphlets and notices are confiscated, and the offender is punished by a maximum fine stipulated in article 69 of the present law.”¹⁵

All these texts were not implemented. During all the elections, a massive media chaos was detected, the financially influential figures took over the media and the advertisement and influenced the voters’ choices. Private advertisement boards were exploited in total chaos, and international advertisement companies were hired to lead the electoral campaigns for the rich candidates.¹⁶

1-2-3 Regulation or limitation of donations for electoral campaigns

Since the 1996 round, the role of money increased in the elections; more than 100 million dollars were spent on every round of the electoral campaigns, especially in Beirut and the North, without any control as stipulated in the electoral law over the expenditures in the electoral campaign. Money was spent in the elections in various and innovative means, such as donations, financial assistance, the establishment of giant electoral machines recruiting thousands of paid employees, and other methods described as informal bribery, in addition to the purchase of votes¹⁷. Money also played a major role in the entrance of some candidates to the electoral rolls in some constituencies, the matter that allowed them to reach the benches of the Parliament

Thus, money was crucial and sometimes decisive in the elections without any control or restrictions. The attempts in 2000 and 2005 to limit political financing and expenditure failed.

1-2-4 Limitations on political financing and expenditures

¹⁵ Article 69 stated the punishment by a fine ranging from 3 to 5 million Lebanese pounds.

¹⁶ Report of the Lebanese Association for the Democracy of the Elections.

¹⁷ European Union Election Observation Mission Parliamentary elections 2005, Final Report pp. 38-40.



Law does not organize money donations for the purpose of electoral campaigns. Donations cannot be controlled unless by a law limiting the expenditures in the electoral campaigns. Therefore, the sources and amounts of donations remain unknown. Sometimes donations are ensured by one party assuming all the expenditures in the electoral campaign. The candidate therefore becomes dependent towards the donor especially after winning the elections.

1-3 Free and fair elections

Freedom and integrity in the elections are an essential condition for a just representation. The voter must be able to make his choices totally free, without any intervention from ruling authority or any other party. The elections must be held in such a way to ban any forgery, deception or negligence, especially when counting the votes and declaring the results.

1-3-1 The management of the electoral process in compliance with international standards

The decisions taken by the Constitutional Council, stipulating the annulment of the deputyship of some winners in the 1996 elections, had a massive impact on the Interior Ministry's attempts to improve the management of the elections. The flaws of the 2000 elections were much less than those of the 1996 elections. However, the delegation of the European Union for monitoring the Lebanese parliamentary elections in 2005, in its final report, looked into the unequal opportunities between the candidates, and the necessity of elaborating a new electoral law. It also stressed some major gaps in the election process regarding the confidentiality of voting, the pressure against the voters at the polling stations by the candidates' delegates, the intensive electoral campaigns on the elections' day, and the voters being influenced by the results of the previous electoral rounds; therefore they concluded the necessity of holding the elections on the same day. The delegation also mentioned the feeble transparency when counting the votes and announcing the results, and burning the papers afterwards, which made it impossible to scrutinize the counting of votes.

The report mentioned the flaws occurring prior to the elections' day in respect of the voters' lists and acquiring the electoral card; it is sometimes hard to acquire the electoral cards, and the candidates who distribute them find this an opportunity to gain the voters' support.

The delegation also noted that the decisions taken on the elections' day do not follow a clear and determined mechanism, and thus lack transparency while it remains often unknown who takes these decisions. The delegation found that there are almost no complaints, due to a lack of electoral culture among the voters. In addition, most of the voters participating in the survey confirmed that the elections, in their constituencies, were not based on freedom and integrity.

1-3-2 Impartial and trustworthy supervisory body



In Lebanon, the Interior Ministry supervises the elections throughout all their phases, and it is often repeated that it intervenes in favor of certain candidates. Some parties, including the civil society institutions, the Lebanese Association for the Democracy of the Elections as well as the delegation monitoring the 2005 elections, called for the establishment of an independent and impartial committee to supervise the elections, undertake the tasks of the Interior Ministry, and to be granted full authorities to perform its duties.

Moreover, most of the participants in the survey considered that the power supervising the elections is not trustworthy and impartial.

1-3-3 Effective and impartial mechanism and body to contest election results and complaints

No clear mechanisms are established to examine the complaints filed during the elections. As for the parliamentary contests, the Constitutional Council is charged with examining them according to a clear mechanism set by the code of its establishment. Four deputyships were annulled in 1996, but none was annulled in 2000. Many called into question the work of the Constitutional Council after the Metn by-elections in 2002. In 2005, the Parliament issued a decision stating the adjournment of the Constitutional Council examination of the 2005 elections parliamentary contests until the Council's formation is settled.

1-4 Accountability of parliamentarians to voters through elections

Democracy, and therefore governance, cannot be good in the absence of accountability. The people must hold the officials who got to power in their name liable. Accountability takes place through the elections. Holding the elections periodically does not solely aim at taking the opinions of the citizens and allowing the rotation and renewal of power, but also at giving the voters the chance to fulfill their roles in practicing accountability and controlling the course of power.

1-4-1 No influence of hereditary social ties (religion, tribal, etc.) on voting

Accountability in the elections mainly implies the voter is free from restrictive traditional and inherited relations. This condition is not easy in a society where such relations are still predominating. In Lebanon, confessional affiliation is still ruling over national affiliation, thus confessional ties impose their choices in elections. Therefore, confessional ties are crucial in defining the choices of the voters who no longer take accountability into consideration.

This is what occurred in the parliamentary elections, especially in the 2000 elections, particularly in the 2005 elections, whereas confessionalism reached its highest point. The hereto monopolized the representation of most major confessions; this was caused by the ones considered, by the confession, as loyal leaders who may not be held accountable. Hence, candidates on their ballot have been automatically elected without taking in



consideration their competence to represent the people and to perform the role they are supposed to perform at the Parliament.

1-4-2 No influence of personal relations on voting

Accountability in the elections implies that the voter is free from personal relations, and thus votes in the light of his own convictions. This requires advanced awareness and freedom which are often lacking at the voters' level. In Lebanon, personal ties are still crucial in determining the choices of voters. These relations grow with the intensive social activities carried out by the candidates, such as attending weddings, funerals, celebrations and other social events, while affiliations to political parties seem very limited in general. Therefore, personal ties are crucial in defining the choices of the voters who no longer take accountability into consideration.

1-4-3 No influence of nepotism (CLIENTELISM) on voting

Clientelist relations are based on an exchange of services between the voter and the deputy or the candidate. The latter provides the voter with services, while the voter grants him his vote in the elections as a counterpart. These clientelist relations hinder accountability, and are widespread in Lebanon, since the citizen cannot generally obtain his rights without a power brokerage of an official who is the link between the citizens and the State's administrations, institutions and bodies. The decline of the social situation in Lebanon due to the economical crisis promoted clientelist relations, which added to the deputy or candidate's services financial and daily donations and aid.

These relations cannot be limited, and thus accountability shall only be possible with an administration reform and updating in order to become at the citizen service and to handle livelihood crisis.

1-4-4 Changes in the composition of Parliament which reflect the level of satisfaction/dissatisfaction of the voters

Accountability generally leads to a change in the composition of Parliament; new deputies replace the ones who failed in the elections. Change in the composition of Parliament between the elections reflects, in principal, the level of satisfaction or dissatisfaction of the citizens from the Parliament's performance, if, and only if, accountability was truly carried out.

In Lebanon, however, in the absence of true accountability due to the above mentioned factors, change in the composition of Parliament does not generally stem from accountability, but from a change in political alliances and urgent conditions. The big change in the composition of the Parliament due to the 2005 elections came after the Syrian troops' withdrawal from Lebanon, the reaction over the killing of Premier Rafik Hariri, the return of General Aoun to Lebanon and the confessional polarization.

1-4-5 Availability of accountability culture



Practicing accountability requires spreading an accountability culture among the population as widely as possible. This culture shall be deemed to be a part of the democracy culture. Yet, hereditary social ties, personal and clientelism relations hinder the spreading of accountability in Lebanon.

1-5 Participation

No democracy can be instituted in the absence of active participation. Participation should not be limited to the voters' participation in the elections and their choice of their representatives in holding power; however, it must also cover the continuous participation between the electoral rounds, by monitoring and following up on the events taking place in the Parliament and the Cabinet, the continuous communication with the deputies, for them to be aware of the population' aspirations, demands, and opinions regarding the authorities' performance. Thus, the authorities remain connected to the people in their practices, and avoid creating a gap between the State and the society.

1-5-1 Periodic communication with the constituencies

Participation requires communication between the deputy and the voters; the deputy should discuss with the voters subjects related to the public affairs and the raised issues; he should understand their problems, and find solutions for such problems. However, in Lebanon, communication between the deputy and the voters rarely tackles these questions, and is usually limited to the social events and mobilization during popular political gatherings, in which the deputy appeals to the citizens' feelings without examining their problems and the public affairs. And most of the voters who participated in the survey said that deputies do not take their opinions into consideration when examining issues related to public affairs.

1-5-2 Periodic consultation of civil society and experts

Civil society has a major role in identifying social problems and finding the appropriate solutions. Lebanese civil society is active in all fields, and has played important roles, especially during the war which enlarged its scope of action. Some of its institutions organize workshops with the participation of experts and some parliamentarians, and thus help in establishing a certain communication between the civil society and the Parliament.

1-5-3 Regular public hearings for civil society stakeholders at committee and plenary sessions

Sometimes, some civil society institutions concerned with certain projects and draft laws submitted to the parliamentary commissions are called upon to take their opinions and guidance. This allows these civil society institutions to contribute in defining the orientations governing the legislations. But calling on civil society institutions to attend



the commissions' sessions is limited and must be undertaken more often for further participation.

2- Independence

Democratic systems are based on the principle of separation of powers, one of the guarantees of human rights and general freedoms. This implies the independence of all three powers, legislative, executive and judiciary, within the mechanisms enforced in the adopted constitutional system.

Since 1926, Lebanon adopted the parliamentary system. This system was firmly established after the constitutional amendment in 1990. The preamble of the Constitution stated that “Lebanon is a parliamentary democratic republic based on respect for public liberties...”, and that “the system is established on the principle of separation, balance and cooperation amongst the various branches of Government.”

The Parliament's independence implies its independence as an institution, and in the practice of its functions and protection of parliamentarians.

2-1 Institutional independence

For the Parliament to carry out its functions, it must enjoy independence towards the Executive and Judicial Powers. No power is allowed to intervene in its internal affairs. This independence includes its legislative actions, the managing of its affairs, its budget and the preservation of its security.

2-1-1 Parliamentary independence guaranteed by the Constitution

The Lebanese Constitution guaranteed that the Parliament is an institution independent of the Executive and Judicial Powers and thus entrusted it with the Legislative Power. Article 43 of the Constitution stated that “the Chamber draws up its own internal rules and procedures”. Article 46 read that “the Chamber has the exclusive right to maintain order in its meetings through its President”. Article 32 stated the timing of the Parliament's sessions.

These texts confirm that the Parliament is an independent institution in controlling its own affairs, and convening in the ordinary sessions stipulated by the Constitution. The Parliament's independence as an institution is a crucial condition to practice the functions it is entrusted with.

2-1-2 Parliamentary control over its administration, budget and support staff

2-1-2-1 Parliament adopts its internal rules

By virtue of the Lebanese Constitution, the Parliament establishes its own internal rules. The Lebanese Constitution only presented the general principles, and referred the organization and practice of the parliamentary actions to the internal rules which set up in



details the rules governing the Parliament's action and performance. The internal rules differ from the ordinary laws in form, since the law adopted by the Parliament is issued by the President of the Republic, while the internal rules are adopted and issued by the Parliament and the Executive Power shall not have the right to intervene therein.

If the Constitution stipulated that the Parliament is the sole responsible for establishing its internal rules, in conformity with its independence, and on the basis that it shall not be governed by any other authority, does this mean that the internal rules do not abide by the principle of control exerted over the Parliament by the Constitutional Council?

Many countries implemented the principle of constitutional monitoring over their Parliaments' internal rules, since these rules include provisions with a constitutional value, and others with a political value affecting the relation between the Parliament and the Cabinet, the frames and detailed rules of which must not be solely determined by the Parliament in principle. However, the Lebanese Constitution did not explicitly grant the Constitutional Council the authority to monitor the Parliament's internal rules.

2-1-2-2 Parliamentary control over its affairs administration

In conformity with the Parliament's independence and by virtue of the Lebanese Parliament's internal rules, the Parliament's Bureau is to solely control the Parliament's affairs. It is formed of the Parliament Speaker, Vice Speaker, [two Secretary General](#) and three delegates whose authorities have been defined by the Internal System. The Parliament's Bureau examines the objections against the sessions' minutes, runs the sessions and the voting, announces and decides upon the voting result, reports each of the parliamentary sessions' agenda, publishes the said agenda, informs the deputies thereof and encloses a copy of the drafts, proposals and reports on the agenda, at least 24 hours before the session convenes, organizes the annual parliamentary budget and monitors its execution, settle the amendment of the cadres and the systems of the Parliament's civil and military employees, examines petitions and complaints in addition to other authorities.

The Internal System also stipulated the number of parliamentary Commissions, the method of their election, their authorities, specialization and rules and procedures.

2-1-2-3 Parliament adopts and allocates its own internal budget

The Parliament's independence requires it be granted the authority of adopting and allocating its own budget, without any intervention from the Executive Power. This is different from the drafting of the State's General Budget, since the Cabinet elaborates the budget draft and submits it to the Parliament to be examined and adopted. The Parliament's Internal System stipulates that the Parliament's Bureau body organizes the Parliament's annual budget and supervise its implementation. By virtue of this Internal System, the Parliament's Bureau body elaborates its budget draft; this budget is then implemented through transfers signed by the Speaker or the Vice Speaker as well as one Secretary General and one delegate, pursuant to the provisions of the Public Accountancy



Act. At the end of the fiscal year, the Parliament's Speakership sends the list of spent credits to the Ministry of Finance after being authenticated by the Speaker or the Vice Speaker. These lists are subjected to the rules of the Public Accountancy Act.

2-1-2-4 Parliament adopts the organizing of its administration

The Parliament's independence includes its authority to organize its administration and to appoint its employees and supervise them. This rule is followed in the Lebanese Parliament. The Parliament's Internal System granted this institution the authority of deciding and amending the cadres and systems of the Parliament's Civil and Military staff. Staff at the Parliament is appointed by a decision of its Speaker.

By virtue of the Internal System, the speaker issued Decision No. 934, entitled "The Parliament's organization"; it includes the organization of all the administrative bodies working in the Parliament, the determination of their cadres, their authorities, the number and rank of their staff, the description of their duties.

2-1-2-5 Control of the services providing security by Parliament

Preserving the Parliament's security is a duty entrusted to its own special and relevant security agencies. In Lebanon, The Parliament's police are charged with this task. The Parliament's Bureau Body elaborated the Parliament's police system. Its staff are appointed and promoted by a decision of the Speaker. The Internal System invested the Parliament's police with the authority of preserving security in and around the Parliament, and with the authority of imposing and implementing sanctions.

2-1-3 Schedule of ordinary sessions guaranteed by the Constitution

One of the Parliament's independence aspects lies in setting its sessions in a constitutional text. These sessions are not subjected to any delay or cancellation that may impede the Parliament from carrying out its functions.

Article 32 of the Lebanese Constitution stipulated that the "Chamber meets each year in two ordinary sessions. The first session opens on Tuesday following 15 March and continues until the end of May. The second session begins on the first Tuesday following 15 October; its meetings are reserved for the debates of and voting on the budget before any other work. This session lasts until the end of the year".

Article 33 of the Constitution stipulated that "the President of the Republic, in consultation with the Prime Minister may summon the Chamber to extraordinary sessions by a Decree specifying the dates of the opening and closing of the extraordinary sessions as well as the agenda. The President of the Republic is required to convoke the Chamber if an absolute majority of the total membership so requests".

However, article 59 of the Constitution stipulated that "the President of the Republic may adjourn the Chamber for a period not exceeding one month, but he may not do so twice



during the same session”. According to article 54 of the Constitution, the President’s practice of this authority requires the approval of the Cabinet since the latter is the one to assume the fallouts of the Parliament’s session adjournment.

One can say that this authority is not necessary and limits the Parliament’s independence. If it was justified by the exceptional circumstances that may require the adjournment of the Parliament’s session, these exceptional circumstances require holding and not adjourning the Parliament’s sessions.

2-1-4 Fixed term of office guaranteed by the Constitution

Some consider that determining the Parliament’s mandate in a constitutional text is a more efficient guarantee than determining it in the electoral law, on the basis that the Constitution is a higher reference than the law, and amending it requires a qualified Parliamentary majority and a complicated mechanism that are not necessary by virtue of the ordinary law.

The Constitution in Lebanon did not determine the Parliament’s mandate. This mandate was set in the electoral laws. These laws were never amended as to decrease the Parliament’s four-year mandate.

2-1-5 Clear grounds for the dissolution or for shortening the mandate of the Parliament

The Lebanese Constitution, just like all the constitutions adopting the parliamentary system, stipulated the possibility of dissolving the Parliament by the Executive Power, in the framework of the principle of balance between the executive and Legislative Powers. The Parliament’s authority to monitor the Government, stage a vote of confidence thereto and topple it whenever it wishes so, is counterbalanced by the Executive Power’s right to dissolve the Parliament before the end of its mandate, and to call upon the electoral body to elect a new Parliament. The Constitution, however, following the 1990 amendment, linked the Parliament’s dissolution to very difficult conditions stipulated in articles 65 and 77, and thus rendered the dissolution practically impossible. The President of the Republic may ask the Cabinet to dissolve the Parliament “in the event the Parliament, for reasons other than force majeure, abstains from convening during an ordinary session or two consecutive extraordinary sessions, the duration of each being no longer than one month, or in the event it returns the whole budget with the aim of paralyzing the governmental action. This right may not be practiced again for the same reasons that lead to the Parliament’s dissolution the first time.”

Regarding the constitutional amendment, in the event the Parliament insists on amending the Constitution with a majority of three quarters of the Parliament’s members, the President of the Republic has either to answer the Parliament’s needs or ask the Cabinet to dissolve it and hold new parliamentary elections within three months.



Thus, it seems that dissolving the Parliament was made very difficult and even impossible. This strengthens the Parliament's independence, but at the expenses of the balance between the executive and Legislative Powers, at the texts' level. However, things may be different in practice. Through years, and following the Taif Agreement, the Parliament was subject to the control of the Executive Power which was subject in its turn to the power represented by leaderships allied with Syria.

2-2 Protection of parliamentarians

The Parliament's independence implies protecting parliamentarians from all the pressure they may encounter from the Executive or Judicial powers, and from illegitimate pressure exerted by the military and security agencies, as well as from any financial temptations. Thus, they shall be able to carry out their tasks freely and honestly.

The parliamentarians' protection is ensured through the parliamentary immunity, the physical safety of parliamentarians and the payment of financial compensations for them.

2-2-1 Parliamentary immunity guaranteed by the Constitution

The parliamentary immunity is a guarantee enabling parliamentarians to carry out their tasks in full independence. It is based on two principles: the non accountability and the personal privacy.¹⁸ Parliamentary immunity is the set of constitutional provisions that ensure for parliamentarians a legal system differing from the ordinary legal system applied to others regarding their relation with justice, in order to preserve their freedom and independence.¹⁹

Article 39 of the Constitution stated that “no member of the Chamber may be prosecuted because of ideas and opinions expressed during the period of his mandate.” The deputy is not responsible, by virtue of the above mentioned text, for the opinions or ideas he may express verbally or in writing during his deputyship, whether inside or outside the Parliament. The non accountability principle protects the deputy and his parliamentary actions, and goes further as to protect him after the end of his mandate from any legal action due to the opinions or ideas he expressed during his deputyship.

If the non accountability principle bans any legal actions against the deputy, it does not however cover the compensation in civil lawsuits, which the prejudiced has the right to file against the deputy, according to his civil accountability and in conformity with the provisions of article 13 of the Code of Obligations and Contracts.

Regarding the personal privacy or the criminal immunity, article 40 of the Lebanese Constitution stipulated that “no member of the Chamber may, during the sessions, be prosecuted or arrested for a criminal offense without the permission of the Chamber, except when he is caught in the act.”

¹⁸ Yves Guchet, *Droit parlementaire*, Paris, Economica, 1996, pp. 90-99

¹⁹ Le statut du député “Connaissance de l'Assemblée », Paris, Economica, 1989, p. 5



This text aims at preventing the members of the Parliament from being indicted and hampered from carrying out their parliamentary duties, by the means of vindictive or fabricated plots aiming at impeding the deputy from attending the Parliament's sessions. In the event where the deputy commits a penal crime when the Parliament is convened in a session, he may not be pursued or arrested unless the Parliament grants its authorization thereto.²⁰

2-2-1-1 Limited circumstances in which immunity can be waived

Since the parliamentary immunity can only be waived through the Parliament's decision, for immunity is granted by the Parliament and is linked to it as an institution, not only to the deputy as a member of the Parliament, and since parliamentary immunity is related to the public order, the Parliament shall not waive the immunity of any of its members unless in the cases of crimes and offences, and after having made sure of the seriousness of the accusations laid against him. These crimes and offences do not include civil acts, fiscal contraventions, traffic fines and contraventions. A deputy's immunity cannot be waived when the allegations relate to his stances, opinions, declarations and speeches, since they fall under the principle of non responsibility. Waiving immunity occurs following a mechanism stipulated in the Parliament's Internal System.²¹

2-2-1-2 Clear and transparent mechanisms for waiving immunity

During the Parliament's sessions, a deputy may not be subjected to any legal action, arrest or imprisonment unless the Parliament gives its authorization thereto, except in the event the deputy was caught in the very act.

The Minister of Justice shall submit a request of legal action enclosed with a warrant from the Public Prosecutor before the Court of Cassation, including the type of crime as well as its time and venue, and a conclusion of the evidence requiring urgent procedures.²²

The request for waiving immunity is submitted to the Speaker who calls upon the Parliament's Bureau body and the Administration and Justice Commission for a joint session to examine the request; this commission is required to present a report thereof within two weeks.²³

In the event where the joint committee did not submit its report within the set deadline, the Speaker shall notify the Parliament thereof in the first meeting it holds, and the

²⁰ In the case of non accountability, the Parliament may not waive the deputy's immunity.

²¹ Chapter 13 of the Parliament's Internal System: Parliamentary Immunity and waiving it.

²² Article 91 of the Internal System.

²³ Article 92 of the Internal System.



Parliament shall grant the joint committee an additional time limit as he deems it necessary or examine the request and decide upon it immediately.²⁴

When the Parliament starts discussing the request for waiving immunity, the debates shall continue until a decision is finally reached.

The authorization of taking legal actions is exclusive and is only applicable on a defined act requiring the demand for waiving immunity.²⁵

The decision of waiving immunity is taken by a proportional majority by virtue of article 34 of the Constitution.

Regarding taking legal actions against the deputy caught in the very act or outside the Parliamentary session or before being elected deputy, article 97 of the Parliament's Internal System stipulated that the legal actions still be taken during the later sessions without the need for the Parliament's authorization; the Minister of Justice, however, must notify the Parliament thereof in the first session it convenes; the Parliament shall have the right to decide, if need be, and based on the report of the joint committee mentioned in article 92 (committee formed of the Parliament's Bureau Body and the Commission of Administration and Justice) whether to suspend all legal actions against the deputy and release him temporarily during the session if he was being arrested, until the session is ended.”

In Lebanon, a deputy was never subjected to legal action, even outside the Parliament's sessions, without the Parliament's authorization.²⁶

Thus, it seems that parliamentary immunity is a confirmed guarantee for deputies in Lebanon. Immunity of any deputy was not waived after 1990 except in two cases and after the Parliament's authorization, and was rarely waived before that date. Immunity was always waived for serious motives, and was never used as a means of intimidation or pressure against the [deputies except in rare cases](#).

It is necessary to not take advantage of immunity and to not consider it as a means of protection from the law.

2-2-2 Freedom of expression guaranteed by the Constitution

Since 1926, the Lebanese Constitution guaranteed the freedom of expression, verbally and in writing, the freedom of printing, the freedom of assembly and association, under the law and for all citizens with no exception. (Article 13)

²⁴ Article 93 of the Internal System.

²⁵ Article 95 of the Internal System.

²⁶ The Judiciary abstained from taking legal actions against MP Habib Hakim outside the Parliament's sessions, leaving the initiative to the Parliament after the opening of the extraordinary session. The Parliament approved waiving his immunity, and had already waived the immunity of deputy Yehya Shamas who was tried and imprisoned.



It granted an additional guarantee for the deputy to be able to fulfill his parliamentary tasks in total freedom and with no restrictions. Article 39 stipulated that “no member of the Chamber may be prosecuted because of ideas and opinions expressed during the period of his mandate.”

The Parliament gave a broad explanation for article 39, and did not limit the impossibility of taking legal actions against the deputy for his opinions and ideas during his legislative mandate or for his speeches within the Parliament, because the deputy’s non accountability in Lebanon is absolute in this respect.

2-2-3 Physical safety and undue external pressure

A Parliament member cannot carry out his tasks freely, even with constitutional guarantees, unless granted physical safety, away from any pressure or threats.

Some talked about pressure against some deputies in Lebanon, in different occasions; deputies were subject to pressures from Israeli forces who occupied Beirut in 1982, during the election of the President of Republic; they were also subject to pressure regarding the voting on the Agreement of May 17. They were also subject to pressures from the Syrian and Lebanese security agencies before the Syrian troops withdrew from Lebanon. Certain deputies signed in February 2006 a petition confirming having approved the prorogation of President Emile Lahoud’s mandate in September 2004 under the threats and pressure exerted by the Syrian commandment and their security agencies in Lebanon.

No one can deny the pressure and interventions in all the details of the Lebanese life by the Syrian security agencies and the Lebanese agencies connected to them, often accompanied by threats. However, some deputies resisted these threats and did not cave in. The prorogation of President Emile Lahoud’s mandate was opposed by 28 deputies. Eleven deputies also vetoed the prorogation of the ex-president Elias Hraoui’s mandate in 1995, but some of them lost the 1996 elections by force and as a punishment for their opposition.²⁷

Punishment was not limited to the hereto. Certain deputies were harmed, some underwent murder attempts, and others were dead. (Rafik Hariri, Bassel Fleihan and Gebran Tueni).

2-2-4 Adequate financial compensation

Financial compensation for parliamentarians represents what may be called financial security. They aim at providing the parliamentarian with a decent living, in order to fully

²⁷ Ex Mp Mikhael Daher asserts that he lost the elections by force in Akkar in the 1996 elections for having opposed President Elias Hraoui mandate prorogation, and then lost, by force, the by-elections due to a decision issued by the Constitutional Council which annulled the deputyship of Fawzi Hbeish for the same reason.



carry out his parliamentary tasks and also to immune him against any financial enticement coming from any source whatsoever, and calling him to serve his own interests at the expenses of the public interest.

The compensations paid to the deputy in Lebanon are appropriate to achieve the expected objectives. They are considered large compensations in comparison to the wages and compensations paid to the civil servants.

Law No. 717 dated November 11, 1998 determined the deputy's monthly compensations and allowances as follows:

Allowances	Representation compensations	Protocol compensations	Car compensations	Driver and secretary general compensations	Total
3 million Lebanese Pounds	1.5 million Lebanese Pounds	1 million Lebanese Pounds	1.5 million Lebanese Pounds	1.5 million Lebanese Pounds	8.5 million Lebanese Pounds

2.5 million Lebanese Pounds are monthly added to these compensations as a social aid. The deputy compensations total 11 million Lebanese Pounds, 36 times more than the minimum wage set at 300 thousand Lebanese Pounds , and equal 7500 USD.²⁸ Former deputies are also paid compensations and allowances.²⁹

Still, many deputies continue practicing their professions during their parliamentary deputyship and do not only receive their allowances and compensations.

²⁸ For more information, refer to “The Parliament 1920- 2000”, Facts about Lebanon, International Organization for Information, Beirut, 2003.

²⁹ Law number 25/74 of September 25, 1974 set the allowances and compensations for the ex deputies and their families as follows: Every ex deputy is paid the following percentages of the current deputy's allowances and compensations:

- 55 % for a full parliamentary deputyship
- 65 % for two deputyships
- 75 % for three or more deputyships

In the event the deputy is deceased during his first deputyship, he is considered as having spent three deputyships; in the event the ex deputy id deceased, his family's right is limited to 75 % of the allowances he was paid.



2-3 Independence of the Parliament in carrying out its functions

The Parliament must enjoy independence in carrying out its functions for it stems from the people through general and direct elections, reflects the national sovereignty, protects the rights and freedoms of citizens, preserves public funds and supervises and rationalizes the Government's performance.

The Parliament's independence in carrying out its functions requires limiting the legislation process to the Parliament, expanding its authorities in this regard, and avoiding all the pressure that may be illegitimately exerted against it.

2-3-1 Parliamentary monopoly on the exercise of Legislative Power

The Lebanese Constitution entrusted one body to the Legislative Power, the Parliament.³⁰ It stipulated that no law shall be published unless adopted by the Parliament³¹. It granted the President of the Republic the right to issue laws and require their publication, without having the right to introduce any amendment thereto or exempt any one from abiding by their provisions.³² However, it granted the Parliament and the Cabinet the right to submit laws.

All the above mentioned reflects the Parliament's exclusive right to adopt any law. The cabinet issues the necessary decrees for the laws to take effect.

2-3-2 Broad legislative authority

The authority of legislation is very broad in Lebanon, and includes human rights and public liberties, financial issues, organizing the State's ministries and public administrations. The Parliament's legislative authority in Lebanon is free from any constitutional restriction, in contrary to some other states' Constitutions like France, regarding the legislative scope, distribution of the legislation authority on both the Parliament and the Cabinet, and the distinction between the laws implying different methods of adoption and difference in the required majority. The Lebanese Constitution makes no distinction between all the types of laws, except for the constitutional law requiring special procedures and qualified majority.

Adopting the laws in the Parliament requires the votes of the majority of the present deputies. The absolute majority is required to adopt the laws if, and only if, the President of the Republic uses his right to return the law to the Parliament within the legal time limit.

2-3-2-1 Examples of areas of legislative activity

³⁰ Most of MPs participating in the survey considered that their compensations are not sufficient.

³¹ Article 18 of the Constitution.

³² Article 51 of the Constitution.



2-3-2-1-1 Regulation of fundamental freedoms

The Parliament in Lebanon adopted laws that control the fundamental freedoms in the light of the principles stipulated by the Constitution and that guaranteed these freedoms. In this respect, the Constitution drafted the following laws:

- The press law
- The audiovisual law
- The law of satellite broadcasting
- Law safeguarding the right to private telephony

It left for the Executive Power the drafting of organizational decrees under which these laws take effect.

2-3-2-1-5 Declaration of the State of emergency dependent on an approval by the Parliament

The Lebanese legislators imposed the Parliament's approval over the invocation of emergency powers when required by exceptional situations, since this situation imposes restrictions on fundamental freedoms and must be practiced under the supervision of the Parliament and not only the Government. Therefore, article 2 of the Legislative Decree No. 52 dated August 5, 1967 stipulated the following: "The state of emergency or the military zone is declared by virtue of a decree of the Cabinet, on condition that the Parliament convenes to examine this measure within a time limit of eight days, even if not during the session period."

2-3-2-1-6 Monopoly of Parliament in imposing taxes and fees

In conformity with the principle "no tax is imposed without a law", article 81 of the Lebanese Constitution stipulated the following: "No public taxes may be imposed and no new taxes established or collected in the Lebanese Republic except by a comprehensive law which applies to the entire Lebanese territory without exception."

2-3-2-1-7 Public expenditure dependent on approval by Parliament

The State's public expenditure is carried out through the Public Budget. The Lebanese Constitution stipulated in article 83 that "each year at the beginning of the October session, the Government has to submit to the Chamber of Deputies the General Budget estimates of state expenditures and revenues for the following year. The budget is voted upon article by article." "No extraordinary credit may be opened except by a special law. Nevertheless, should unforeseen circumstances render urgent expenditures necessary, the President of the Republic may issue a Decree, based on a Decision of the Council or Ministers, to open extraordinary or supplementary credits or transfer appropriations in the budget as long as these credits do not exceed a maximum limit specified in the budget law. These measures are to be submitted to the Chamber for approval at the first ensuing session." (Article 85)



Thus, expenditures depend on a parliamentary decision through the adoption of the budget and the extraordinary credits adopted by virtue of a law. However, the Cabinet may take a decision under which the budget is implemented by a decree if the Parliament did not take a final decision regarding the budget draft before the end of the session set to examine it, and after the end of the extraordinary session that lasts until the end of January, in order for the Parliament to adopt the budget, provided the budget draft has been submitted to the Parliament at least fifteen days before the beginning of its session (article 86). This justifies the continuity of the public administrations work.

2-3-2-1-5 Borrowing money for the State dependent on approval by Parliament

In view of the importance of the State's financial commitment towards any other party, and in fear of plundering the State's resources, the Constitution imposed the legitimacy of the public loan in article 88 stipulating: "no public loan or undertaking involving an expenditure from the treasury funds may be contracted except by virtue of a law."

2-3-3 Absence of undue pressure from the executive or other influential bodies

The Parliament's independence is not only carried out through constitutional texts guaranteeing it, but also requires refraining from exerting any sort of undue pressure against the Parliament, so it fulfills its functions in full independence.

In Lebanon, over the last years and since 1975, pressure was exerted over the Parliament by militias throughout the civil war, by Israel during its occupation to Beirut and broad areas of Lebanon, and by the Syrian commandment which controlled the Lebanese State. The Parliament was also subject to pressure, in different periods since 1992, by the troika represented in the three presidents: The President of the Republic, the Prime Minister and the Speaker. This troika often reduced the role of the Parliament that became relevant thereto.

On the other hand, deputies are subject to pressures from the Government, when the Government deprives the opposition deputies from credits allocated for projects in their constituencies.

3- Performance

For the Parliament to achieve the objectives it was set for, it must carry out its functions effectively.

3-1 Effective legislative process

The Parliament has to follow up on all the latest developments internally and internationally, due to the increasing interaction between the local and international events under the globalization, and in view of the constantly changing situations, and therefore draft the appropriate legislations without any delay. The Parliament must also



take part in elaborating the public policies, by setting the orientations for the policies adopted by the Cabinet.

The level of efficiency of the legislating process can be viewed through the points we will develop in the present study.

3-1-1 Draft laws, discuss within the ordinary session of the parliament

The Lebanese Parliament's legislating pace is very fast. The elected Parliament in 1992 adopted, in 4 years, 431 laws in 34 legislation sittings that lasted 316 hours, which means 44 minutes for every law.³³

The Parliament elected in 1996 adopted during its mandate 296 laws in 18 legislation sittings, which means an average of 16 laws in one sitting.³⁴

The Parliament adopted 58 laws in 2003, 96 laws in 2004³⁵, and 68 laws in 2005³⁶.

The laws adopted in some legislation meetings reach around 50 laws and sometimes more. This rapidity in adopting laws is not justified by declaring that the draft laws and proposals are submitted to the Parliament's general assembly after having being thoroughly examined in the parliamentary commissions and therefore need voting only. The general assembly must exercise its role in discussing the proposals and drafts before settling them, in view of the laws' importance and impact on the citizens, the society and the State. The commissions examine a large and exhausting number of draft laws and proposals.

This rapidity in legislation is feared to be at the expenses of the laws content and quality. Therefore, the legislation meetings should be increased to more than 4 or 5 per year as it is the habit, especially that many laws require reform. The Law Reform Commission, established by the Parliament's Speaker, played a positive role in this regard.

3-1-2 Serious analysis and debate of the content of legislations before their adoption

Examining thoroughly the laws adopted by the Parliament since 1992 and until the end of 2005, shows that some laws were truly examined and therefore were advanced in content and elaboration, like the Code of Criminal Procedure, the Copyright Law, the Law for Safeguarding the Right to Secret Telephony that occurs through any means of communication, the law safeguarding the Rights of the Disabled. Some laws were at an average level regarding their content and elaboration, like the Audiovisual Law, and the Law for Satellite Broadcasting. Some laws, however, contradicted the good legal logic and the Constitution. Among them, the electoral laws under which were held the 1992, 1996, 2000 and 2005 elections. These laws' constitutionality was only contested in 1996,

³³ Ahmad Zein, Parliamentary Life, The Parliament, Volume 21, December 1996. p. 14.

³⁴ Parliamentary Life, The Parliament, Volume 36, September 2000, p.35

³⁵ The Parliament's Actions 2004, The Parliament.

³⁶ The parliamentary life, volume 57, December 2005, pp.113- 117.



and the Constitutional Council annulled many articles of the contested law before the Parliament amended them. However, the amendment came unconstitutional, and the law's constitutionality was not contested; thus, the 1996 laws were held on the basis of an unconstitutional law.

Some laws, such as the Law for protecting the environment, did not tackle major issues and left their examination for the Executive Power in Cabinet decrees.

The legislation quality is very much related to the mechanism adopted in the legislation process that undergoes seven steps:

- Elaborating policies and legislative objectives
- Formulating the text draft
- Technical supervision
- Preliminary debates (represented usually by the commissions' work)
- General debates and ratification
- Publication
- Monitoring the implementation³⁷

The law is drafted for a specific aim in the framework of specific policies. But the reality reveals the weakness of the general policies adopted in Lebanon, and the lack of detailed studies based upon when elaborating or drafting a law. In the draft laws referred to the parliamentary commissions, the preamble does not exceed one, two or three papers which are not accompanied with studies.³⁸ The Municipalities' draft law referred to the Parliament in 2003, was attached to a preamble of grounds not exceeding 4 pages, and not based on a deep understanding of the Lebanese municipalities' experience.

The technicality of the legislation implies that every draft or proposal should be associated with a table of comparison with the old and new text, to showcase the change added to the text; however, this only happens in rare occasions.

The legal formulation is sometimes complicated and includes articles joined to others, to a previous law and to an applicative decree, which renders their understanding and interpretation very difficult.

When examining the Lebanese legislations, one finds that some of these legislations lack unified criteria since sometimes different criteria are adopted in the articles of the same law, for political and personal interests that do not comply with the public interest. Some laws are drafted in favor of certain parties. This was mainly reflected in the electoral laws and the laws of fiscal exemptions. Moreover, the provisions of some laws conflict with the obligations.

³⁷ Ghassam Moukhaiber, *Three Qualities of the Legislation, Monitoring Legislation in Lebanon*, Publications of the Lebanese Institution for Permanent Civil Peace, Beirut, 2005, p. 191.

³⁸ Ghassam Moukhaiber, *op. cit.*



An approach of using legislation as an executive instrument by a parliamentary majority appeared in Parliament elected in 2005. Noting that legislation should be subject to fix and general rules and its strictness should exceed the strictness related to executive measures and procedures³⁹. It seems that the inability of the majority to control the decision in the Council of Ministers for considerations related to the confessional participation and the composition of the Government urged it to compensate the hereto by amending some laws, the matter that spoiled the legislation.

3-1-3 Effective Parliament participation drawing public policies

The Parliament plays principally its role in participating to the elaboration of general policies drafted by the Cabinet. The laws fall within the scope of these policies so that the latter achieve the expected results. The Parliament participates into the elaboration of general policies through legislation.

In Lebanon, general policies seem weak. Thousands of studies were carried out in all domains during the last fifteen years, and required large sums of money, but were only narrowly referred to in elaborating general policies and laws. The absence of a comprehensive national vision among officials in the Government and the Parliament and the seeking of realizing narrow personal and faction interests, prevent the drawing of general policies, especially that no popular block, capable to make the Government and the Parliament draw policies in the interest of the citizen and the State, has been established yet within the civil society.

3-1-3-1 Passing legislations/programs drawing the general policies for the plans implemented by the government

The legislations-programs are adopted to allow the Government to implement its policies that usually remains for many years. Public budgets in Lebanon included, since 1993, the legislatives-programs, which means the fact of allocating credit for a certain project over many years. These legislatives-programs were adopted under the development and infrastructure reconstruction policy in all the Lebanese regions.⁴⁰ The Parliament's role in drafting these legislatives-programs was very limited, so it adopted them just like the Government had elaborated them, adding no important amendment.

3-1-3-2 Passing legislations on reform and progress in all sectors

³⁹ Paul Marcus, Intervention in a workshop to discuss the report; the laws he mentioned are: the amendment of the law of the constitutional council establishment, the Druses affairs organization law and the draft law of the re-establishment of the Supreme Judiciary Council.

⁴⁰ Lebanon by figures in 10 years 1992- 2002,op. cit, pp.73-75



The Cabinet is supposed to draft these plans. Thus, the Constitution entrusted it with “setting the general policy of the Government in all fields, prepares Bills and organizational Decrees and makes the decisions necessary for implementing them” (Article 65).

The Parliament can play a major role in this regard. It is the institution that will examine, discuss, adopt and put into effect the draft laws in the framework of these policies. Yet, the Parliament’s role is in fact very limited at this level. It lacks experts and specialists to provide the deputies with detailed studies to help them in taking part in elaborating the public policies.

Usually the plans are adopted in the Parliament as proposed by the Cabinet without any amendment, in the event where the Cabinet has drafted them. The State minister for Administrative Development Fouad el Saad drafted a plan to develop administration, with the participation of many experts and studies, and tried reflecting them into laws; yet, this plan never reached the Parliament because the Cabinet did not adopt any draft laws in this regard, due to the contradicting opinions of ministers relating thereto.

3-1-3-3 Cooperation between Parliament and executive authority to draw a comprehensive policy strategy

Developing Lebanon and resolving its seemingly interacted crises requires serious cooperation between the Cabinet and the Parliament in drawing a comprehensive strategy covering all fields and domains. Still, no such strategy has yet been elaborated.

3-1-4 Participation of civil society stakeholders in studying draft laws

Participation of the civil society in the legislation process falls under the scope of democracy and good governance. Laws have a direct impact over the population, and thus must express their opinions about them, so they abide thereby voluntarily or with the least possible coercion, if need be, and laws respect the interests of the largest categories of people, if not all categories.

Moreover, the lack of studies can be partially compensated by the participation of the civil society in preparing the groundwork for elaborating policies and legislative objectives. Especially that the civil society, directly involved with the projects and proposals submitted to the parliamentary commissions, can provide the commissions with studies to follow in drafting laws.

Sometimes parliamentary commissions call upon the civil society concerned with the draft laws they are studying and take their opinions and studies into consideration. The Bar Association and some eminent magistrates played a major role in drafting the Code of Criminal Procedure, and thus it reflected a high level content and formulation. The National Association for the Disabled also took a large part in drafting the Law for the Disabled which was one of the finest in the world. The Parliament is now increasingly aiming at further cooperation with the civil society.



3-1-5 Participation of experts in studying the laws

Draft laws and proposals must be the outcome of extensive studies undertaken by specialized experts in the fields covered by these laws. We mentioned above that thousands of studies were carried out by the ministries in cooperation with Lebanese and foreign experts.⁴¹ Nevertheless, they were used in a very tight scope. The Parliament does not include experts in all the fields covered by legislation to provide the MPs with the studies required by draft laws and proposals. Furthermore, the Parliament rarely requires the assistance of specialized study offices, while experts in legislation were called upon in the Law Reform Commission, as well as some magistrates, law experts and specialists were called upon by sub committees.

3-2 Effective oversight of the budget

Parliaments were basically established to impose taxes, in conformity with the principle of “no tax is imposed without a law”, and to control the expenditures of the public funds. Expenditures cannot be carried out if not within the budget law or by extra credits ratified by laws, while these credits can only be contracted through the Parliament. No commitment, authorization to exploit any natural resource or public interest resource, or monopoly is to be granted without the ratification of a law determining a time limit for the said commitment.⁴²

All the above mentioned was stipulated in the Lebanese Constitution since 1926. The Parliament’s efficiency must be known to all regarding the preservation of public funds within the powers it enjoys.

3-2-1 Comprehensive study and debate of the budget

The Cabinet is the exclusive authority in charge with drafting the budget, by virtue of article 83 of the Constitution. The budget is adopted in the Parliament after being examined and discussed; however, the Parliament’s authority is restricted. It cannot increase the required credits, which means that it cannot raise the expenditures, in the budget draft or the additional or extraordinary⁴³ credits’ drafts unless after the Government consent. However, the Parliament may annul or reduce the credits in the budget draft. It may also transfer these credits, from one clause to the other, from one paragraph to the other or from one chapter to the other as stipulated by article 115 of the Parliament Internal System.

Regarding the revenues, no restrictions are imposed on the Parliament’s authority. Article 81 of the Constitution stipulated the following: “No public taxes may be imposed, and no new tax established or collected in the Lebanese Republic except by a comprehensive law

⁴¹ Leila Barakat, Index of Studies and Projects related to the Public Sector, Office of State Minister for Administrative Development Affairs, Beirut 2002

⁴² Article 70 of the Constitution

⁴³ Article 84 of the Constitution



which applies to the entire Lebanese territory without exception.” This also implies that no tax may be amended or annulled unless by virtue of a law.

After the Cabinet drafts the budget, it submits it to the Parliament. The time limit it is granted to examine, discuss and adopt the budget does not exceed two and a half months as a maximum. The Constitution rectified this short period and stipulated that the Parliament shall immediately convene an extraordinary session to last until the end of January, as an additional time limit; thus the time limit granted for the Parliament amounts to three and a half months as a maximum.

As soon as the budget draft is submitted to the Parliament’s Bureau enclosed with the economical and financial report, the Speaker shall submit them to the Commission of Finance and Budget to examine and discuss the budget draft. It is mandatory that the Commission of Finance and Budget call upon every commission in the Parliament to attend the meetings in which the budget related to all these commissions’ work is being examined. The members of each commission take part in the debates, submit their proposals and cast their votes. The Commission of Finance and Budget may call upon the Minister of Finance to attend its meetings. When the commission completes its examination, it submits its reports with the amendments it adopted to the Parliament’s Speakership. The debate takes place in the Parliament, on the basis of the draft presented by the commission.

3-2-1-1 Transparent development of budget figures

The figures mentioned in the budget draft are approximate figures whether for the revenues or for the expenditures. Therefore, the process of estimating the costs and expenditures gains a big importance. Realism and honesty are necessary in estimating the revenues and expenditures, so the revenues shall not be overly estimated or exaggerated, and the expenditures shall not be estimated at less than their real value, in order to theoretically achieve balance between revenues and expenditures. In fact, the ministries and public administrations usually over estimate their expenditures, while the Ministry of Finance tends to lessen the estimates of expenditures and exaggerate the revenues to reveal the budget deficit at its lowest levels.⁴⁴ Transparency in defining the budget figures requires the best and most efficient means, so that the figures truly reflect the reality. In the last ten years, Lebanon witnessed a tendency toward over estimating the revenues and reducing the expenditures; this was reflected in the budget deficit which often exceeded the estimated deficit.

3-2-1-2 Scrutiny of the budget figures to ensure accuracy

The Parliament, in particular the Commission of Finance and Budget, is supposed to scrutinize the accuracy of figures. This requires an advanced expertise and big efforts as well as an ability to collect information from different ministries and public

⁴⁴ For more information, refer to Abd el Latif Qtaish, *The State’s Public Budget*, Halabi for Legal Publication, Beirut, 2005



administrations. Since no experts in the financial matters work in the Parliament to scrutinize the figures mentioned in the budget draft and their validity, scrutinizing these figures is left to few deputies who can rely on some experts in view of their personal ties with them; this means is not very efficient. Therefore, scrutinizing the budget, generally in the Commission of Finance and Budget, is limited to transferring the credits within clauses, paragraphs or chapters in the budget. The deputies seek to include the projects covering their regions in the budget law.

3-2-1-3 Study of the effect on monetary, economic and social conditions

The budget draft must include a comprehensive monetary, economical and social vision. The Public Accountancy Act stipulated in article 18 that “the Minister of Finance shall submit to the Legislative Power before November first, a detailed report of the country’s economical and financial situation, and the principles adopted by the Government in the budget draft.”

The budget’s importance and impact on all the situations requires that the Parliament, especially the Commission of Finance and Budget study these impacts on the monetary, economic and social conditions, as well as their positive or negative effects.

Rarely does this happen, and the report submitted by the Minister of Finance to the Legislative Power does not get enough examination and debate, and has thus practically becomes a formal measure.

3-2-1-4 Commissioning experts to its financial and economic affairs to study the budget and approve it

The Parliament’s authority in studying and approving the budget is one of the most important authorities granted thereto, since the budget covers different aspects of the State’s activities, and affects the monetary, financial and social conditions. Therefore, it requires experts working in the Parliament or in any private center for studies, so that the budget studying shall be at the required level. However, this is not available for the Lebanese Parliament, and thus it is the Cabinet which takes charge of drafting the budget while the Parliament has a very limited role to play in it. This is confirmed by the atmosphere reigning over the Parliament’s general assembly during the studying and voting of the budget. Speeches cover different issues but rarely tackle the budget.

MPs, in interviews I had with them, all said that the Parliament is not conveniently equipped to practice the financial monitoring as it should.

3-2-1-5 Comparison of actual expenditures and income against projections

Comparison of actual expenditures and income against projections shows the executed figures, whether collected or spent, and therefore gives an idea about the validity of the budget draft figures. [It is carried out on a budget enforced, while the budget draft covers](#)



the coming year. Thus, the MPs can refer to the final account in examining and discussing the budget draft for the following year.

The Parliament's Internal System stated the phases to be followed by the Parliament when ratifying the public budget; first, it has to ratify the law of 'actual expenditures and income against projections' for the current year's budget, the accounts of which have been closed, meaning the budget of the year preceding the previous year. However, after following up on the Lebanese Parliament's actions, it appears that it ratifies the hereto without examining it, and thus it was automatically ratified.

3-2-2 Transparent vote on the budget

Article 83 of the Constitution stipulated that the "The budget is voted upon article by article." Article 116 of the Parliament's Internal System stated that the Parliament shall vote on every clause of the budget draft, and the draft laws regarding the opening of additional or extraordinary credits.

Transparency, however, is not limited to the voting method, but also includes the issues voted upon. Article 5 of the Public Accountancy Act stipulated that the budget law is limited to what is directly related to the budget's implementation. Therefore, legal provisions not related to the budget's implementation may not be included in the budget law. However, the Executive Power has not always abided by this text's provisions. It sometimes included many provisions unrelated to the budget implementation, and made use of the general atmosphere of the Parliament's examination of the budget draft, since all MPs are more focused on the issues concerning their electoral constituencies, and do not pay much attention to any other regions. Thus, the Executive Power deems the budget an easy means to make the Parliament adopt legal provisions that may raise much controversy if voted normally like other laws.⁴⁵ When reviewing the public budget law of 2004 in the 4th chapter of miscellaneous articles, it reads: investing the Civil Service Board with the authority of holding the appointment test, amending the law of real estate property, amending the laws of the land register... All these issues do not concern the public budget draft, and the texts amended must be included in the laws subsequent thereto.⁴⁶

So the Parliament votes legal provisions included in the budget law against the law and are infiltrated in the budget draft in secret.

3-2-3 Comprehensive oversight of the Budget

The Parliament practices comprehensive oversight of the budget. He discusses the budget draft in order to carry out a comprehensive oversight of the Government's financial and economical policy, its management of the State's budget, the financial resources ensured to the ministers, as well as the projects that they performed or neglected. Discussing the

⁴⁵ Abed el Latif Qteish, op. cit, p. 184

⁴⁶ Paul Morkoss, Monitoring Legislation in Lebanon, op. vit. P. 97



budget covers all the aspects of public life, and the Government's performance at all levels; however, the budget debate generally becomes a kind of parade for reading speeches in the Parliament, knowing the Parliament can amend the budget draft under the authorities it is invested with. Amendments are usually political compromises and transactions.

The Parliament's oversight of the budget's implementation is the basic formula for all kinds of control over the budget's implementation. It is the reference to all other types of oversight, whether judicial or administrative, since the budget's commitment to the parliamentary limits is the criteria of valid and legitimate implementation.⁴⁷

The Parliament's right to oversight the budget's implementation is based on the right to undertake full oversight over the Government's actions. The oversight of the budget's implementation, however, is a technical task requiring professionalism and much information, which is not available for the Parliament. Therefore, its oversight of the budget's implementation is very feeble in Lebanon and many countries, and thus, the administrative and judicial supervisions are required.

The belated parliamentary control on the budget implementation is practiced in Lebanon by adopting the Law of Final Accounts which is not examined in the Parliament.

3-2-3-1 Effective and active role in monitoring the implementation of the budget

Article 87 of the Constitution stipulated that “the final financial accounts of the administration for each year must be submitted to the Chamber for approval before the promulgation of the budget of the year following...”

These final accounts are adopted by virtue of the Law of Final Accounts.

3-2-3-2 Collaboration with audit agencies to control public expenditure

Article 87 of the Constitution stipulated that “a special law is to be issued for the setting up of an Auditing Bureau.” The audit agency was established in 1951 by virtue of the Public Accountancy Act. It was entrusted with monitoring the management of public funds, by auditing and formulating the accounts of the State and municipalities, to confirm their validity and legal transactions, and monitor all the actions related to implementing the budget.

The audit agency practices a judicial and administrative supervision over the public funds and drafts every year a report on the results of its supervision and the amendments it proposes on various laws and systems leading to financial outcomes if implemented. The audit agency's general assembly adopts this report and submits it to the President of the Republic. It presents copies of it to the Speaker to be distributed on its members and published in the Official Gazette. When the auditing agency deems it necessary, it may submit to the President of the Republic, the Speaker, the Prime Minister, the public

⁴⁷ Abed el Latif Qteish, op. cit, p. 414



administrations or the concerned parties, special reports on certain issues and appropriate propositions thereon.

These reports may be examined by the Parliament when supervising the budget, during and after its preparation and implementation. The reports are an important source of information assisting the Parliament in practicing its authorities efficiently at the financial level. However, they are rarely examined although they present much information on the infringements leading to the squandering of public funds.

3-3 Effective oversight of the executive

The Government in Lebanon is held accountable before the Parliament which must play an efficient role in supervising and holding it liable.

3-3-1 The existence of organized and effective opposition in the Parliament

Only the opposition can practically supervise the Government in the Parliament. For it to play this role, it must be organized and coherent, present an alternative political program against the governmental program. The opposition does not represent the majority in the Parliament and cannot topple the Government, but it can reveal its flaws, turn the public opinion against it to win the parliamentary elections. It will then become a majority practicing power through a new Government. Parliamentary systems are rightfully adopted only under the political game of opposition and power. In Lebanon, the Parliaments rarely witnessed an organized and active opposition. These Parliaments harbored eminent opposition members who played an important role in the parliamentary life, but their opposition was not organized within a changing plan, and merely pressured the Government and criticized it to straighten its performance.

In some rare cases, an opposition front was created of many forces. At the end of the sixties', an opposition front was created against the Shehabist method, and was able to elect one of its members, Sleiman Franjiyeh, as President of the Republic. After the mandate prorogation of President Emile Lahoud in 2004, an opposition front was formed by those who opposed the prorogation, and was able to win the 2005 elections' parliamentary majority, but failed in exclusively forming the Government for confessional balance considerations. The Government was formed of a coalition including the parliamentary majority and ministers representing parliamentary blocks outside this majority, but the Cabinet performance met with difficulties.

The essential condition in Lebanon to straighten the political performance within the Lebanese parliamentary system is for the majority and the opposition to be formed of political forces of all the confessions represented in the Parliament. This matter is, to a large extent, subject to the electoral law.

3-3-2 Effective questioning of the Government by Parliament



Amongst the methods used by the Parliament to supervise the Government, is the method of questions and interrogations. The deputy's authority to question the Government is absolute and comprehensive. The majority of the questions cover issues on the Government's program, the ministers following up on their ministries' problems, the decisions taken and their political and legal validity. Some questions are limited to the deputy's electoral constituency and the provision of necessary services. In the last few years, the deputies often resorted to questions; this is positive since it strengthens parliamentary supervision and edits the flaws committed by the Government.⁴⁸ The Government must reply to the written question within 15 days maximum after having received it.⁴⁹

If the interrogator was not convinced by the Government's or concerned minister's reply, or if the Government did not reply to the question within the legal deadline, the interrogator may turn the question into an interrogation. The interrogation in Lebanon is an absolute right practiced by the deputy without any restrictions. During the interrogation, all the deputies wishing to speak are granted the authorization. Even when the interrogator declares that he is convinced by the Government's response, one of the deputies may take on the interrogation, and after the end of the debate, confidence may be withdrawn from the Government.

The Parliament's Internal System organized the public debate issue. It stipulated holding a meeting for questions, interrogations and public debates, after a maximum of three meetings, in the ordinary and extraordinary sessions. More meetings are supposed to be held for questions and interrogations and public debate, so the Government remains under the Parliament's supervision.

⁴⁸ Zuhair Cheker, the Mediator in the Lebanese Constitutional Law, Dar Bilal, Beirut, 2001, p. 548.

⁴⁹ The Parliament's Internal System, article 124.

The Government's responses on questions and interrogations
between 1992 and 1996⁵⁰

	Did the Government answer the questions			Government's reply on interrogations			Government's reply on an question turned into an interrogation			Suspended question
	Number	Yes	No	Number	Yes	No	Number	Yes	No	
1992	3	3	-	1	1	-	-	-	-	-
1993	53	43	10	3	3	-	-	-	-	1
1994	29	18	11	-	-	-	-	-	-	-
1995	30	20	10	2	-	2	4	1	3	1
1996	24	9	15	-	-	-	-	-	-	-
TOTAL	139	93	46	6	4	2	5	2	3	2

In 2004, the number of the deputies' questions to the Government totaled only 10 questions and one interrogation.⁵¹

3-3-3 Effective power to withdraw confidence from the Government

The Parliament has the power to withdraw confidence from the Government whenever it wishes so. But the Parliament has never withdrawn confidence from the Government since the Independence in 1943. The Government resigns when conflicts arise between its ministers, especially because the Lebanese Governments are Governments of coalition since the country is formed of various confessions and political forces. The Government may also resign when it becomes incapable of controlling the State affairs. During the Syrian hegemony over power in Lebanon, the Government's fate was always controlled by the influential forces, in other words, the ones operating under the Syrian commandment guidelines and sharing power and benefits with it.

3-3-4 Effective control of compliance with international treaties

The State is bound to respect the International treaties it signs, especially because these conventions were ratified by the Lebanese Parliament which has to monitor the Government's implementation thereof.

⁵⁰ Fares Sassine, Representation and Power (The Parliament, 1992- 1996), The Lebanese Center for Studies, Beirut 1997, p. 86

⁵¹ The Parliament's work, the Parliament, 2004, p. 20



3-3-4-1 Questions to the Government about its compliance with international treaties

Deputies rarely question the Government regarding the respect of the international treaties. Thus, pressure on the Government to abide by international commitments is exerted by international bodies.

3-3-4-2 Parliamentary commission on foreign affairs monitoring Government compliance with international treaties

The Parliamentary Commission for External Affairs is mainly concerned with the State's external policy, and follows up on the Ministry of Foreign Affairs' work. In the event where the Government is criticized by the International bodies and committees for having breached its commitments, the Parliamentary commission for external affairs calls upon the Minister of Foreign Affairs to inquire about the infringement and to rectify any flaw.

3-3-4-3 Parliamentary commission on Human Rights monitoring Government compliance with Human Rights and civil liberties obligations

The Lebanese Parliament has a long history in defending human rights and public freedoms. It established the Parliamentary Commission of Human Rights in 1993,⁵² and the Parliamentary Commission for Women and Children. It thus answered a public demand because rights and freedoms are an inalienable part of the Lebanese legacy. The Parliament drafted legislations canceling discrimination between men and women, and opposed the Government in defense of the freedom of the press in 1994, drafted a law annulling the decree which limited the right to broadcast news bulletins and political shows in Lebanon to Tele Liban, while awaiting the drafting of a law organizing radio and television, and allowed radio and television networks to broadcast again news and political programs banned by the decree. The Parliamentary Commission on Human's Rights carried out many activities, of which following up on the respect of conventions signed by Lebanon, and the Universal Declaration of Human Rights to which Lebanon committed through a constitutional text. Following up and improving the situation of the Lebanese prisons were among these activities; the Parliamentary Commission on Women and Children also worked on amending the Lebanese laws going against the international convention on the rights of the child and the international convention on eliminating all forms of discrimination against women.

3-3-5 Constitutional power to indict ministers, the Prime Minister and the Head of State

Article 80 of the Constitution stipulated the following: "The Supreme Council, whose function is to try Presidents and Ministers, consists of seven deputies elected by the

⁵² The Parliamentary Commission on Human Rights was established in 1993 thanks to the efforts of Deputy Joseph Moghayzel, one of the pioneers in human rights in Lebanon and the Arab world.



Chamber of Deputies and of eight of the highest Lebanese judges, according to their rank in the judicial hierarchy, or, in case of equal ranks, in the order of seniority. (...) The Decisions of condemnation by the Supreme Council is rendered by a majority of ten votes. A special law is to be issued to determine the procedure to be followed by this Council.”

Article 60 of the Constitution stipulated the following: “While performing his functions, the President of the Republic may not be held responsible except when he violates the constitution or in the case of high treason. However, his responsibility in respect of ordinary crimes is subject to the ordinary laws. For such crimes (...) he may not be impeached except by a majority of two thirds of the total membership of the Chamber of Deputies.”

Article 70 of the Constitution stipulated that “The Chamber of Deputies has the right to impeach the Prime Minister and Ministers for high treason or for serious neglect of their duties. The Decision to impeach may not be taken except by a majority of two thirds of the total membership of the Chamber...”

The necessity of gaining two thirds of the Parliament votes to lay accusations is a means of pressure and a guarantee against any accusation unless the approval of the absolute majority of the Parliament members is granted. However, sometimes the deputies tend to choose their political affiliation over their wish for justice to be done, which has incited some parties to deem the two thirds majority as a means to protect the suspects from being accused by the Parliament and therefore from being prosecuted before the Supreme Council. Thus, political protection prevents the prosecution of suspects.

During the last fifteen years, accusations against two ministers were submitted before the Parliament, but the decision of impeaching them was not issued because it fell short of the two thirds majority votes.

3-3-6 Constitutional power to participate in the prosecution of ministers and the Head of State

The Parliament participates in the Supreme Council for prosecuting the Head of State and ministers through seven deputies elected by the Parliament amongst fifteen members in the Supreme Council. The incriminating decisions are taken by the majority of ten votes. Until now no trial took place before the said Council, despite the rampant corruption at all levels.

3-4 Effectiveness of the parliamentary commissions

The parliamentary commissions play a major role in the Parliament’s performance. They are supposed to act efficiently and continuously, so the Parliament’s general assembly takes the proper decisions serving the public interest. The commissions are the internal laboratory preparing all drafts and proposals, especially since the commissions build their proposals on reports and information submitted by the ministers and required experts.



The parliamentary commissions hold sessions regularly. Their sessions totaled 258 in 2004.

3-4-1 Sufficient permanent, temporary, specialized ad hoc and investigative parliamentary commissions

The Lebanese Parliament includes 16 permanent commissions covering the activities of all the ministries and main issues. These commissions are the following:

The Commission of Finance and Budget, the Commission of Administration and Justice, the Commission of Foreign Affairs and Immigrants, the Commission of Public Works, of Transport, Energy and Water, the Commission of Education, Higher Learning and Culture, the Commission of Public Health, Labor and Social Affairs, the Commission of National Defense, Interior and Municipalities, the Commission for the Displaced, the Commission of Agriculture and Tourism, the Commission of Environment, the Commission of National Economy, Commerce, Industry and Planning, the Commission of Information and Communications, the Commission of Youth and Sports, the Commission of Human Rights, the Commission of Women and Children, the Commission of Information Technology. The members of each commission range between 17 to 9 deputies. Besides these permanent commissions, sub commissions shall be formed to examine an issue proposed to one of the permanent commissions; these sub commissions are temporary; other ad hoc commissions shall also be established to examine specific issues.

The Parliamentary investigation commissions fall under the Parliament's authority of undertaking a parliamentary investigation. The Parliament's Internal System stipulated that the Parliament's general assembly may decide to undertake a parliamentary investigation on a certain issue, based on a proposal submitted thereto to be discussed, or within a question or interrogation regarding a certain issue, or even within a submitted draft. The commission shall submit a report on the conclusions of its work to the Speaker who presents it before the general assembly to decide upon it.

3-4-2 Active and transparent role in legislation

The parliamentary commissions' examination of draft laws and proposals is deemed to be an essential and basic process; it is also considered as the technical phase enabling the general assembly to accurately discuss the issue. The commission shall require all the documents it deems necessary to study the proposal or the draft. It may also require hearing the competent minister or his delegate. Any deputy may attend the commissions' meetings, even if he were not a member thereof; thus, the deputies can effectively take part in the next phase which is the debate phase in the general assembly.

Therefore, it appears that the commissions have an effective and basic role in the legislation process. Evaluating the parliamentary commissions' performance in Lebanon reveals the different levels of efficiency among the commissions. The commission's activity is largely dependent on their president, rapporteur and finally their members. The



Commission of Administration and Justice plays an essential and basic role in the legislation process, and sometimes ask for the contribution of specialists in different domains. However, the commissions do not generally study draft laws and proposals in details.⁵³

As for the commissions' work, it is sometimes flawed as declares MP Ahmad Fatfat, a former member of the Commission of Administration and Justice, and who was surprised by many practices such as: elaborating a draft or proposal on the agenda, while other drafts were excluded from the debates despite being fundamental. For instance, the parliamentary electoral laws; the sudden suspension of serious and developed debates on certain law articles for what may be political reasons (the Municipalities' Law); marginal political deliberations leading at the last moment to radical amendments on some texts during the voting in the general assembly without a serious debate...⁵⁴ This reflects the lack of transparency in the commissions' work sometimes.

⁵³ Deputy Ghassan Moukhaiber, op. cit, p. 191

⁵⁴ Deputy Ahmad Fatfat, Obstacles to Legislation, The Monitoring of Legislation in Lebanon, op. cit., p. 114



Statistical Chart on the works of the
Commission of Administration and Justice
For the period between August 18, 2005 and January 31, 2005⁵⁵

Number of sessions held by the Commission	31
Number of referred drafts	32 draft laws
Number of referred proposals	19 law proposals
Number of adopted drafts	6 law drafts
Number of adopted proposals	4 proposals
Number of drafts rebutted to the Government	5 draft laws
Number of law proposals rebutted to the deputies submitting them	11 law proposals
Number of drafts the Commission decided to rebut to the Government	1 draft
Number of drafts referred to the common parliamentary commissions	17 draft laws
Number of recommendations issued	3 recommendations
Number of sub committees established	5 sub committees
Number of the sub committees' sessions	9 sessions
Number of draft laws still suspended in the commission	43 draft laws
Number of law proposals still suspended in the commission	42 law proposals

3-4-3 Active and transparent role in monitoring

The commissions' role covers the monitoring of the Government's performance; for every ministry, a parliamentary commission scrutinizes its works; however, the parliamentary commissions' role in controlling the Government is very limited and must be efficiently activated.

3-4-4 Active and transparent role investigation

The Parliament's Internal System stipulated that the parliamentary commissions be granted broad authorities, and that the Parliament may entrust the parliamentary commissions with the authorities of the judicial investigation bodies. However, these commissions' experience did not meet with success in Lebanon. Amongst the most

⁵⁵ Parliamentary Life, Volume 57, December 2005, The Parliament, p. 89.



eminent investigation commissions was the one formed to probe into the financial commission paid during the Krotal missiles transaction under the mandate of President Charles Helou. Another investigation commission was formed to probe into the financial commission paid and the fraud committed in assessing the qualifications of the Puma helicopters in the Puma transaction under the mandate of President Amine Gemayel. [In both cases, they were not determined.](#)

3-4-5 Participation of civil society stakeholders in relevant commission meetings

Sometimes, delegates of the civil society are called upon to attend the parliamentary commissions' sessions, give their opinions in certain issues falling under their scope of action, and submit the studies they collected to be used when examining and debating draft laws and proposals.

3-4-6 Participation of qualified experts in relevant commission activities

The Parliament's administrative body does not include experts in various fields having advanced knowledge and expertise. However, some commissions, when studying draft laws and proposals, seek the help of experts; for example the Commission for Administration and Justice sought the help of experts in studying the Code of Criminal Procedure, while the Law Reform Commission⁵⁶ called on experts when examining the Code of Intellectual Property, as well as other laws.

3-5 Adequate Internal System for Parliament's performance

The Parliament's Internal System governs its mechanisms of action and represents the legal framework organizing the parliamentary performance. Therefore, it is necessary to adopt Internal System contributing into the activation of this performance.

3-5-1 Internal System guaranteeing the diversity of opinions and affiliations

The right parliamentary representation leads to the diversity of orientations and affiliations inside the Parliament. The Parliament's Internal System in this regard is supposed to preserve the parliamentary performance's diversity, by treating all deputies as equals, allowing them to express their will freely and undertake parliamentary actions under no constraints. The Internal System does not include texts that can be used by the Speaker to restrain or marginalize a certain category of deputies.

3-5-2 Internal System guaranteeing freedom of expression and debate for all its members

⁵⁶ Ex deputy Mikhael Daher who was president for the Commission of Administration and Justice, confirmed that the Commission held meetings with the most eminent judges and jurists to take their opinions when examining draft laws and proposals, while the meetings sometimes took place outside the Parliament.



The Internal System organized the debate method as well as the questions, interrogations and votes of confidence to the Government. The Internal System granted each deputy the right to speak once in every debate session regarding the Internal System, in the event he proposed a draft amendment, submitted a proposal regarding the relevant issue, or wished to explain this proposal or call for returning it. The deputy does not have the right to speak more than once in a general debate regarding the same issue, unless in the cases stipulated in the Internal System. This aims at allowing all the deputies wishing to speak and take part in the debate to do so. For the same reason, the Internal System stated that the interrogator shall be granted fifteen minutes to explain his interrogation, then the Government shall be granted fifteen minutes, while each of other deputies shall be granted five minutes; in addition, each of the interrogator and the concerned minister shall be granted ten minutes. When discussing the budget and the ministerial declaration, every deputy shall be granted one hour.

The texts shall be abided by in practice.

3-5-3 Internal System guaranteeing the right of parliamentarians to participate in the commissions regardless of their affiliations

Parliamentary commissions are elected by the deputies by secret vote. This means that each deputy may run and win if he gets the majority of votes. The Lebanese Parliament witnessed the consensus of all parliamentary blocks and independent deputies over the commissions' memberships, presidency and rapporteurs, with respect to these blocks' number of deputies; however, a strong competition sometimes occurs when electing the presidents of certain commissions, such as the Commission of Finance and Budget and the Commission of Administration and Justice. One can say that all the forces represented in the Parliament are represented in the parliamentary commissions. The Internal System stipulated the right for every deputy to attend the meetings of any commission, even if he were not a member therein, and to take part in its deliberations, without having the right to vote. However, attending the commissions' sessions is limited to a certain number of deputies, and even the commissions' presidents are often absent from these sessions. To facilitate the commissions' work, and to anticipate these absences, the Internal System stated that the sessions held after the first session shall be held on the condition that the number of attendants does not fall short of one third of the commissions' members.

To allow all deputies to be members of the commissions, the Internal System stated that a deputy does not have the right to be a member in more than two commissions, unless the third commission is the Commission of Human Rights, the Commission for Women and Children or the Commission of Information and Technology since the work of these three commissions is limited.

3-5-4 Internal System guaranteeing easy flow of work

The Internal System organized the sessions of the Parliament's general assembly and commissions, in conformity with the rules and regulations enforced in the Western



Parliaments, and in such a manner that guarantees the easy flow of the Parliament's work during the sessions, debates, voting, questions, interrogations and votes of confidence, etc... Yet, the Internal System linked the Q & A sessions as well as the interrogations and general debates sessions, no matter how important they may be, to the legislation sessions. Article 136 stated that "following a maximum of three sessions of action in the ordinary and extraordinary sessions, a sitting is dedicated for questions and answers, interrogations or general debate preceded by a communiqué issued by the Government." It is well known that the Parliament's controlling function is essential in the parliamentary systems; this role should not be restricted to sessions that may not exceed one or two sessions every year. For instance, the Parliament held only one general debate session in 1996 and 1997, two sessions in 1998, without holding any general debate session in 1999 and 2000.

As for the petitions and complaints submitted to the Parliament, they were stipulated by the Internal System, however in such a manner that may lead to the negligence of these petitions and complaints despite their importance in strengthening the relation between the people and the Parliament and promoting the Parliament's general control.

Consequently, the Internal System provisions must be developed within a strategy aiming at developing the parliamentary action in Lebanon.

3-5-5 Clear Internal System

The Internal System was formulated clearly and includes no ambiguity in the texts. This facilitates the deputies' understanding of the parliamentary work mechanisms.

3-6 Effective parliamentary blocks

The parliamentary blocks play a major role in the parliamentary life, especially in controlling the political life inside the Parliament. They mainly take part in proposing draft laws, elaborating the commissions' sessions, submitting questions and staging hearings, under the Parliament's monitoring function over the Government. They also elaborate plans to participate in the Parliament's general debates. For the parliamentary blocks to undertake their given roles, their performance must be organized and diligent.⁵⁷

3-6-1 Organization of blocks based on their own internal system

Parliamentary blocks in Lebanon are formed based on political figures who run the elections with lists, each winning list representing a parliamentary block revolving around its president. Some blocks have the aspect of a political party, bearing in mind that some leaderships in Lebanon are the centers based on which political parties are formed.

⁵⁷ Dr. Issam Sleiman, *The parliamentary Blocks in Lebanon, Parties and Political Forces in Lebanon*, The Lebanese Institution for Permanent Civil Peace, Beirut, 1996, p. 403-428



One can say that the Lebanese parliamentary blocks consist of a gathering around influential deputies. No block follows internal system, a parliamentary plan of action, weekly regular meetings or sessions held on the basis of elaborated agendas, as it is the case in Western Parliaments. These blocks meet when need arises to take a stance required by urgent circumstances, and gather around their leaders to defend them. They do not play an effective role in the parliamentary life, at the legislating or monitoring levels. Rarely does any block present a draft law. Their roles in controlling depend on their leaders' will. We sometimes see MPs members of two blocks at the same time, thus reflecting how feeble these blocks are. Parliamentary blocks in Lebanon are controlled by the electoral interests and personal ties rather than the political strategy or plan of action drafted by the block to fulfill its role effectively in the Parliament.



Chart of the Parliamentary blocks in the 2005 Parliament

Name of the Block	Number of Deputies	Number of deputies members of another block
The Future Block (headed by Saad Eddine Hariri)	38	3 members of the Democratic Gathering Block
The Block of Reform and Change (headed by Michel Aoun)	21	4 members of the Zahle MPs block 2 members of the Armenian MPs block
Block of the Democratic Gathering (headed by Walid Jumblatt)	19	3 members of the Future Block 1 member of the Kataeb party bloc
Block of Liberation and Development (headed by Nabih Berry)	17	1 member of the Block of the Syrian National Social Party
Block of Loyalty to resistance (Hizbollah)	15	1 member of the Kataeb party block
Block of the Lebanese Forces (Samir Geagea)	5	
Block of the Lebanese Kataeb	4	1 member of the Democratic Gathering Block 1 member of the Hizbollah block
Tripoli Gathering	3	
Block of the Syrian National Social Party	2	1 member of the Block of Liberation and Development

3-6-2 Compliance of block members with block decisions

The nature of the parliamentary blocks' formation in Lebanon is behind their members' full commitment to the blocks' decisions, which are in fact decisions taken by their leaders.

3-6-3 Parliament's internal system encouraging the creation of organized and effective parliamentary blocks

The Parliament's internal system does not mention the parliamentary blocks. This is a flaw detected in this internal system. On the contrary, the Parliaments' internal system in the developed countries tackles the issue of the parliamentary blocks and dedicates many texts thereon to contribute to their formation and to activate their performance on good basis.



3-7 Effective technical and administrative bodies

For the Parliament to fulfill its role and activate its performance, it must enjoy all the administrative bodies with high competence, good organization and discipline. They must also have developed and modern equipments. The Parliament's administrative and technical bodies must play a major role in insuring the proper conditions for the deputies to fulfill their tasks.

3-7-1 Specialized technical and administrative units

The Parliament's administrative body consists of the following administrations:

- The Secretariat General
- The General Inspection Body

The Secretariat General is headed by the Parliament's Secretary General, a first class civil servant, who supervises all the administrative units in the council.

The Secretariat General consists of the Secretariat General Assembly, the Directorate General for External Affairs, the Counseling Office, the Directorate General for the Parliament's Speakership Affairs, the Directorate General for the Parliament's Speakership Headquarters, the Directorate General for Administrative and Financial Affairs, the Directorate General for the Sessions and Commissions Affairs, the Directorate General for Studies and Information, and the Parliament's Police.

Each Directorate General is formed of departments, divisions and offices, whose numbers vary from one directorate to the other. The General Inspection Body is headed by the General Inspector. Its authorities include all the Parliament's administrations, except for the Secretary General, and these authorities cover the inspection of administrative units as well.

The staff in the Parliament's permanent administrative body, under the Speaker's Decision No. 934 dated December 8, 2005, totaled 337 of all categories, along with the Parliament's police.

Appointment to the Parliament's functions is carried out in application to the Speaker's decision.

This large administrative composition shows that the Parliament includes an integrated and comprehensive administrative and technical body.

3-7-1-1 Objective criteria for appointing parliamentary staff

It is sometimes abide by the scientific and objective criteria when appointing and promoting the staff. The favoritism made its way to the Parliament administrative bodies.



3-7-1-2 Sufficient number of qualified staff

The Parliament currently suffers an overload of staff; however, some are paid with no effective performance. Yet, the commissions' Secretary Generals are mostly competent and seriously fulfill their functions, especially elaborating the agendas and documenting of the minutes.

3-7-1-3 Mandatory periodic training for Parliament staff

The Lebanese Parliament concluded a partnership with the United Nations Development Program (UNDP) in order to enhance the Parliament's corporate capacities, at the level of the staff and deputies' training outside Lebanon. This aims in strengthening the legislators' capacity to acquire information for them to carry out their legislative work, by developing a center of economical, social, political and legal studies; to build a developed data base; organize the archives; improve the Parliament's ability to monitor the Government by setting up units to follow up on its projects; to enlarge the participation of civil society by discussing draft laws related thereto; promote parliamentary exchange between Lebanon and other countries' Parliaments through the development of the Office of Parliamentary relations in the Parliament, and by setting a special room with interpretation equipments.

During the last two years, about 40 staff and 20 deputies took part in training sessions outside Lebanon. The training sessions held in Lebanon do not include an active and efficient participation and are not compulsory.

3-7-1-4 Adequate salaries for staff

The Parliament staff salaries are equal to those of all public administration staff; thus, they do not attract competent employees, who would rather work in the private sector offering higher salaries than the public one.

3-7-2 Up-to-date library, information and research centre

The Parliament includes a Directorate General for studies and information, but it lacks highly competent specialists in economics, politics, law, finances etc. The library is equipped and comprises around twenty thousand books. The Partnership Agreement between the Parliament and the International Association for Francophone Countries provided it with the first pillars of the Library. Lately, the Library is being equipped with hundreds of books in the framework of the parliamentary development project concluded between the Parliament and the UNDP. However, the number of MPs who visit the Library is very limited.

3-7-3 Adequate buildings and equipment



The Parliament's buildings are large and adequate; equipments are being updated, however they require more modernization. The Parliament in Lebanon concluded a partnership agreement with the Center of Legislative Studies in the University of New York (Albani) to provide the Parliament with good equipment and automation. The University provided the Parliament with a system to run the staff affairs, developed a special program to follow up on the draft laws and propositions, and ensured a number of computers for the Directorate of Commissions and Sessions. The center designed the Parliament's web site and trained the staff to publish information.

3-7-4 Publication of legislation and reports by the Parliament

The laws, reports and activities of the Speaker and the Parliament are published in the magazine "Parliamentary Life", that is issued every semester, and that includes researches and studies.

3-8 Competence of parliamentarians

One of the conditions required for an effective parliamentary work calls on parliamentarians to understand their duties, to be able to have access to the information helping them in fulfilling these duties, and to be serious when developing and updating their methods of action.

3-8-1 Awareness of their role including the following:

An MP must clearly understand the constitutional texts, their interpretations and spirit, especially that the Lebanese political formula is based on enhancing cohabitation, and requires flexible positions to prevent any crisis at the level of the constitutional institutions causing contradiction among them and paralyzing their work. Moreover, the MP must understand the parliamentary system's mechanism of action under the Lebanese cohabitation formula, and understand the core of the consensual democracy, which is a means and not an objective, aiming at installing stability and decent living for all the Lebanese.

It seems that few parliamentarians understand these issues and have an experience in the practice of parliamentary democracy. Many of them still lack proper knowledge.

3-8-2 Adequate access to information

Having access to information is not easy. We mentioned above the insufficiency in the Parliament's administrative and technical body in providing the deputies with information. Few MPs can reach the required information with their own means.

3-8-3 Training sessions for parliamentarians



No training sessions are held for deputies; however, workshops are held in the Parliament. The participation of the deputies therein is not effective and is often marginal.

4- Integrity

The Parliament is the pillar of democratic systems, especially the parliamentary ones. The parliamentarians must fulfill their duties with integrity and impartiality so the parliamentary work can be right and the Parliament be able to face corruption and rectify all the flaws in the State institutions. In fact, the Parliament's real value is that of its members, and more specifically their integrity and competence.

4-1 Parliament ethics

A parliamentarian must abide by the ethics banning him from abusing his post for personal benefits, whether moral or material. He must also carry out his duties in a total transparency, avoid entertaining suspicious or secret ties, and carry out his functions without any discrimination between the citizens due to their social, political, religious or confessional affiliations. He must also take the parliamentary practice into a higher level, thus strengthening the people's confidence in the Parliament.

4-1-1 Clear and enforced ethics rules, written by the Parliament

No law is elaborated in Lebanon regarding parliamentary ethics, as it is the case in Canada for example. The parliamentary Internal System does not include any texts regarding the deputies' conduct, but rather tackle absenting oneself from the Parliament's and the commissions' sessions, and are not applied. The electoral law forced whoever wishes to run for the parliamentary elections among the civil servants to resign six months before the elections' date and to suspend his job, for his candidacy to be accepted.⁵⁸ This aims at impeding the abuse of power for electoral purposes. The electoral law also stipulated that the deputy may not be a civil servant as well, so he fully carries out his tasks in the Parliament and does not abuse his public job for electoral interests. It also stipulated that a deputy may not act as the legal representative of the State, or of one of its administrations, independent public institutions or municipalities.

On the other hand, the electoral law stipulated that no privilege or commitment shall be granted to a deputy. Sometimes, this text is not properly applied, for some deputies violate the law and enter into a hidden partnership with their relatives or other parties, and abuse their power for illicit enrichment in violation of the public interests.

The Illicit Enrichment Act was drafted in 1953 but was not implemented. It underwent an amendment and a new formulation in 2000. It is applicable to the civil servants, public

⁵⁸ Article 30 of the electoral law stipulated the resignation of the first and second class civil servants, judges, public institutions' chairmen, directors and members, six months before the elections' date for their candidacy to be accepted.



servants, judges, and any partners thereof in the enrichment by the means of bribery, abuse of power or function or by any other illegal means. “A public servant is any person entrusted with, whether by election or appointment, the presidency of the Republic, the Speakership or the Presidency of the Government, as well as any minister or deputy...”⁵⁹

The Illicit Enrichment Act stipulated that the deputies submit a declaration of wealth within a month after starting work, and present the said declaration to the Constitutional Council. The declaration must include the movable and immovable funds owned by the deputy, his wife and his minor children.

The Illicit Enrichment Act stated the implementation of the Code of Criminal Procedure’s provisions when investigating the illicit enrichment, as well as the implementation of the Penal Code in the case of illicit enrichment.⁶⁰ With respect to the Constitution’s provisions, the Penal Appeal Courts in Beirut examine the cases of illicit enrichment. This implies that legal action against the deputy for illicit enrichment requires waiving his immunity.

It is worth noting, despite the rampant corruption at all levels, that no trial was conducted against anyone for illicit enrichment. It seems the Illicit Enrichment Act is meant to remain unimplemented.

4-1-2 Monitoring of the respect of these rules by an independent body

In Lebanon no institution, such as a commissariat, is entrusted with monitoring the respect of rules and principles governing the deputy’s conduct. Yet, legal action may be taken against the deputy after his immunity is waived in the Parliament, in the event he violated the stipulated rules in the Lebanese laws, including abuse of power and illicit enrichment.

4-1-3 Clear, effective and enforced sanctions

The laws stipulated effective sanctions to deter all corrupted persons and hold them accountable, as well as the courts undertaking their trial. Over the last fifteen years, only one deputy was sued, incriminated and incarcerated after the influential parties waived their political cover there from. The main hindrance before taking legal actions against corrupted officials is the political and confessional considerations protecting them.

4-1-4 Official and non official data gathering mechanisms on the behaviour of parliamentarians

No official mechanisms are established to gather information regarding the parliamentarians’ conduct in Lebanon. However, unofficial mechanisms are followed by

⁵⁹ Illicit Enrichment Act, article 2

⁶⁰ Illicit Enrichment Act, article 8



certain civil society working against corruption and towards transparency and by some media. The problem does not lie in gathering information but rather in taking legal actions and sanctions against those committing corruption.

4-2 Conflict of interest

Officials are not allowed to let their personal interests prevail over the public ones. When there's a conflict between personal and public interests, the public interests are the ones to be taken into account. This principle must be reflected in the laws controlling the conduct of any State official, especially the deputies since they draft laws and control the Government. If they chose their own interests over the public interests, corruption would spread in all the State institutions. Political corruption is the most dangerous sort of corruption since it generalizes corruption at all levels.

4-2-1 Clear conflict of interest rules

Lebanon elaborated legal rules to fight power abuse. They were stipulated in the Illicit Enrichment Act, the electoral law, the law of public biddings, the Criminal Code, and the Code of Public Accountancy Act. These rules also determined the legal party undertaking the investigation, announcing the verdict and implementing the sanctions. However, the law is sometimes violated due to political influence and non-accountability. The decisions issued by the Auditing Bureau were repeatedly violated by decisions taken by the Cabinet, while the Parliament neither took proper action nor exercised its role of holding the Government accountable.

4-2-2 Publicity of information on conflict of interest

Officials, including the deputies, secretly choose their own interests over the public interests, in such ways difficult to uncover. However, some practices are so flagrant that they are revealed to the public in the media, and are also mentioned in the annual report issued by the Auditing Bureau, and published in parts in the media.

4-2-3 Monitoring of the respect of these rules by Parliament

The Lebanese Parliament's role to monitor the implementation of rules hindering the abuse of power is almost absent, despite the large powers entrusted thereto and enabling it to control, hold accountable, and form commissions he can entrust with the powers of the judicial investigation bodies.

4-2-4 Explicit legal obligation to declare financial assets

The Illicit Enrichment Act stated the necessity to declare the movable and immovable funds owned by any public servant, his wife and minor children.

4-3 Political Financing rules



The transparency of political financing is a major component to achieve integrity and fight corruption. Political financing covers in particular the financing of political parties and electoral campaigns.

4-3-1 Clear political finance rules

Until the present date, no law for political parties exists in Lebanon. What applies on parties is the law of associations in force since 1909, meaning since the Ottoman Sultanate era which certainly does not tackle the financing of political parties. Moreover, electoral laws did not handle, so far, the issue of financing electoral campaigns.

Therefore, the political financing is chaotic in all its aspects, and thus turns the political life to an open market, where money is largely spent with no control and without determining its resources, in addition to the purchase and sale of receivables. This affects negatively the political life and renders it subject to corruption;⁶¹ not to mention that some political parties are financed by the public funds.

4-3-2 Clear and enforced income and asset laws

The Illicit Enrichment Act in Lebanon stipulated the submission of income, wealth and property statements. These statements remain secret, and are kept in defined administrations. Their content may not be revealed unless their applicant is subject to accusations and investigation. However, accusations and investigations rarely occur.

4-3-3 Access of citizens to information on financing rules

Political financing in Lebanon is not governed by any law and is carried out in secret. It is sometimes granted by wealthy political parties which provide parties, associations and electoral candidates with funds, and other times covered by public funds, through subcontracting and financial commissions thereof, as well as by the financial Funds financed by the State and spent for political purposes. Some financing for certain parties, political officials and electoral campaigns is granted by foreign parties.

The public is aware of all these issues, but the citizen cannot gain access to detailed information regarding the financing of the political life.

4-4 Transparency of parliamentary activity

The Parliament must fulfill its duties in total transparency, especially when legislating, monitoring and elaborating general policies within its scope of action.

4-4-1 Transparent process for the debate and adoption of laws

⁶¹ In 2003, Lebanon ranked eleventh among the most corrupt countries in the Middle East and North Africa (out of 14 countries). World wide, Lebanon came seventy eighth on a list comprising 133 countries.



The Parliament's Internal System stipulated in chapter eleven a detailed mechanism for debates in the General Assembly. The said mechanism allows every deputy to speak freely. The voting process is also stated in the Internal System in chapter twelve, where it covered the voting method on the draft laws, the budget, the votes of confidence and the law proposals allowing the conclusion of international conventions, agreements and recommendations and other issues. The Internal System stipulated as well that “in the event any suspicion was raised regarding any voting by raising hands, and five deputies at least recalled for a new vote, the voting must be repeated by standing up or by calling on each deputy by his name”.

The deputies I interviewed stated that the Parliament's technical and good equipment is very poor. No electronic panel is available to count votes. Deputies simply raise their hands, which facilitates fraud.

The major problem lies in the lack of transparency in debates and voting as well as the duplicity among many deputies. During debates they criticize the Government's performance to satisfy their electorate; and in the voting process they grant their votes in favor of the choice they rejected in the debates. Moreover, the voting sometimes occurs under transactions concluded between influential deputies and the Cabinet.

4-4-2 Broadcast of sessions on television and radio

The audiovisual media broadcasts the sessions of general debates, not the legislation sessions. This allows deputies to showcase their eloquence and interest in their electorate's affairs, to appeal to the constituents. These sessions thus become parades; however, they reflect what happens in the Parliament to the public, and reveal some MPs duplicity.

4-4-3 Possibility of citizens to attend parliamentary sessions and committee meetings

Some citizens may be called upon to attend the Parliament's sessions, however rarely. During the Commissions' sessions, which are secret, any of the parliamentary commissions' presidents can call upon civil society or experts to express their opinions when discussing proposals and draft laws, and this sometimes happens in Lebanon.

4-4-4 Publication of minutes of sessions and debates

The sessions' minutes and the debates are published in the media, except for the secret sessions.

4-4-5 Access of citizens to parliamentary archives

Any citizen who wishes so may have access to the Parliament's archives after being granted an authorization from the concerned party.



4-5 Equal treatment of citizens

The Lebanese constitution stipulated since 1926 equality among the citizens before the law. The principle of equality was reaffirmed in the constitutional amendments of 1990, while taking into consideration the Lebanese political formula apportioning the public functions among the confessions, under a national consensus operation. The non discrimination and equality among the citizens require standardization in legislation.

4-5-1 Impartiality in decision-making (no preference to one faction of citizens over another)

The Lebanese laws seem nonaligned in favor of one faction over the other. Alignment, however, may prevail when implementing laws which are thus carried out selectively. Yet, a gerrymander in favor of influential politicians seemed to emerge in the parliamentary electoral laws since 1992. The electoral law did not adopt the same criteria when drawing the constituency boundaries defined in favor of some political interests. Parliamentary seats were not fairly distributed within the equal opportunity principle. There seemed to be an alignment in favor of some influential parties in the laws of tax exemption and other financial laws.

4-5-2 Absence of discrimination in legislation

The laws adopted by the Parliament do not discriminate among citizens, on the basis of their gender, religion, confessions, social or regional affiliation. This does not apply to the Personal Status Laws, whereby every confession adopts its own personal status system. Discrimination is also noted in the inheritance law between Muslims and non Muslims for religious considerations as well.

On the other hand, discrimination is also practiced among the regions in the public budget laws. Credits are apportioned regarding political power, with no respect to the principles of justice and equality. In contrast, the Constitution stipulated in its preamble that “the even development among regions on the educational, social, and economic levels shall be a basic pillar of the unity of the state and the stability of the system”. Although the Parliament and the Cabinet are committed to respect the Constitution, we deem that many regions in Lebanon still suffer from deprivation, while others enjoy prosperity. Very small parts of the borrowed funds have been invested in the deprived regions.

4-5-3 Legislation to prevent discrimination

Since 1926, the Lebanese Constitution stipulated equality among the citizens, and banned discrimination before the law. Article 12 of the Constitution stated that “every Lebanese has the right to hold public office, no preference being made except on the basis of merit and competence, according to the conditions established by law.” The Constitution confirmed banning discrimination and respecting the principle of equality in its preamble



added in 1990. It read: “Lebanon is a parliamentary democratic republic based on respect for public liberties, especially the freedom of opinion and belief, and respect for social justice and equality of rights and duties among all citizens without discrimination.” The constitution also prevented the President of the Republic from exonerating any citizen from abiding by the provisions of the law he issues after being adopted by the Parliament.

Some deem the confessional distribution of parliamentary seats and first class jobs a violation of the principal of equality in favor of discrimination. However, this distribution came in the framework of the pact’s formula approved by the Lebanese.

Confirming the principle of equality in the constitution means that no laws shall be issued if they do not respect the principle of equality. And as we realized, this principle was violated sometimes.

4-6 Respect of the Constitution

The Constitution is the main law governing the State, and ranks first among the legal rules. Therefore, it must be respected by all. Parliamentarians should abide by the constitutional provisions, and should not adopt any laws contradicting thereto.

4-6-1 Constitutional review mechanism is a safeguard against legislations in violation of the Constitution

Following the 1990 amendment by virtue of the Taïf Agreement, article 19 of the Constitution stipulated that “a Constitutional Council is established to supervise the constitutionality of laws and to arbitrate conflicts that arise from parliamentary and presidential elections.”

The right to refer to the Constitutional Council to supervise the constitutionality of laws was entrusted to the three presidents: the President of the Republic, the Speaker and the Prime Minister, to ten deputies, and to the leaders of the legally acknowledged confessions regarding only the personal status, the freedom of conviction and practice of religious rites, and the freedom of religious education.

The law of establishment of the Constitutional Council (Law No. 250) stipulated its method of establishment and work mechanisms. Article two read that the Constitutional Council consists of ten members, half of whom are appointed by the Parliament through the absolute majority votes, while the other half is appointed by the Cabinet through the majority of the two third ministers, for non renewable six years. The mandate of any of its members shall not be reduced.

The deadline granted for submitting contests relating to the constitutionality of laws is set to fifteen days since the law is published in the Official Gazette.

The Constitutional Council’s mechanism of action was clearly determined in its establishment law, and the law stipulating its Internal System (Law No. 516).



The question arises: Is the Lebanese Constitutional Council a safe guarantee for the laws' constitutionality, and therefore impedes the implementation of unconstitutional laws?

The right to refer to the Constitutional Council regarding the laws' constitutionality was limited to the three presidents, ten deputies and the leaders of religious confessions, with respect to the issues introduced by virtue of the Constitution to their competence. The experience has proven that all these people had no interest in contesting the laws. Certain laws were implemented although they violate the Constitution, and the courts were bound to implement them, for the law of establishment of the Constitutional Council limited the right to examine the laws' constitutionality to the Constitutional Council. Consequently, the courts had no right to refuse abiding by a law for being unconstitutional. Reducing the chances of referral to the Constitutional Council, and forbidding the courts from examining the constitutionality of laws hinder the effective supervision over the constitutionality of laws.⁶² Moreover, the political interference in the appointment of the Constitutional Council's members, as well as the political pressure exerted over the Constitutional Council sometimes, damaged the Council's integrity and placed it under political bickering. This has impeded the appointment of members to replace the ones whose mandate ended in 2003, and did not carry out their duties in 2005 as a result of the political campaign against them, and thus paralyzed the Council.

4-6-2 Effective compliance of legislation with the Constitution

After the Constitutional Council was established and took office, some laws drafted by the Parliament were unconstitutional. Some of these laws were contested and annulled by the Constitutional Council, and others were not contested but rather implemented despite being unconstitutional. Furthermore, article 49 of the Constitution was amended. It stipulated the mandate of the President of the Republic, and the conditions for running for presidency. This article was amended three times, in 1995, 1998 and 2004, in contradiction with the spirit of the Constitution. Thus, balances of political powers and centers of power controlled the Constitution, without any national obligation to amend the Constitution and thus, the amendment came at the expense of the national interest.

Chapter Three: Policy Recommendations

Examining the Lebanese parliamentary experience confirms the urgent need for the drafting of a development strategy, as to enhance the Parliament's role, by enlarging the rule of political representation, on the basis of just and fair representation, and as to broaden participation beyond the elections, through allowing civil society to express their opinions and recommendations. Thus the Parliament's decisions would reflect the will, aspirations and interests of the largest factions of the population. The development of the parliamentary experience implies the activation of the Parliament's role, as an institution of ongoing dialogue among all the Lebanese society components that can understand all

⁶² Issam Sleiman, Lebanese Studies, Number 3-4, Ministry of Information, Beirut, 1997



the contradictions and find proper solutions thereto. It also infers the activation of the Parliament's role in control and legislation, and its contribution to the public policy making.

The patterns of political relations, still prevailing in the Lebanese society, are still a hindrance to the development and reform of the political system. The confessional and denominational fanaticism is still governing these relations, and was enhanced by the political bickering among the confessions. The Lebanese political formula, based on the confessional participation in power, within a parliamentary democratic system, is controlled by the balances of confessional and political powers, in text and in practice at the same time, thus hampering the development of the Lebanese parliamentary system and hence its rationalization in order to have efficient constitutional institutions and to create a political dynamism leading it through more development.

1- The Former Reform Attempts

Since this reality made any political reform impossible, President Fouad Shehab, in the late fifties and early sixties of the twentieth century, modernized the administration, and established the institutions necessary for building a modern State, which would take care of all citizens, regardless of their affiliations. Along with his partisans, he believed that putting the State in the service of the citizen sows national belonging and reduces narrow affiliations. They believed that this builds, on the medium term, a political force that overcomes the narrow confessional framework, and pushes the political formula and the parliamentary system in Lebanon towards development. However, the Shehabite experience was aborted, under internal and external factors. The Arab-Israeli conflict and the Palestinian Revolution on the Lebanese territories lead to further divisions among the Lebanese on a confessional basis. The intervention of the Army, particularly “the second Division”, in the political life, under the cover of supporting the Shehabite nahj, turned the Lebanese public opinion against it. The Shehabite experience was brought to an end, and the institutions safeguarding it, lost power, the confessional relations became more sensitive, Muslims complained from the flawed confessional participation in power, while Christians feared from reducing their role in the political formula. All this transformed Lebanon into fragile territory for the intervention of external parties with contradictory interests into the Lebanese internal affairs. The Lebanese formula thus imploded due to multi faced and multi dimensional armed conflicts which did not end except when consensus on amending this formula was reached in the Taif Agreement.

The Lebanese parliamentary experience was supposed to develop by practice according to the mechanisms set by the Constitution and the rules enforced in the democratic systems. However, the confessional conflicts impeded the desired development, and went further as to crack the formula of cohabitation and the continuity of the parliamentary experience under very difficult circumstances. The bonds between the Lebanese remained in its minimal form due to the Parliament. When the conditions for the compromise were ripe in 1989, a consensus was reached among the Lebanese deputies over the reform of the authority rule in the Taif conference. Later on, the Parliament amended the Constitution in light of the consensus agreed upon. The Parliament



remained the sole institution representing the uniting national will, after all the State institutions experienced divisions.

Political reforms imposed by the Taïf Agreement safeguarded the principles of the Lebanese formula regarding the confessional balance, although it included an amendment to appeal to the Islamic confessions. They also straightened the flaws in the parliamentary system, since they entrusted the Executive Power to the Cabinet as an institution, and promoted the role of the Parliament. The will to consolidate confessional balance within the parliamentary system enhanced the positions of the Shiite Speaker, and the Sunnite Prime Minister, without depriving the Maronite President of the Republic, from his full authorities. The amendment safeguarded essential powers invested to him, the most important of which being the power to sign the decree of forming the Government. Consequently, he may reject the Government formation if he wishes to. The deputies' will to establish the State of law lead to the establishment of the Constitutional Council devoted with the authority of examining the laws' constitutionality and contests in the parliamentary elections, as well as the presidential and speakership elections.

However the exercise of authority after the Taïf Agreement was not successful for many reasons, the most important of which were the Syrian hegemony over the rule in Lebanon and the reliance of most Lebanese politicians on the Syrian support to reach power and to consolidate their positions therein, in addition to the transformation of the so called consensual democracy into a policy of allotment to divide power benefits among the appointed confessional leaders. This went against the interests of the people, the nation, the State and the confessions itself. Consensual democracy is the consensus among the confessions over the principles and rules which should govern the authority's performance. Moreover, it is the pillar of political balance among these confessions and the understanding over decisive issues, in order to enhance the cohabitation and national unity, consolidate stability, and ensure the proper conditions for the citizens' decent living. This consensual democracy was misused. Instead of being a mean to achieve democracy in its political, economical, social and cultural dimensions, consensus rather became, by practice, an objective by itself. It often went against democracy and the State of law and institutions. This violated the Constitution, and reduced the level of democracy and thus intricate building the State of law and its institutions. Therefore, the practice breached the written texts.

In the light of the above mentioned experiences, the particularities of the Lebanese reality, the necessities of straightening the exercise of authority and developing the democratic experience in Lebanon, including the parliamentary system, the need for enhancing the State of law and integrity and emerging a good governance, we deem it necessary to draw a strategy of reforms on the short, medium and long terms, regarding the Parliament for being the pillar in the parliamentary democratic system in general, and for being the institution that must contain the contradictions of the Lebanese society and find solutions thereto, which consolidates patriotism and stability and realizes prosperity.

2- A Strategy of Reform and Development for the Lebanese Parliament



This strategy takes into consideration the reality of the Lebanese Parliament, especially the flaws in the legitimacy of its representation of the society and its performance and integrity. It also takes into account the impediments before the process of reforms and development. It does not propose idealistic, theoretical or unpractical solutions, but rather practical ones that may improve the prevailing reality.

2-1 Reforms and Development on the short term

Reforms must be achieved very soon; to activate the Parliament's role, control the course of power and build the State at all levels. These reforms must cover the textual and practical aspects, and include the representation system, the parties' system, the process of legislation and the policy making, as well as the independence and management of the Parliament and the integrity in its performance.

2-1-1 The Electoral Law

Reforming the Parliament starts with reforming the electoral law and holding the parliamentary elections in an atmosphere of freedom and integrity, to guarantee a just and fair representation. The Parliament will thus represent the largest society strata; express the popular will and the desire of cohabitation. Its legitimacy, as well as the legitimacy of the authority at all levels will then be confirmed by virtue of the Constitution⁶³.

The electoral law to be adopted as soon as possible must lead to the representation of all the Lebanese society components, including the religious confessions, the various political forces, women, and all social classes. The representation must be fair, and must renew the political life, by paving the way to new and young forces toward the Parliamentary benches.

The electoral system directly affects the performance of the parliamentary system, and whereas the experience has proven that the parliamentary system is not right unless within a parliamentary majority taking over the Executive Power, and an opposing minority exercising effective control over it. And whereas the consensual formula supposes a diversified representation of confessions, especially of the large confessions, so that the majority and the opposition consist of deputies of all these confessions; therefore, the electoral law must enhance diversity in the confessional representation. The best system for diversified representation at all levels is the proportional electoral system, leading not only to diversity in representation which is fair and right, but also to a political balance introduced through the democratic process, and developing under its rules. The political balance is essential in the democratic parliamentary systems. Otherwise, the system loses its essence, and directly slips into dictatorship and despotism. It goes without saying that the proportional system requires large or medium constituencies. Moreover, a just and fair representation require equal opportunities among

⁶³ The Constitution's preamble stipulated that the people are the source of powers and sovereignty exercised through the constitutional institutions, and that an authority violating the pact of cohabitation is illegitimate.



the candidates, implying the need to limit the expenditures on electoral campaigns, to set the mechanisms for strictly monitoring the electoral expenditures, organize the electoral information and advertisement, especially that the information and advertising chaos in the elections confuses the public opinion, and largely affects the voters' choices. In order to ensure equal opportunities among the candidates, the electoral law must include texts imposing sanctions over the individuals who did not observe the limits of expenditures, do not abide by the organization of electoral advertisement and information, and therefore subject their deputyship to contests and annulment by virtue of a decision issued by the Constitutional Council.

On the other hand, the administrative procedure before and during the elections, and at the announcement of the results, represents a major element for just and good elections. To that end, an independent body must be established to be the sole responsible for holding the elections in all their phases, and to be entrusted with the powers thereto, for controlling the elections, examining the results that may require a recount of votes; thus, the text on burning the ballots right after the votes counting must be annulled, and the votes must be retained for a week. Certainly, good elections require an examination and correction of the voters' lists.

2-1-2 Political Parties Law

The law governing political parties in Lebanon is the Ottoman law established in 1909, almost a century ago. Therefore, a new law on political parties must be established to put an end to all the chaos prevailing in this field, and to organize the political parties by virtue of principles and rules safeguarding a good party work, and preventing the parties from abusing the confessional fanaticism. Otherwise, their practices may negatively affect national unity and stability, subject the party to dissolution and impose sanctions on its officials pursuant to a legal decision.

Any law on political parties must include texts regarding the party's financing, and must limit donations and expenditures. The financing and expenditures must be carried out in transparency, through legal and legitimate means, so that the party does not become a tool in the hand of its donor.

The political parties' law must stipulate the necessity that rules and democratic provisions be respected when organizing the party. Therefore, the pattern of democracy would prevail over the relations among the party members themselves and between them and others. Parties are not a pillar of democracy unless they commit to democratic values in their practices.

2-1-3 Safeguarding the Parliament's independence

The Lebanese Constitution stipulated the principle of separation of powers, and entrusted the Parliament with the authorities that guarantee its independence. However, the confessional participation in power, in practice, became the Speaker's participation in taking executive decisions with the President of the Republic and the Premier, within the



“troika”. This contradicted the principle of separation between the Legislative and Executive Powers, and practically reduced the Parliament’s independence in carrying out its functions, whether at the legislation or monitoring levels, since the Speaker took part in taking the Cabinet decisions.

Therefore, the “troika” principle must be ended to safeguard the Parliament’s independence, preserve the separation of powers, and implement the confessional participation in power, not at the presidents’ level, since the presidents head institutions even though they belong to different confessions, but rather at the level of the Parliament and the Cabinet. The confessional participation in the Parliament and the Cabinet develops this participation basis and does not affect the principle of separation between the Legislative and Executive Powers.

2-1-4 Developing the Parliament’s Internal System

The Parliament’s Internal System must be developed to follow up seriously on the petitions and complaints submitted by the citizens and the civil society. The first half hour of every session, whether a session of legislation or control, must be dedicated for examining and discussing the petitions and complaints referred to the Parliament’s General Assembly by the Parliament’s Office or the Permanent Commission for Petitions and Complaints. At least one sitting should be devoted every month for general debates by virtue of a text in the Internal System, whether in the ordinary or extraordinary sessions.⁶⁴ The deputies must be allowed to submit verbal questions to the Government or any of the ministers, during half an hour at the beginning of every sitting held by the Parliament’s General Assembly. This aims at putting the Government and all its actions under the permanent control of the Parliament, and at enhancing the relation between the people and the Parliament.

In parallel, and in view of the parliamentary blocks’ importance in activating the Parliament’s performance, texts must be included in the Internal System as to encourage the deputies for organizing themselves in parliamentary blocks. Conditions must be introduced to determine the number of deputies required to form a parliamentary block. Every block has to follow internal rules and a program of action and hold regular periodic meetings to examine a determined agenda. The block who literally abides by these conditions must be granted financial allocations so it may fulfill its tasks and activate the parliamentary action.

2-1-5 Reforming the Administration of the Parliament

The Parliament’s administration must be updated as to reexamine the administrative composition, and to establish units specialized in legal, political, financial and economical studies, and it must be able to provide the deputies with valuable information to carry out their functions. The technical and administrative cadres must be trained, incompetent staff must be dismissed, and the Parliament’ administration must be

⁶⁴ Op. cit



controlled. The criteria for appointing new staff must be their competence, regardless of any favoritism, and following an entrance exam, based on scientific criteria and integrity. The Parliament staff must undergo training sessions, to get to know all the modern equipment and means adopted in the Parliament's administration, and to be fully trained on using them.

2-1-6 Reforming the legislation process

The legislation must be drafted within multi-sector State policies, in order for them to achieve the set results and not be arbitrary. Here lies the importance of drawing public policies to reform the legislation process and to pass legislations motivating these policies and not only the legislation drawing them, meaning the legislation affecting the economical and social reality and thus replacing the mentality of the necessary legislation by the mentality of the legislation for change⁶⁵.

Furthermore, draft laws and proposals must be followed by studies and background researches that form the pillar of their debate and adoption, and not be limited to the ground rules. Thus, the previous studies as well as important experts can be of great help. The Parliament must have a high level studies center able to fulfill the mission. To fully follow up on the draft laws and proposals submitted to the parliamentary commissions, the relevant civil society institutions must take part in the debates and submit proposals. Some high level experts must attend the commissions' session to express their opinions. A unit specialized in drafting laws must be established in the Parliament to examine the texts before being referred to the Parliament's General Assembly for adoption.

Moreover, Transparency must be followed in legislation. The agenda in the commissions' session must be strictly followed, no background intervention must be made to pass texts or amend others secretly and at the last moment, and the debates must not be suspended for narrow political interests. Transparency also implies not to pass laws or amend others that are unrelated to the budget, through the public budget law. Transparency also requires the adoption of electronic voting that leaves no room for ambiguity or confusion.

Moreover, the number of sittings dedicated for legislation must be increased, so the general assembly takes sufficient time to discuss draft laws and proposals, after examining them in the commissions and before voting thereon and abiding by general rules; in addition, legislation should not be used as a means to solve a political impasse. As whereas decrees stipulating that laws enter into force should comply with these laws, and whereas the Cabinet adopted decisions issued by decrees and were violating the law without taking in consideration the public interest, and whereas no one can contest before the Council of State for the absence of capacity and the lack of direct interest; therefore the MP should be granted the right to contest any decree he deems conflicting with laws and impinging on the public interest (the proposal of Prime Minister Hussein Al-Husseini).

2-1-7 Activating the Parliament's Financial Monitoring

⁶⁵ Paul Morcos, Intervention in a workshop to discuss the report.



It is hard to impose an effective parliamentary monitoring over the Government regarding the implementation of the budget, because this requires a specialized knowledge and a dedication to exercise this function, as well as an experience that the deputies do not have. The Parliament can activate its financial monitoring task through the reports of the Auditing agency that should be adopted by the deputies to examine the Government's financial performance, its preservation of the public funds and respect of the Public Accountancy Act. The Parliament must also examine the final account to be informed of the financial situation, to compare the final account figures with the budget law figures, at the revenues or expenditures level, and to be advised how serious the Government was in determining the figures so lessons can be drawn for the budget of the following year. The vote over the final account law must not be carried out without proper consideration.

Moreover, a unit specialized in finances must be established in the Parliament to provide the MPs with proper information and studies so they activate their role in financial monitoring. However, it is not sure how effective the Parliament is in monitoring the Government's financial activities. Complicated technological developments are taking place in many economical fields; new economical orientations are emerging under the globalization, which means the neo liberalism, calling for the privatization of the main economical institutions of the public sector, the central banks' absolute independence towards the Governments or Parliaments. All these issues make it impossible for the Parliament to effectively control the state's financial administration.⁶⁶

2-1-8 Parliament's participation in formulating public policies

The above mentioned developments did not help the Parliaments in exercising their role which is guiding the economical, financial and social policies. It is very hard for the Parliament to propose economical and financial laws, due to the technical and technological complications in the economical and financial sectors. The Governments usually submit draft laws to the Parliaments, since they are capable, through their administrative bodies, of elaborating laws requiring developed technical skills that the Parliaments do not have, despite the various commissions specialized in different domains.⁶⁷ However, the Parliament's role may be improved in Lebanon by positively affecting the policy making if the following recommendations were adopted:

- Appointing highly skilled assistants for the parliamentary commissions in all fields.
- Establishing active and capable parliamentary commissions at the economical and social levels, consisting of competent members and characterized with courage and innovation.

⁶⁶ Georges Korm, The Parliament's role in elaborating development policies, back paper, pp. 2-3

⁶⁷ Georges Korm, op. cit



- The deputies may themselves incite the Government, when drawing its policies, to abide by the constitutional principle of balanced development for all the regions and to contest before the Constitutional Council every law conflicting with the affiliation concept.
- Activate the Social and Economic Council, where the syndicates, the associations of Liberal professions, the employers, and the civil society are represented. This council is known to have a consultative function, but may however support the Parliament in formulating the public policies.

2-1-9 Effective monitoring on the laws' constitutionality

Amending the law of the Constitutional Council establishment, to grant the right to contests the constitutionality of laws, so the Councils of Syndicates of Liberal Professions and the General Labor Union have the right to contest the laws related to them, just like the right granted to the leaders of religious confessions. Adopting the principle of contest through referral, whereby every citizen who has an unsettled lawsuit before any court of law is granted the right to ask this court to refer the examination of the constitutionality of the law, by virtue of which it will settle the lawsuit, to the Constitutional Council, in the event the citizen deems this law unconstitutional, so that the Council settles it.

The Constitutional Council must consist of undoubtedly honest and competent members, who can reject the intervention of any political or influential party in the Constitutional Council's affairs.

2-1-10 Effective civil society and a culture of democracy and accounting

Activating the role of the civil society to affect the Parliament's decisions, monitor the implementation of laws, especially the ones against corruption and power abuse, is an essential component for a comprehensive reform.

Activating the role of the civil society requires promoting the culture of democracy and human rights at the largest level. Democracy is the basis of the required reform, and no democracy can be established in the absence of democrats. The human being is the main component in the comprehensive reform process and the development of the democratic experience. Reforms start with the citizen, who must be raised on the values of democracy and human rights so he can practice democracy in his relation with the society. Then, the democratic pattern shall govern the relation between the population and replace the fanatic pattern, whether religious, confessional or tribal, so the citizen shall be free from inherited and traditional relations. The citizen may also practice democracy in his relation with the authorities. He may choose wisely when voting in the elections, and thus practices his role in monitoring his officials and holding them accountable. Democracy requires all these components. Democracy as a political system has no value if not rooted in the society as a valuable system, culture, and pattern for human relations. Pluralist societies, like Lebanon, badly need this kind of democracy.



If promoting a culture of democracy takes time due to the impediments it might face, starting to spread the democratic culture is an urgent need, for it is the cornerstone for reforms. As long as progress is made in promoting democracy, the reform process goes forward.

It goes without saying that promoting a culture of democracy requires considerable efforts that fall unto the civil society, education and learning institutions and the media.

2-1-11 Establishing the commissariat for parliamentary ethics

A commissariat, called the Commissariat for Parliamentary Ethics, headed by a commissioner elected by deputies with integrity, courage and wisdom who do not cave in under interventions and pressure shall be established in the Parliament. The said commissioner shall work with assistants he chooses, and who receive indemnities from the Parliament's budget, and who are answerable before him only. The commissariat's mission is to monitor the deputies' conduct, and make sure they respect the democratic rules, laws and provisions, they do not get involved in corruption, do not abuse power for illicit enrichment. Whenever the Commissariat is certain that any deputy violated the Parliament's ethics, the deputy shall be referred, by a decision of the commissioner, before a special parliamentary commission which undertakes the necessary investigations, and if a need arises to defer the deputy before the law, his parliamentary immunity shall be waived and legal actions shall be taken against him.

If he is proven guilty or innocent, the public opinion must be informed.

2-1-12 Establishing the national assembly to Overcome Confessionalism

Confessionalism as a political fanaticism hinders the Lebanese institutions' functions, mainly the Parliament. It also impedes the development process, and pushes the political practices away from democracy and the enforced rules in the parliamentary systems confirmed by the Lebanese Constitution. Confessionalism became a shield for corrupt individuals allowing them to commit further corruption and protecting them from legal actions against them. Article 59 of the Constitution stipulated the establishment of the national assembly to abolish confessionalism. Since confessionalism is a fanaticism that may not be abolished by a decision but rather by policies to be adopted in the educational, learning, media economical, development and social sectors so they progressively lead to overcome the confessionalist status, the Parliament must establish the body stipulated by the Constitution and comprising reliable, competent and non confessionalist deputies to provide the Government and the Parliament with proposals for Lebanon to overcome confessionalism.

2-1-13 Adopting the large administrative decentralization



The Taif Agreement stated the adoption of large administrative decentralization. But so far, no law was drafted to this respect. The large administrative decentralization helps promoting democracy and achieving balanced and total development. It also helps improving the Parliament's performance, since it exempts the deputies from following up on the citizens required and not obtained daily services, so the MPs may focus on their parliamentary functions. The burden of balanced and comprehensive development may not be borne by the broadened administrative decentralization; however, plans must be established and executed by the central authority in this field, and the Parliament should have a basic role therein.

2-1-14 Reforming administration and adopting large non Exclusivity

Reforming and updating administration and adopting large non-exclusivity also contribute in the improvement of the Parliament's performance. The MPs no longer need to follow up on the citizens' formalities in the State's different administrations and waste their time thereon. They shall concentrate their efforts on their parliamentary tasks.

2-2 Medium term reform and development

Promoting a culture of democracy is a short, medium and long term process that cannot be limited in time. However, reforms must be adopted on the medium run, most importantly waiving restrictions in respect of the Parliament's dissolution, and reexamining the election of the Parliament's Speaker and Vice Speaker.

2-2-1 Dissolution of the Parliament

The balance between the Executive and Legislative Powers in the parliamentary system is based on one hand on the Parliament's continuous monitoring of the Government, and its vote of no confidence and toppling thereof if need be, and on the other hand, on the Executive Power's authority to dissolve the Parliament, and call the voters for early elections, in the event where a conflict arises between the Government and the Parliament, which makes it impossible to carry out the State affairs. The people shall then exercise their right to early elections as an arbitrator in resolving the conflict for they are the source of power.

After its amendment in 1990, the Constitution limited the Executive Power's right to dissolve the Parliament to impossible conditions as mentioned above. This impedes the people from being able to exercise their role as arbitrators and last reference in conflicts that may arise between the legislative and Executive Powers. Therefore, the conflict shall be resolved in favor of carrying out the State affairs and ending the paralysis of the institutions due to the said conflict.

Consequently, the Constitution must be amended as to waive the impossible constraints regarding the Parliament's dissolution, provided the dissolution decision is justified by logical reasons.



2-2-2 Electing the Speaker and the Vice Speaker

The Constitution stipulated the election of the Speaker and the Vice Speaker by ordinary majority all through the Parliament's mandate. A vote of confidence may be held against them after two years, but with the two third majority. This text is not based on a good constitutional logic. The Speaker must get the deputies' absolute majority votes, because he must acquire the confidence of this absolute majority, since his role is very important in running the sessions and directly supervising all the Parliament's administrations.

Thus, the Constitution must be amended as to each of the Speaker and Vice Speaker be elected by the deputies' absolute majority. Confidence may be withdrawn from them, if need be, through the absolute majority.

2-3 Long term reforms and development

The problem to be tackled in Lebanon lies in the confessionalism impeding reforms at all levels. Confessionalism may not be overcome and abolished as a fanaticism controlling the citizens' conduct and as a tool abused by the politicians to support their status in power, except through the development of Lebanon's democratic experience, and the building of the State of law and institutions. The development of Lebanon's democratic experience not only means developing democracy as a system of authority, but also developing it as a pattern of democratic culture and values governing the relations between the population on one hand, and the relations between the citizens and the authorities on the other. There also exists a need to develop the pattern of power exercise toward further democracy.

The State of law and institutions that must be built is the State where all citizens are equal before the law, in practice not in theory, where the power is exercised as emanating from the people, and organized within institutions reflecting their will, protecting their interests, abiding by the law and therefore respecting the limit of powers granted thereto.

Democracy frees the population from all fanaticism, including confessionalism. It straightens their social conduct, and sows the seeds of responsibility therein. The State of law and institutions promotes the citizen's patriotic belonging rather than narrow affiliations, since he feels that the State is preserving his interests and providing him with decent living. He will then feel that the State is a guarantee for him, and will directly be connected to it without the need of any mediation.

Developing democracy in Lebanon, and building the State of law and institutions faces many hindrances, but must be reached regardless of any difficulties. When this goal is achieved, a radical reexamination of the Lebanese political system must be carried out to fully abolish confessional restrictions. The composition of the Parliament must be reviewed, so it becomes two Councils, a Parliament not abiding by confessional constraints, and a Senate representing the confessions, the powers of which shall be limited to the decisive issues only. What we seek is not the abolishment of confessions as



religious and social entities, but rather the abolishment of confessionalism as fanaticism governing the citizens' conduct and behavior.



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