

TOWARDS A NATIONAL LEGAL FRAMEWORK FOR POLITICAL PARTIES IN LEBANON: THE GATE FOR AN EFFICIENT DEMOCRACY

BYBLOS-2021



**Towards a National Legal Framework for
Political Parties in Lebanon:
The Gate for an Efficient Democracy**

© All Rights Reserved
2021

ISBN: 978-9953-9032-2-4



P.O. Box 225
www.cish-byblos.org



*When everybody else thinks its
the end, we have to begin*

-Konrad Adenauer-

Table of Content

Preface5

Word of Dr.Darina6

Word of Mr. Philipp Bremer.....8

Research Paper
Dr. Sayed Younes12

Organization of French political parties and their
role in promoting democracy20
Dr. Jean-Michel Berlemont

Democracy and Electoral Appeals27
Dr. Issam Sleiman

The problematics of the current law regulating the
Lebanese Associations and Political Parties36
Me.Michel Klimos

Financial Resources and Impact on Political Parties46
Dr. Rajaa Al Sharif

Reflection on the Lebanese Political Parties63
Camille Oheix & Vénéig Pijoff

Preface

It is the law and has the right and sovereignty. Away from tribal customs and Jurisprudence, Lebanon had to reform the law of political parties and associations which in turn should have been developed a long time ago.

If someone said that feudalism in Lebanon disguised itself as political parties that divided the country, we would have known the real structure of political parties in Lebanon.

We worked through debates and research which aimed at mending the imbalances and obstacles that hinder in organizing a democratic aspect in these political parties, especially after a political blockage and economic crisis that took a substantial toll on social stability.

We present recommendations and decisions of the conference because the rule of law remains the right and the responsibility of every citizen.

WORD OF THE DIRECTOR OF THE INTERNATIONAL CENTER FOR HUMAN SCIENCES - UNESCO

Honorable District Commissioner of Jbeil, Mrs. Natalie Khoury

Honorable representatives of the Lebanese parties (in power and in the opposition),

Honorable Director of the Konrad Adenauer-Stiftung, Mr. Philipp Bremer,

Lecturers

Friends of the International Center for Human Sciences UNESCO Byblos.

Before I begin, I must express my deepest appreciation to the Konrad Adenauer Foundation through its representative Mr. Philipp Bremer, for sponsoring this conference aiming at updating the law of Lebanese parties and associations for a better tomorrow.

Honorable audience,

We are united today by a feature that we wanted for a country that is distinguished from its surroundings, Lebanon Beirut, Mother of Laws, Lebanon of Charles Malik and human rights, Lebanon of democracy on the International Day of Democracy, because we are democrats. Today we will discuss the present of a nation and the future of parties...

A nation that is falling under economic and social pressures, and parties maneuvering each according to his aspirations and policies, and when they fail, they try to justify, and if they succeed, they do not stop praising and bragging...

We are all concerned about Lebanon, our pain and our hope, we offer sacrifices and no sacrifice is excessive for our country

The law is the rule, it is the medicine, and it may be the disease.... Let us develop as is the natural course of societies ... let us rise towards parties with modern civilized standards.

Together, let us overturn the law of parties and associations, preserving what is elevated and good, and update what needs to be modernized....In every notification of any party, the expressions of patriotism, dignity of the nation, and dignity of man are at the fore. In every practice, there is some extremism and a lot of hate and rejection of the other. The law and the judicial authorities are either helpless, if not hesitant, or supportive of a party at the expense of the country. Ladies and gentlemen, let us take the initiative and fortify this society by developing truly democratic parties, pluralistic, not isolationistic, protecting the nation above all, and preserving freedom and human dignity. We call for superior Lebanese parties, not family or tribal emirates, sectarian or confessional, parties that reject the language of hate, incitement and detestation, parties that know the limits between populism, freedom of populations, and survival of the nation. Let us rise with our society and our thoughts towards rights, away from outbidding, and from danger of wars and chaos...

We want to remove the danger of war and avoid social collapse.

We want young people believing in Lebanon and Lebanon's continuity through classy dialogue and discussion, instead of throwing accusations and disdain, hiding behind freedoms, exploiting social media to spread rumors and incite against the other. We want parties winning electoral seats according to their programs, parties addressing the voter's mind and not his emotions, parties choosing their candidates according to competence criteria and not kinship...

Let us adopt the expression meritocracy in these parties and State as an alternative to falsified and accustomed terms we use for our interests

This is our promise and our hope, and through it, is the salvation of our parties and our country, and thank you!

Dr. Darina Saliba Abi Chedid

WORD OF THE HEAD OF THE RULE OF LAW PROGRAM MIDDLE EAST AND NORTH AFRICA AT KONRAD ADENAUER STIFTUNG

Dear Dr. Saliba, dear excellences, experts, friends, ladies and gentleman,
it is my great pleasure to welcome you to our conference on a national legal framework for political parties in Lebanon, here in the wonderful premises of CISH, the international Centre for human sciences of UNESCO in Byblos.

Three things I'd like to share with you.

First: Allow me to quickly introduce myself: my name is Philipp Bremer and I'm the new director of the office of the regional Rule of Law Programme of the Konrad-Adenauer-Stiftung e.V. in Beirut. We're responsible for several projects in Lebanon and the entire MENA region, focusing on strengthening democracy and the rule of law.

This is my first big conference and I'm honoured to spend it with you, here in Byblos; thank you Dr. Darina for organizing it with your team and for hosting us. I look forward to these coming days and the insight and results we will achieve, here in beautiful Byblos, where, I must admit, and we keep joking about it, because there really is truth to it, I'd much rather have my office. Merci beaucoup, shukran iktir. And because what I love so much about this country is how so many things are combined and shared: merci iktir.

Second, the Foundation: Let me tell you a little bit about the Konrad-Adenauer-Stiftung, who we are and what we do. We are a German political foundation, closely affiliated to the governing CDU - the Christian Democratic Union Party - of Angela Merkel and Armin Laschet, and we are primarily engaging in civic education and political dialogue. Here in Lebanon we have more than one office. Two country offices and mine. My office concentrates on strengthening the Rule of Law wherever possible in the entire MENA region.

Konrad Adenauer, whom the foundation is named after, was the first Chancellor of the Federal Republic of Germany. He laid the basis for the democratic reconstruction of our country (Germany) on the basis of Christian democratic values and the successful integration of Germany into the European Union. If you ask for three key aims the foundation works for, they are democracy, freedom and prosperity - in Germany and abroad.

Third - our topic today: "Towards a national legal framework for political parties in Lebanon: The gate for an efficient democracy".

When people here ask me what I do, one of the first things I tell them is that I work for a German political foundation. Depending on who I talk to I've witnessed different reactions. A moment I found particularly interesting was during a conversation I had with students and young professionals. We talked about the political situation and I asked them, why they weren't more politically active.

What I then realised was that here being "political" is understood as being in an established party and not so much voicing an opinion and democratically pursuing it, which is my first thought; and these students and young professionals weren't happy with the thought of joining a party. But more than criticizing specific political parties, in the conversation I felt like they had an overall notion against parties.

As a foundation we firmly believe that at the core of every democracy are different opinions, that meet, that are discussed and that in compromise must find a solution for the better of everyone. And in every democracy these opinions are organized in political parties. No democracy can properly work without them. They are integral to the free democratic basic order

Let me share with you a definition I found:

Political parties are associations of citizens which, on a continuing basis or for a longer period of time, wish to influence the development of informed political opinion ... and to participate in representing the people ..., provided that they offer a sufficient guarantee of their sincerity in pursuing that aim, as evidenced by their actual overall situation and standing, especially as regards the size and strength of their organization, their membership numbers, and their visibility in public. This is the definition found in the German federal political parties act, a framework for the German political parties.

The possibility of such a framework is what we want to discuss during this conference. Currently, there is no such law here. Currently, the freedom of political parties is based on an Ottoman Law from the beginning of the last century, which - so I've been told - is quite some time ago.

A framework for political parties could be elementary to strengthening the Lebanese democracy and the trust put in parties by the people. Because it's political parties that are meant to positively influence public opinion, encourage and enhance civic education, promote citizens' active participation in political life and educate citizens capable of assuming public responsibilities for all.

Ultimately, my wish is to be able to convince every student and young professional that it is not against but with and through parties that we can strengthen democratic values.

And it is through rule of law, clear guidelines and frameworks, transparency, and equality that we can strengthen political parties in their relationship with every citizen they wish to represent and whose trust they campaign and work for. This is what we want to work on.

I'm glad that we've all gathered to discuss this issue here today; thank you, dear experts, speakers, and guests, for joining us. Thank you for your time and for sharing your expertise.

I would like to thank and congratulate Dr. Darina and her team from CISH-UNESCO for their readiness to prepare this conference, thank everyone involved from both of our offices for their work and support, and finally:

I'd like to wish us all the best for the forthcoming deliberations.

Let us have a fruitful and insightful discussion, amidst a time which is truly worrisome and difficult. But where there is a will, there's a way, and I think that's why we're here today. To benefit this beautiful country of yours and to strengthen the political process of democracy. Thank you so much.

Mr. Philipp Bremer

HEAD OF THE RULE OF LAW PROGRAM MIDDLE EAST AND NORTH AFRICA AT KONRAD ADENAUER STIFTUNG

Research Report

Dr. Sayed Younes

The Lebanese political scene, its security and economic repercussions, were under international and regional scrutiny, as this small nation witnessed economic and security problems and a historical explosion that destroyed the commercial port and the capital, Beirut, it killed more than two hundred martyrs and left thousands of wounded. In addition to the aggravation of the economic collapse and social crises, deterioration and economic downturn became worse.

In politics, the conflict between the revolution and the authority reached its maximum, and the street was divided between supporters and opponents. Many parties have undergone mutations and moved from authority to opposition, despite the fact that the opposition did not accept some of those who are “emerging” from parties or “scalars” as named and categorized by the revolution.

Where does the cause reside? There are numerous and various answers ... is it just the authority? Or the system and its composition? Or the increasing corruption throughout the nation because of smuggling and monopoly From here was launched the idea with Konrad Adenauer Foundation, the idea of initiating a road map through which we light a candle instead of cursing the darkness, it was necessary to start today a series of development projects with the parties varying between authority and supporters, as these parties constitute the platform and the basis for managing the abilities of this country. Developing these parties through modernizing their laws will certainly lead to reconfigure their political thoughts and effectively confront at all the failures that accompanied the political experiences, so the parties will rise and raise the politics in this country to the level it deserves.

The idea was developed and it was decided to execute it in two phases: The first phase was through a research questionnaire conducted by the research team at the International Center for Human Sciences on a sample of 840 people from different age groups who were randomly selected representing 18 districts distributed all over Lebanese territories. The questions focused on the associations and parties' laws, the democracy within these parties, the funding method and its impact on the party decision, in addition to the party media and its impact on the Lebanese society and the distinction between media freedom, incitement and hate speech. The details of the survey with graphs are published on page.

In the second phase, a conference was organized gathering the Lebanese parties. Most of the Lebanese parties were invited, including: the Marada, the Syrian National Party, the Lebanese Phalanges, the Free Patriotic Party, the Lebanese Forces, the National Liberal Party, the National Bloc Party, the Future Movement, the Amal Movement, the Progressive Socialist Party and the Communist Party. A team of researchers and legal experts, in addition to foreign lecturers, were contacted to treat the subject in all its aspects. The conference was held for four consecutive days.

Thus, the first day was held to present the interventions and opinions of legal experts who worked on trying to develop this law, presenting the gaps and obstacles and the path to be followed, given that the purely legal point of view, the way to develop it, the mandatory authorization or exclusive contentment with notification were refuted in the law adopted since 1909. Then, given the necessity to distinguish between parties and other organizations, the lawyer Michel Klimos came up with analysis which full details can be found in Appendix No. 1 where he expressed the need to start from a basic principle which is the full compatibility of the new law for associations and political parties with the preamble of the constitution, i.e. commitment to the finality of the Lebanese entity, the Human Rights principles and standards, public freedoms, and the principle of equality before the law.

He expressed his fear wondering if the current political circumstances would help to draft a new law for associations and political parties adhering to these rules? Then, H.E. Ghassan Moukheiber gave a legal review through a website in which he confirmed his experience" with the associations law mentioning that using the word authorization instead of notification is a common mistake. Moukheiber stressed on "strengthening the freedom of constitutional associations," and that "the 1909 Ottoman law is much better than the 1983 law, considered by Moukheiber the worst of laws." He asked: "Is there a need to develop and amend the Law of Associations, particularly with regard to political parties?" He pointed out that "these laws and their regulation fall within the framework of constitutional freedom as stipulated in Article 62 of the Universal Declaration of Human Rights, putting the freedom of association within the circle of basic constitutional freedom." He added that the aforementioned law is relatively identical to the French law of associations, raising many questions about the sectarian formula dominating the Lebanese parties.

He refused to interfere in the organization and development of any party in order to prevent harming the principles of association freedom, which should not be violated.

Then there was a lecture by His Excellency the former Minister of Interior, Mr. Ziad Baroud, in which he stressed on the importance of the non-political associations that played a major role during the Lebanese war and that were in the front lines fighting Corona pandemic."

He also stressed the need to protect constitutional freedom, regretting the attempts of the executive authority to violate them, considering that Law 1909 is a liberal law that protected and is protecting freedom of associations. The problem lies in the practices, and most often practices of the Ministry of Interior.

He confirmed that all the laws need to be developed and amended for the best, not for the worse. Any amendment should respect Article 13 of the Constitution, otherwise we will draft laws that are subject to appeal before the Constitutional Council.

He called on the parties not to request a new law and remain under the Law 1909. He pointed out that there is a need to work with transparency on the financial level of associations, in order to prevent abuse of them for money laundering, tax evasion and aiding terrorism, stressing the need to reduce the age of affiliation to associations to 18 years, as is the case in France. It is worth noting that withdrawing the authorization from any association or party must be within the laws and in clear cases, without an exceptional approval signed by the President of the Republic and the Prime Minister, describing what is happening sometimes as a "constitutional heresy to which we should put end because the President of the Republic and the Prime Minister do not have the right to replace the Council of Ministers. He pointed out that "the 1909 law is in effect and needs to be developed for the best while preserving the margin of freedom.

It was a historical presentation conducted by the visiting international legal expert, Jean-Michel Berlemont, during which he presented the history of the French parties development and the applicable laws, in addition to the influential legal development that was adopted in the mid-eighties of the last century and how it transformed partisanship, as well as the ways to control the financing of French parties, the role of these parties in political and parliamentary life and how the French society was able to elect an

independent president from outside the party lines and without having had any previous electoral experience.

Then, legal party leaders gathered around a dialogue table about democracy within the Lebanese parties and its activation. The Free Patriotic Movement, the Marada Movement, the Lebanese Forces, in addition to the Lebanese Phalanges Party, participated in its activities. The parties presented the situation and the democracy in these parties through their internal regulation. The attendants unanimously agreed on the necessity of adopting democracy and internal elections, and on implementing the concept of meritocracy, about which the Director of the International Center for Human Sciences Dr. Darina Saliba Abi Chedid spoke in her speech during the opening of the conference.

On the second day, a video was displayed showing a sample of questions and answers that were addressed to a group of citizens to complete the conference through a symposium on party's financial resources and the impact on party politics, and on financial transparency standards supposed to be adopted. Then, the head of the State Council, lawyer Issam Suleiman presented a legal review about elections and electoral appeals. The media had the lion's share, as it started with a seminar on media freedom, the role of media professionals and their resistance in facing carrot-and-stick methods. Two media professionals gave their live testimony and the pressures to which they were subject. The activities of the seminar continued through a round table on partisan media, in which participated representatives from the following Lebanese parties: Marada, the Free Patriotic Movement, the Progressive Socialist Party, the Lebanese Forces, and the Lebanese Phalanges Party. The activities of the conference were followed on the third day by

a survey conducted by the Center as we previously mentioned, then a round table was held between youth from different parties during which everybody exchanged points of view, raising the concerns and problems that in their opinion stand in the way of the country's development, calling for the development of democratic work within their parties through party's internal regulations enabling everyone to be promoted in the party and to participate in political decision-making. In addition, they asked to limit the speech of incitement and hatred. The distinction of these young people and their desire to democratize political practice was remarkable, as if the political experiences of these young leaders had awakened a sense of responsibility that we desperately need.

Then the visiting French expert Jean-Michel Berlemont gave his opinion concerning the political party reality in Lebanon in the light of the sessions in which he participated as a lecturer and as a listener. He presented the issue of the women's quota and refused to use this expression, preferring the term parity or participation, advising a calm and gradual transition starting with gender-mixed lists in the municipal elections before being adopted in Parliamentary elections within an acceptable period of time. He spoke about the parties' media, pointing out that the issue has a unique particularity in Lebanon, advising to activate and develop the official media to impose itself as a competitor and then a pioneer in the media, as it is an independent media that has a neutral view that alleviates the existing political tension. By answering some questions, he raised the subject of external and internal party funding comparing Lebanese parties and French parties that depend on internal funding with financial limits determined by the French law refusing any external funding from foreign countries or specific organizations that may affect the policy of French parties, explaining the official state's contribution to funding these parties according to two conditions: the first is that these parties have seats in Parliament for two terms, and the second is the proportion of the financial contribution with the number of parliamentary seats that the party won in the last electoral cycle that took place, if the first condition is met. He referred to the way of controlling the financing of these parties and its complexities, especially with the banking secrecy law in Lebanon, proposing the idea that party officials submit a statement about their movable and immovable funds upon assuming their duties within the party, similarly to the declaration of public administration employees, ministers and representatives in line with the financial transparency standards required to fight corruption and money laundering. He suggested to establish what looks like an official audit bureau to control the budgets of the parties after they publish and approve them. The last day began with a meeting of the drafting expanded committee, where jurists belonging to the Beirut and Tripoli Bar of Association put forward ideas related to the development of democracy within parties by adopting the organization of internal elections away from appointments and political inheritance, through developing political speech presenting the achievements of these parties without defamation or slander regarding other parties and the necessity of the parties' commitment to a non-inciting

political speech rejecting hatred, calling on the judicial authorities and the Ministry of Interior to monitor the party political speech without restricting it, provided that it is responsible by setting restraints that do not restrict freedom of speech but respect the freedom and dignity of the other, calling on parties and media professionals to sign a code of ethics that prohibits the use of profanity against the other, and to increase penalties for misleading news that contribute to a tense situation in the country and angry souls, and for spreading rumors as well as fabricated news that would harm the social, economic and security conditions in some cases.

Recommendations:

The conferees believe that the Law of Lebanese Associations and Parties adopted since 1909 may need some development, hoping that the competent authorities will adopt the following recommendations:

1- Lebanese associations and parties must be satisfied with the notification of the Ministry of Interior, and there is no need for the approval of any official body.

2- Checking the parties' internal regulation and its respect for democratic standards without violating the freedoms of parties' practice by the authorities.

3- Banning clandestine associations or associations violating the law, or those which internal regulation contradicts the Lebanese constitution in terms of the concept and symbols of the nation.

4- Committing the parties to financial transparency by issuing annual balance sheets determining how the money will be spent.

5- Binding parties to issue a list of donors' names, the purpose of accepting the donation and how to spend it.

6- Establishing a bureau dedicated to the financial control of parties headed by a judicial authority in addition to financial auditors.

7- Prohibiting parties from accepting material assistance from any foreign country or international organization, except in the case of in-kind assistance and indulgence in ways of distributing it.

8- The state should contribute with a certain percentage in the budget of each party, according to the seats it won in the last parliamentary elections.

9- The state should provide a certain contribution to the losing parties not winning any seat in the last parliamentary elections, provided that the direct candidates of these parties have obtained a specified percentage.

10- Reducing the age of affiliation to associations to 18 years old

Conclusion:

Lebanon remains our concern, and the rule of law and institutions remains our hope.

Yes ...

We wanted Lebanon to be a pillar into history, because legends and facts were written about it, divine books praised it, so it was the name that was always repeated in the Torah and The Song of Songs.

We deeply loved it as the founder of the Arab renaissance. From its capital, were launched the laws after the Alphabet has sailed from Byblos.

What laws will decorate your crown Lebanon?

What knowledge enriches your mind?

What parties are convenient for you?

What you are worthy of, is greater than what we know, sincerer than what we say, and more solemn than what has been written.

The goal of the International Center for Human Sciences, UNESCO Byblos, in cooperation with the Konrad Adenauer Foundation, will remain wiping away some of the disappointment dust from a homeland present to restore the flame we missed.

We will spare no effort through conferences, seminars and round tables....

Our decision is irreversible: "We will light a candle and we will not curse darkness"!



Organization of French political parties and their role in promoting democracy

Dr. Jean-Michel Berlemont, Science Po University
Nancy, France

Introduction:

The word party is very old: It was used to designate the factions dividing the ancient republics, the clans around a condottiere during the Renaissance of Italy, the different factions under the Ancient Régime ...

However, the parties we know today - particularly in France and the UK - will emerge with the development of parliamentarism.

With the Revolution, the notions of Right and Left, Jacobins and Girondins emerged in France.

What is a political party?

In 1966, de La Palombara and Wiener defined it in "Political parties and political development" as:

"Sustainable organizations, with local means and which objective is my conquest of Power through searching for popular support".

Parties in France have often had - and still have - a bad image. (The general interest is forgotten in favor of particular interests)

History did not facilitate the emergence of a positive image:

1789-1958, 15 regimes kept coming one after the other, sometimes for a very short time (The Hundred Days) and sometimes for long periods (3rd Republic) and not all of them were democratic. When there was a democratic life, it was often marred by scandals, especially under the 3rd Republic (Panama, Stavisky ...).

A voting system which amplified the role and play of the parties was added to this, which led to very strong governmental instability witnessing a very weak Executive Authority and very strong Legislative Authority (3rd and 4th Republics).

De Gaulle considered this institutional and political functioning as one of the main causes of June 1940 disaster.

Consequently, when De Gaulle returned to power in 1958 and suggested a new constitution to France, this latter has radically modified the institutional balances: The Executive became the master of the game and the Legislative was subject to control (e.g. articles 34 and 37 of the 1958 constitution as well as its general economy).

Nevertheless, for the first time in French constitutional history, an article of the constitution is dedicated to political parties and occupying an important place: Article 4 of Title 1 which deals with Sovereignty and Democracy.

Article 4 stipulates:

“Political parties and groups shall contribute to the exercise of suffrage. They shall be formed and carry on their activities freely. They shall respect the principles of national sovereignty and democracy.(...)”

Statutes shall guarantee the expression of diverse opinions and the equitable participation of political parties and groups in the democratic life of the Nation”

(July 25, 2008. “Reform of Sarkozy”).

The legal form of parties is simple: Association Law 1901.

From this very general introduction result two elements to be successively taken into consideration:

1. An overview of French political parties.
2. The financing method of these parties.

I. Brief overview about French political parties

The famous constitutional expert Maurice Duverger distinguished in 1951 between elite parties and mass parties:

- The elite parties are of electoral and parliamentary origin, which means related to the extension of the Parliament prerogatives and the right to suffrage.

They seek to recruit notables (influence and finances).

Example: Tories / Conservatives in UK.

- Mass parties come from outside parliamentary life and are related to the development of various associations (syndicates) and intellectual institutions.

They targeted the popular classes who were financing the party through their membership fees.

Examples: Labor in the United Kingdom, Socialist Party in France.

Due to social and societal changes, parties, in France as in all democracies, tend to become "catch-all parties", as Otto Kirchheimer conceived in 1966. (France is a good example of this development).

In France today, the political view is fragmented.

For a long time (1958-1986) two blocs existed: Right / Left, Gaullists, Liberals, Socialist Party/ Communist Party.

The scene strongly evolved in the mid 80's:

The emergence of the National Front (favored and exploited by Mitterrand in 1986) a populist party close to the extreme right

A regress of the Communist Party close to vanishing (removed by the Socialist Party and the fall of the Soviet Empire)

Gradual and regular rise of environmentalists since 1974 with a positioning often close to the extreme left,

Emergence of Rebellious France of Mélenchon in the 2010s, a populist party close to the extreme left

In 2017 a political quake happened with the election of Emmanuel Macron which undermined all the generally accepted principles of the Elysee Palace conquest: he does not adhere to a real party, very young (39 years old), did not occupy any public position, experience still limited ...

His party The Republic on the Move is the example of the "catch-all party" (Right and Left at the same time).

This takes us back to a picture of the parties 7 months before the presidential election:

- A presidential party (centrist?) very strong in the National Assembly, very weak in the Senate, well represented in the European Parliament but strongly beaten during the local elections of 2020 and 2021 (municipal, regional, departmental).
 - A historically weak Left (between 25 and 30% of the electorate divided as never before -1 candidate for Socialist Party, 1 candidate for Communist Party, 1 candidate of the Environmentalists, 1 candidate for Rebellious France + Montebourg and 2 extreme Left candidates ...).
 - A rather strong Right but involved in personal disputes and a lack of incarnation, hence the problem of the candidate designation method for 2022 (Primary or not ...).
 - An extreme Right that still strong but weakened and which seems to be less mobilized (cf. departmental and regional results 2021).
- In addition, the French are not politicized (in the meaning of party membership) [See membership figures sheet].

II. Financing of political parties

It is controlled and organized since a short time by a whole series of laws: 1988, 1990, 1995, 2003, 2007.

Before 1988 nothing was legally organized, so there were considerable "arrangements" and considerable "business": fictitious jobs, screen structures to raise funds, cash and hidden money, use of secret funds ...

In addition, the rich benefited from this system.

All this contributed to giving a very degraded image of the parties to the French.

But we must not be naive. Democracy has a price and it should be paid.

The laws stipulate today two types of funding: private funding and public funding.

1. Private funding.

It is not sufficient to cover the costs of the parties (cf. Funding problems in previous laws).

In fact, it is of two types:

- Contributions from members and elected officials.
- Donations from private individuals with a ceiling amount reaching 7,500 euros per year and per person.

Donations from legal entities other than parties are prohibited.

Donations grant the right to a tax reduction of 66% of the sums paid.

Borrowing is controlled and verified, and a state cannot lend money to a party.

2. Public funding.

This is the great innovation.

The law stipulates a public funding granted to the various parties based on two cumulative criteria:

- The result of the legislative elections.

You must have obtained at least 1% of the votes in at least 50 constituencies.

This represents around 33 million euros in 2021.

-The number of parliamentarians: each parliamentarian adheres to a group which determines the amounts paid.

There are 9 groups in the Assembly: The Republic on the Move (270), Republican (104), Democratic Movement (57), Socialist Party (29), Act, the constructive right party (22), Union of Democrats and Independents Party (19), Liberties and Territories (17), Rebellious France (17), Democratic Left (15) + Non-members (22).

There are 577 deputies and 15 are required to be able to form a group.

There are 8 groups in the Senate: Republicans (146), Socialists and Ecologists (65), Centrist Union (56), Democrats, Progressives and Independents (23), Communist Party and Ecologists (15), Republic and Territories (13), Ecologists (12) + Non-members (3).

There are 348 senators and 10 are required to form a group.

In 2021, public funding represents around 34 million euros.

The law also grants postal advantages to parties and airtime on public channels ("direct expression").

The law sets as well financial penalties if parity in candidatures is not respected.

Examples: The Republic on the Move no penalty. Around 11 million euros / year.

The Republicans: A penalty of 1.8 million. Around 4 million / year.

National Rally: no penalty. Around 5 million / year.

Rebellious France: 253,000 euros penalty. Around 3.7 million / year.

In addition, there are provisions concerning the financing of electoral campaigns and financial transparency of the elected.

The ceiling of electoral expenses is determined according to the type of election (eg for the presidential election 18.3 million euros for the two candidates present in the second round with a discount coefficient of 1.18).

There must be a financial agent.

The accounts are certified by a chartered accountant and sent to the National Commission on Campaign accounts which approves or invalidates them. A lump-sum reimbursement is provided for candidates who obtained at least 5% of the votes cast in the first round (3% for the European elections and in French Polynesia).

Regarding the financial transparency of the elected, there is the High Authority for the transparency in public life.

Each elected representative from a city of 100,000 inhabitants must submit a declaration of his assets at the beginning and at the end of his term of office or of taking office (ministers). The High Authority is also competent to rule on any potential conflicts of interest.

Conclusion

Since the beginning of the 5th Republic and without going back further, the French political parties, in spite of invariants, have considerably evolved.

The political view has deeply changed, especially with the election of Emmanuel Macron in 2017. It will be very interesting to observe whether this change in the political scene will survive President Macron in 2022 or 2027.

Few months before the presidential election, some major parties are even confused as for the nomination of their candidate (debate on primaries).

The laws concerning parties financing and transparency of public life are certainly a progress, but let us be aware that the unacceptable behavior of some (the Cahuzac affair for example) has not only reinforced the discredit on politicians and elected officials, but it contributed to establish increasingly restrictive rules that encourage many respected people to turn away from public engagement, believing that the constraints are unbearable.

Democracy and Electoral Appeals

Dr. Issam Sleiman
Former Head of Constitutional Council

First: Different dimensions of democracy

Saying that democracy is the rule of the people by the people and for the people involves many dimensions related to the principles on which governance is based and their expression in social reality. Principles lose their value unless they are transformed into actions that have a positive impact on citizens.

Democracy as principles is briefed as follows:

Power emerges from the people, and its practice leads to the preservation of rights and freedoms and the provision of decent living conditions for citizens. Rights recognized by the constitution and by the laws are of no value unless the citizen is able to enjoy them. Therefore, democracy goes beyond principles to constitute an approach in exercising power.

Democracy as an approach in exercising power is briefed as follows:

Exercising power within the framework of full commitment, adherence to and interpretation of the constitution and laws provisions, which leads to facilitating the performance and activation of constitutional and other state institutions in order to be able to play their role in caring for citizens' affairs on the one hand, and maintaining the legitimacy of the authority on the other hand. The legitimacy of authority in democratic systems is based on two pillars: the first is the emergence of power from the people, and the second is to exercise power in a way that leads to the preservation of rights and freedoms, and to the provision of a decent life for citizens. An authority emanating from the people loses its legitimacy if it denies its duties towards the people. The role of the people in controlling the performance of the authority is raised for discussion. Therefore, we can say that democracy goes beyond principles and approaches in exercising power to form a pattern in social and human relations. The principles of democracy have no value unless they are transformed into a pattern of thinking that governs the individual's behavior, attitude, and relations with others, so that democracy becomes a culture rooted in society, executing its mission in determining citizens' choices, particularly political choices, monitoring those who assume power on behalf of the people, and holding them responsible for their performance. Democracy as culture determines to what extent democracy is achieved and the stage it has reached in its development. For this reason, we see populations deep-rooted in democracy, populations who recently adhered to it, and populations who know nothing about it."

Second: Democracy in the Lebanese Constitution and the electoral laws

The Lebanese constitution guaranteed the rights and freedoms, and stipulated that the system is republican, democratic and parliamentary, based on the principle of separation, balance and cooperation of powers, and that people are the source of powers and the sovereign exercising power through constitutional institutions.

This means that power should emanate from the people through free and honest elections that ensure correct and fair representation of the broadest segments of society. Elections are held periodically so the people play their role in accountability and changing choices. Democracy without accountability loses the meaning of its existence and turns into mere folklore. Elections are the first step in the course of achieving democracy, and on which depends the path that democracy will follow. In order to be on the right way, the electoral law should include texts that help to achieve correct and fair representation, and texts that control the performance of electoral processes to be fair, so that voters can express their will freely.

The election law should guarantee equal opportunities for candidates. This matter is subject to the determination of the constituencies and the system adopted for assigning the winners. The principle of equal opportunities is also related to determining the spending ceiling on the electoral campaign and organizing electoral media and advertising.

Parliamentary election laws that were set since 1992 until present did not observe the unity of standards in dividing constituencies, so these latter were determined according to electoral interests, contradicting the principle of equal opportunities and intercepting the validity and fairness of representation. These laws were not subject to appeal before the Constitutional Council because of the consensus between the interests of the power holders, except once in 1996, when articles in the contested law were cancelled, including articles related to the division of constituencies. The decision of the Constitutional Council set the criteria that must be adopted in dividing these constituencies, but the successive parliaments and governments did not abide by what was stated in the decision of the Constitutional Council, although the decisions of the Constitutional Council are binding to all authorities in the state and do not accept any way of review.

As for equal opportunities between candidates at the level of financial spending and the organization of electoral media and advertising, they were mentioned for the first time in 2008 in the Parliamentary Elections Law, and a commission linked to the Ministry of Interior was assigned to supervise the elections.

This law has set a ceiling for electoral spending, but it legalizes veiled bribery by allowing cash and in-kind contributions and assistance granted during the electoral campaign by parties and institutions that have been providing them since at least three years before the electoral campaign period.

This was also adopted in the Law No. 44 dated July 6, 2017 on the basis of which the 2018 elections were held. Article 62 states the following:

1 - During the period of the electoral campaign, the provision of services or the payment of funds including the obligations and expenses of candidates shall be prohibited, including but not limited to: contributions, in-kind and cash assistance to individuals, charitable, social, cultural, family, religious organizations, sports clubs and all official institutions.

2 -The abovementioned applications and aid shall not be prohibited if they are submitted by candidates or institutions owned or run by candidates or parties who have submitted them in the same size and quantity on a regular basis for at least three years before the start of the campaign period. In this case, the applications and aids granted during the election campaign are not subject to the electoral ceiling provided for in Article 61.

Article 61 states the following:

The ceiling of the maximum amount that each candidate may spend during the campaign period shall be determined according to the following: A fixed section of 150 million LP, plus a section subject to change that is linked to the number of voters in a large constituency in which he is elected reaching the amount of 5,000 LP for each registered voter in the electoral lists in the large constituency.

The ceiling of the electoral spending of the list is a fixed amount of 150 million for each candidate.

This ceiling can be reconsidered at the opening of the campaign period in the light of economic conditions, by a decree adopted by the Council of Ministers on the proposal of the Minister of Interior and Municipalities and after consulting the Commission (The elections supervision commission).

The spending ceiling according to article 61 reached in some constituencies during the elections of 2018, more than one billion five hundred million Lebanese pounds, or more than one million US dollars. This completely cancels the principle of equal opportunities between candidates and thus weakens the democracy of elections, and opens the door wide for electoral money and therefore bribery in its various aspects. Electoral money spoils the elections.

Third: Electoral appeals in the light of democracy

When considering electoral appeals, the Constitutional Council acts as an election judge and not as a constitutional judge. He is not entitled to consider the constitutionality of the election law, while considering the electoral appeal, but only the validity of the elections based on the law on which they were founded, even if it contravenes the Constitution. Considering the constitutionality of the electoral law requires to submit a review before the Constitutional Council, which has the right to do so, within a period of fifteen days following the date of publishing the law in the Official Gazette.

The Constitutional Council set up a jurisprudence in the decision No. 4/2019 dated February 21, 2019, which considered the appeal submitted by the losing candidate against the declared winner as a dispute between the appellant and the contestant, over the validity and honesty of the elections and not a dispute between them over personal rights, based on what the preamble of the constitution stating that the people are the source of authority...and on the nature of the parliamentary delegation that the electorate grants to the member of the parliament through elections. This jurisprudence stipulated to grant a constitutional value to the validity of the elections and included it within the constitutional bloc. The Constitutional Council exceeded by this jurisprudence the jurisprudence of most constitutional courts and councils in the world, gave an impetus to the democracy of elections, and conferred power to the Constitutional Council to go far in investigating into electoral appeals and get out of the traditional frameworks that usually restrict these investigations. The power of the Constitutional Council is limited to considering the appeal submitted by the competing losing candidate against a deputy whose victory was declared, and it does not include the entire elections in the different constituencies, including the ones where the validity of the election has not been contested.

However, the concept of the losing candidate competing with the winning candidate differs from one electoral system to another. In the majoritarian system, competition between candidates is limited to the seat or seats allocated to a particular confession in the constituencies, while in the proportional system and the preferential vote, the competition expands to include all candidates on the lists due to the distribution of winners of each of the lists according to the electoral quotient. The competition includes as well the members of the same list given the competition between the candidates on the same list for the seats that it won. Therefore, the decision of the Constitutional Council may affect the invalidation of a deputy assignment whose representation was not appealed and the victory of a candidate other than the appealing candidate, after correcting the results if the Constitutional Council finds that there are violations that affected the result and required to amend it, leading to the invalidation of deputies assignment and the announcement of candidates victory, or to the re-election for the seats that became vacant as a result of the Constitutional Council decision.

The consideration of electoral appeals regarding the role of money in the electoral process has encountered great difficulties resulting from the following matters:

- Setting a very high spending ceiling allowing wealthy candidates to continue spending excessively on the electoral campaign, including spending on electoral media and advertising, which leads to the elimination of equal opportunities between them and other candidates.

- Legalizing the provision of in-kind and cash aids to voters and associations during the electoral campaign by candidates and parties, and not subjecting this aid to the financial ceiling stipulated in the law.

- Not lifting bank secrecy except for the account designated for the electoral campaign. The other accounts of the candidate, his wife, children and brothers are included in bank secrecy.

- Lack of the Elections Supervision Commission resources and its inability to seriously monitor electoral expenses, its financing and spending the money in its possession out of any control, knowing that the funding sources for parties and some candidates, both internal and external, are covered by complete secrecy.

The reports submitted by the Election Supervision Commission concerning the candidates' financial statements for the election expenses were not subject to any control by this commission. It approved them and wrote the expression "approved at the responsibility of their submitter", and the validity of the mentioned information was not seriously verified by the supervision commission. The auditors appointed by this commission approved them without any effective modification.

The expenses according to these data were below the level of the expenses ceiling allowed by the election law. Some of the candidates did not submit a financial statement and the supervision commission referred them to justice by virtue of the law, but no action was taken against them despite that the law stipulated fines. As for deputies whose election was subject to appeal, they all submitted financial statements for fear that the Constitutional Council will decide to invalidate their representation, but these statements generally lack honesty.

Because of the penalties faced by the Constitutional Council when taking a decision concerning the electoral appeals in terms of spending, resulting from the election law itself, the banking secrecy law, and the absence of a law to monitor the finances of political parties and forces, the Constitutional Council was able only once until present to reveal the role of electoral money in an appeal submitted for the assignment of a candidate as deputy in 2009, because of a recorded tape submitted with the review of the appeal, and it showed that the contested person paid two hundred thousand dollars to a clergyman as an aid, before starting to calculate the electoral campaign expenses, and that the contested candidate has been providing aid to this clergyman for more than ten years, and what he did was legitimized by the election law, and it is not counted within the spending ceiling specified by the law. The investigation revealed also that the clergyman did not spend the sum during the elections and kept it in his own account in a bank.

In spite of all this, the Constitutional Council cancelled the votes that the candidate obtained from the voters of the same confession of the clergyman who received the money, because it considered that the sum was paid for electoral purposes, even though it is covered by the electoral law, particularly because it is an important sum and may not be considered an ordinary aid.

However, the contested candidate, after correcting the result, remained ahead of the appellant with a majority of five hundred and thirty-eight votes, so the council took a decision to dismiss the appeal.

It is useful to shed light on some matters that govern the work of the Constitutional Council in terms of taking a decision concerning electoral appeals and that are related to democracy.

The mere fact that a mistake or a violation occurred in the election of a deputy whose representation is subject to appeal does not lead to the invalidation of this representation, and this is a natural and logical matter because the Constitutional Council must respect the will of those who voted for the candidate and it may not cancel this will just because of a violation or a mistake that does not affect the result. If the Constitutional Council finds that without these violations and errors, the candidate would not have won, it shall take a decision to invalidate his representation.

It appeared that two factors affect the election results in many constituencies, the money that the law legitimizes and which role will increase due to the deteriorating living conditions and destitution, which opens the door wide for in-kind and cash offerings by wealthy candidates and parties. As for the second factor, it is the sectarian fanaticism that controls the choices of the majority of voters, affecting the election results in constituencies that suffer from a demographic-sectarian imbalance, particularly in the major constituencies in a majoritarian system. The proportional system has reduced the role of this fanaticism to some extent.

The Constitutional Council cannot consider the effect of fanaticism on the election results, as the voter is free to vote as he wishes. However, fanaticism and money distort the democracy of elections. Democracy requires free will liberated from fanaticism and poverty. Democracy does not grow in poor societies and in the absence of democracy culture, and its growth depends on achieving comprehensive development in its economic, social, cultural and political dimensions. This matter requires important efforts and may only be achieved in the course of social development. Because of the absence of development policies in Lebanon and the absence of a state-building project on sound foundations, the experience of democracy in Lebanon declined and regressed.

In the Constitutional Council we have adopted an approach requiring to expand to the utmost limits the investigations into electoral appeals and going deep in the circumstances on which the control decisions of laws constitutionality were built. This fact led to the expansion of the constitutional bloc with respect to democracy and elections in terms of emphasizing that periodic elections are a principle having a constitutional value, that the postponement of the elections due to a dispute over the electoral law is a violation of the constitution, and that the dispute between the appellant and the person subject to appeal is not a dispute over personal rights, but rather a dispute about the validity and honesty of the elections, which granted the validity and honesty of the elections a constitutional value, so they became part of the constitutional bloc in Lebanon.

The problematics of the current law regulating the Lebanese Associations and Political Parties

Me. Michel Klimos

Before starting my speech, I would like to thank the Director of this Center because the initiatives they are discussing in these difficult days which Lebanon is going through, constitute a fundamental pillar in the process of building the nation, the state, and the institutions.

The subject that we are discussing today relates to a subject that was not raised neither at the time of the broad legislative phase during the days of the French mandate, particularly that the mandate phase witnessed the promulgation of texts and decisions related to foreign associations in 1939, associations of professionals and craftsmen in 1924, nor during the phase that followed Lebanon's independence throughout Legal Reform and institution building workshop at the time of the late President Fouad Chehab rule period. However, it was just an isolated attempt taking place in the early eighties, shortly thwarted. Since the Taëf Agreement we did not hear about an audacious attempt approaching any new legislation concerning the law regulating associations and political parties, especially that Lebanon is still applying the associations law issued in 1909 which is an ottoman law. This matter requires that we all think together with an open and objective mind in order to reach a Lebanese legislation that matches reality in all its aspects, based on national and constitutional constants that the Lebanese agreed upon, whether in 1943 or 1990.

Going from this matter, I would like to say that any legislation in this regard, especially as it is close to the Lebanese entity in all its aspects and orientations, puts us in front of several particular challenges. Such new legislation requires that we, as Lebanese, be all committed in advance, through deed, not words, to Lebanon as a definitive homeland to all of his sons and to live in an existing state ruled by statesmen devoid of their personal interests, as His Holiness Pope Francis indicated in his letter to the Lebanese, leading to a state of law based on an independent and just judicial authority free from any political or personal repercussions.

This is the principle I wanted to underline before getting into the heart of the topic we are discussing today.

In the past it has been said: "To govern means to foresee". During the seventies, former French President Giscard d'Estaing launched his famous sentence: "To govern is not only predicting the foreseeable but above all the unforeseeable."

Gentlemen,

In application of the hierarchy established by the jurist Kelsen, any legal text ought to abide by the rules and principles of the Constitution, because any law contradicting the Constitution would be subject to appeal before the Constitutional Council in any state that respects its existence and abides by its constitution.

As for Lebanon, in order for the legislation to be objective and useful, we must proceed from a basic principle. It is imperative that the new law for political associations and parties be fully compatible with the preamble of the constitution, which stipulates the commitment to the finality of the Lebanese entity, the Charter of Human Rights and Public Freedoms, and the principle of equality before the law.

Do the current political conditions allow the development of a new law for political associations and parties adhering to these rules? Do we live today in a state of law, able to fairly and equally impose its implementation to everyone?

Here lies the question. Indeed, here begins the process of our legal dialogue and discussion, leading to a common vision capable of drafting new legislation that is close to reality and future, but rather convenient to the Lebanese national interest. So, as I aforementioned, Lebanon is still applying the Ottoman law issued in 1909 regarding the associations in Lebanon.

What is this law, and is it able to deal with all the legislative needs and gaps related to associations and political parties in a manner similar to what is happening in the rest of the countries that implement the Charter of Human rights and the principles of public freedoms?

On August 2, 1909, the Law of Associations currently in force and amended by virtue of the law promulgated on May 26, 1928 and the Legislative Decree No. 41 dated September 28, 1932 was issued.

This law includes only 19 articles and still implemented until date.

But it would be useful to point out that the French Mandate Authority issued on January 22, 1936 the law under No. 20/L.R. related to foreign associations based on the Ottoman law of 1909, and then in 1939 it issued a decision on the way these foreign associations were established, also based on the Ottoman law of 1909. It is worth noting that the Lebanese state issued on December 7, 1944, based on the law issued in 1909, the decree No. 243 related to the organization of sports clubs and associations activities.

On December 15, 1972 the law No. 72/16 was promulgated placing youth and sports associations under the supervision of the Ministry of National Education, Youth and Sports.

On August 18, 1964 the Decree No. 17199 was issued, considering the draft law relating to cooperative societies as carried into effect pursuant to the provisions of article 58 of the Lebanese Constitution. Accordingly, on March 17, 1972 the Decree No. 2989 related to the regulation of cooperative societies was issued.

On May 9, 1977, the Legislative Decree No. 35 related to the institution and management of mutual funds was issued. It was drafted by virtue of the Decree No. 515 dated October 5, 1977.

All these legal texts have been promulgated and until date the legislative authority, did neither take measures to amend the Ottoman law promulgated in 1909, nor issue new legislation related to foreign associations and to the institution of political parties within the framework of legal restrictions allowing, on the one hand, the exercise of the freedom of expression, and at the same time it guarantees the compliance of each party authorized by virtue of the Lebanese constitution Preamble principles within the framework of a legislation that adheres to the finality of the Lebanese nation and guarantees the national, non-sectarian and non-confessional dimension for each Lebanese party.

Proceeding from what was mentioned above, we have first, to expose the content of the 1909 law articles, and then submit new suggestions concerning the new associations and parties' law.

Article one of this law promulgated in 1909 defined the association to be an agreement between a certain number of individuals who "decide to unite their knowledge and efforts in order to reach certain goals which are not to divide profit, which means that the association is not a commercial company.

Article two stipulates that establishing an association requires no prior permit but, by virtue of Article 6, informing the government of its establishment is a requisite, which is called notification as the case is at present.

However, **article three** of the law has set restraints as a result of the promulgation of a law in this concern in 1928 so as it is prohibited to establish associations based on illegitimate grounds that contradict the provisions of laws and public morals, that aim to jeopardize the peace of the Empire. They are not to be granted a notification and they are to be dissolved by a decree issued by the Council of Ministers.

Article four of the law has strictly forbidden the establishment of political associations of a nationalistic nature or dictum. Here, the Ottoman fears appear on that day concerning the emergence of such associations leading to the tendency of national independence in a way contradicting the Turkification campaign and the spread of Turkish nationalism spirit, which is one of the reasons that led to the emergence of Lebanese and Arab associations calling for Arab nationalism against the idea of Turkification.

Article five of the law stipulates that members of associations must be above twenty years of age and enjoy all their civil rights.

Article six states that establishing clandestine associations is strictly forbidden. Accordingly, the founders must submit a statement including its address or what was called at that time Dar el Sa'ada or Ministry of Interior, goals, main office, and the names of founders and of those entrusted with its governance, in return, of being granted a notification, after submitting the Statutes of the Association signed and sealed with the association's official stamp. Then, after being granted the notification, the government should be informed of any amendment to the statutes.

According to **article seven** of the law, the headquarters of an association and any of its branches must contain an administrative board with a record including all information related to the members and its assets, a second record including the financial situation of the association in terms of revenues and expenses, to be available to the government upon request.

Article eight of the law granted the moral person of the association to stand before the courts as plaintiff or defendant provided that the association management and members meeting place is determined.

Article ten of the law granted the members of the association the right to discontinue their memberships, even if the association's statutes state otherwise, on the condition that they have settled their financial obligations towards it.

Article eleven prohibited the association to keep firearms and weapons except those related to hunting and fencing activities.

Article twelve of the law stipulated to consider clandestine associations obligated to pay a penalty ranging between five and twenty-five gold coins. To be noted that Articles 337, 338 and 339 of the Lebanese Penal Code sanctions every association violating the law by its institution and considers it a clandestine association. It is dissolved, and its funds confiscated, and its responsible are sentenced to six months to two years of imprisonment. In addition, any member who commits a crime by achieving the illegal objective of the association and any member involved in the crime shall be sentenced.

In addition, the amendment made in 1932 to Article 12 of the law promulgated in 1909 stipulated to sanction every association or organization aiming, directly or through an intermediary, to obstruct the course of public interests, with imprisonment from six months to three years in addition to paying a fine.

Article 14 of the law grants the government the right to confiscate the money of every association contravening the law.

Article 15 added clubs to this law, and **article 18** granted the State the right to inspect associations and clubs when necessary.

It is worth noting that the French Mandate Authority issued on August 20, 1934 the decision No. 294 K.R. which allowed professionals and craftsmen practicing a single profession to institute associations. The decision considered that every violation of its provisions exposes violators to the penalty stipulated in Article 13 of the Ottoman Law of 1909. Therefore, the French Mandate did not take at that time the initiative to put a new legislation for associations, but it kept applying the Ottoman law, and so is currently doing the Lebanese State, which is still based on this law, especially after the independence when it issued in 1944 the decree regulating the work of sports clubs and associations, as it was mainly based on the law issued in 1909.

The above mentioned clearly shows that the Lebanese Penal Code completed by its articles 337, 338 and 339, the articles 2, 6 and 13 of the law issued in 1909, and therefore, in our opinion, this law is no longer able of keeping pace with the needs of legislation in terms of the spread of political parties and how to control the financial, administrative and organizational

aspects, in accordance with the provisions of the Constitution, the laws related to public freedoms and international conventions, especially the Charter of Human Rights. However, the Lebanese government tried in 1983 to seek to pass a legislation related to political parties and associations, but it soon encountered strong political objections that led to restrain from this project.

Thus, I proceed to say that it is no longer acceptable to maintain a legislative text dating back to the time of the Ottoman occupation and not complying with the constitution and international conventions, which requires, in my opinion, to start a legislative dialogue leading to the development of a new legislation that guarantees, on the one hand, the rights of every citizen to keep pace with the requirements of the era and his right to express his opinion and meet against the state's right to control the spread of associations and political parties within the framework of respecting the public order law and the provisions of the Lebanese constitution, giving the necessary judicial guarantees for each party to exercise its rights freely.

I would like to discuss, even if briefly, some of the legal basis that I consider necessary from a legal point of view to start the legislative workshop regarding the law of Lebanese and foreign associations and political parties:

First: Lebanese associations in general.

-The necessity of prohibiting the establishment of any association if it aims, in its form and objectives, to violate the constitution, the Lebanese laws or regulations, or to disrupt constitutional life and public freedoms, or if it is violating public order and morals and threatening stability of national unity and coexistence, security, or if it is creating discrimination between people, religions or confessions, and thus emphasizing the legal texts within the Lebanese Penal Code in Articles 337 and seq.

Second: Non-political associations:

-These associations do not have political goals and do not seek to achieve their goals through politics.

-The condition for membership in these associations is that their members are enjoying their legal capacity in accordance with the law of Obligations and Contracts and they not have been convicted for a felony or a delict

-The association is not formed except after obtaining a prior authorization from the Ministry of Interior, and an additional authorization from the ministry concerned with the activity of the association and to which its object is related, provided that the association's statutes, the provisions of the constitution, the laws in force, are not violated. Therefore, the founders have the right to refer to the State's Council in case the Lebanese administration refuses to grant them an authorization within a period of three months from the date of submitting the request, which must comply with the required formal conditions, provided that the authorization is published in the Official Gazette. The same is applied to any legal amendment in the Statutes of the association, after the approval of the competent authorities. The association is entitled to own the movable and immovable funds compatible with its objectives. Donations offered to it, especially foreign donations, are subject to the obligation of abiding by the binding laws in force and the control of the State.

-The Ministry of Interior shall have the right to supervise and control associations at financial and administrative levels, provided that the basis of this control are determined by virtue of a decree passed in the Council of Ministers based on the vote of the Minister of Interior.

Third: Foreign associations:

-Every association which main office is outside Lebanon or which is a branch of a foreign association is considered to be a foreign association.

-This association does not start its work except after the Council of Ministers has issued a decree based on the proposal of the Minister of Interior. Any amendment of its statutes is also subject to the issuance of this decree.

-Foreign associations are prohibited from practicing political action and any action that contradicts the provisions of the Constitution and the laws in force, and the principles of public order.

-Foreign associations have the right to own immovable funds to achieve their objectives, after a prior authorization is granted by the Council of Ministers pursuant to the provisions of the amended Foreign Ownership Law of 2000.

-Foreign financial in-kind donations must be limited to their objectives and subject to the State control.

-The Ministry of Interior and its affiliated bodies shall have the authority to control foreign associations to find out the extent of their adherence to their Statutes and to the Lebanese laws in force.

-Every foreign association must waive in advance the bank secrecy related to all its bank accounts as a fundamental condition for approving their establishment.

Fourth: Political Parties:

-Every association with a political objective is considered a political party, and the authorization to establish a party is subject to a decree issued by the Council of Ministers, upon the proposal of the Minister of Interior, provided that this party abides by the objective and formal general conditions required for the establishment of associations, of which we talked previously.

-The founding members should enjoy legal capacity and should not have been convicted of a felony or a delict. They should be of Lebanese parents, and the members should also enjoy legal capacities and purely be Lebanese for more than ten years.

-It is prohibited for any Lebanese who has been previously convicted of a crime that affects the state security, terrorism, or safety to join the party. It is also prohibited for military personnel, judges, and employees of administrative and public institutions to join the party in order to guarantee the employee, judge, and military neutral role.

-It is not allowed to any non-Lebanese person to institute or join any Lebanese party. It is prohibited to establish any party which objectives violate the preamble of the Lebanese Constitution and the Lebanese laws in force. It is also prohibited to establish parties which objectives, councils, and members do not conform to coexistence and to the whole content of the Lebanese Constitution Preamble.

- The Council of Ministers shall have the right to dissolve and liquidate the funds of each party that violates the legal conditions specified in its Statutes and goals, which must comply with the Lebanese constitution and the laws in force. The Ministry of Interior has the right, through its bodies, to control the annual balance of each party and how it is spent for the purposes specified in its establishment decree. The provisions of Articles 337 and seq of the Penal Code will be implemented on every violating party and for every offense or violation of the law provisions.

- Syndicates of liberal professions, chambers of commerce and industry, and the associations sponsoring them are subject to the law of their establishment in a manner that does not contradict the new legal legislation for associations.

- Finally, it is necessary to give all Lebanese and foreign associations a period of six months to adjust their legal situation according to the provisions of the new law on associations. Political parties are given the same delay or else associations and parties will be considered as legally dissolved, with the entailed legal repercussions.

Gentlemen,

I have presented to you the old legislative reality of the associations and the new legislative ideas that I consider necessary to keep pace with our Lebanese reality in order to provide public stability and the right of every Lebanese to implement the rules of public liberties, and the Charter of Human Rights within the framework of the Lebanese state's right to bind every association or party to abide by the preamble of the Lebanese constitution and international conventions relating to human rights, and the Lebanese laws in force.

I hope that I have given you legal ideas that can serve as a basis for the legislation serving the country, the human being, and the justice.

Lawyer Michel Klimos

Financial Resources and Impact on Political Parties

Dr. Rajaa Al Sharif

Professor At Law, Lebanese University

Political parties are a democratic necessity in the contemporary world and an obligation for countries development. They are the expression of multi-party pluralism and an essential tool for political participation and peaceful transition of power. The structures and internal processes of these parties should be democratic so as they create more competent representatives. The party should be able as well to create better political programs, in addition to funding, which is considered a major part of the democratic process.

Funding allows political participation and organization of electoral campaigns, the most important basic elements for the establishment of any association or party and the vital resource to carry out its functions, tasks and continuity in life. However, these funds have a “negative” impact on these parties and on the society, as well as a direct reflection on development if they do not improve their governance, organization, and preservation, if they do not apply transparency, perform accountability, control, and restraints in a way that limits corruption.

Applying governance standards is the main pillar on which economic bodies and entities must be based, in terms of organizational quality, rule of law and control of corruption, so that power is not used to achieve private interests and personal goals. In addition, disclosure and transparency in revealing correct information and accounting data that show the financial conditions of these bodies and entities, particularly in terms of internal and external cash flows, should be applied.

This matter was approved by the United Nations Convention against Corruption in 2003 which includes 187 countries, among which Lebanon, which became a state party to the convention in 2009.

The states parties to this convention are obligated to develop and implement effective and coordinated policies that enhance community participation and incarnate the principles of the rule of law, good management of public affairs, honesty, transparency and accountability. They are asked to adopt appropriate legislative and administrative measures to establish criteria relating to the nomination to public office and to the election of its officials. They are also called to enhance transparency in financing candidacies for the election of public position incumbents and in financing political parties.

The subjects that we will discuss include What is the legal system sponsoring party financing? What are the financial resources and the efforts that are made to restrict the bodies that may fund political parties, the sums of money that may be contributed with, and the restrictions imposed on financial resources? The sums of money that may be spent, the control and enforcement mechanisms aimed at ensuring the accuracy of information given to the public regarding financing and guaranteeing the respect of the restrictions imposed on financing resources? Control and accountability?

The first subject is the sponsoring system for financing political parties:

There is no law adopted to organize the establishment of political parties, but these parties continued to be established based on the Associations Law, given that the party is similar to an association. The association is an agreement between a certain number of individuals who “decide to unite their knowledge and efforts in order to reach certain goals which are not to divide profit.

The Legislative Decree No. 10830 dated October 09, 1962 which relates to associations and what should be submitted during the first month of the year, as well as the confiscation of association funds in case of breaching certain conditions was approved.

The associations law came to the fore to confirm the constitutional right of individuals to assemble, so no permit is initially needed to found an association.” However, the law states that the government must be notified of the association[1] or party after it is founded. It neither mentioned financial resources and nature of parties or associations nor it has set limits for this issue but it treats the following issues:

[1] Article 2 of Association law promulgated on August 03, 1909

1- The State financial interest and property

It is not allowed to create associations if the goals are illicit and violate the provisions of the law and public morals, aim to jeopardize the comfort of the monarchy and the integrity of the state property, aim at changing the form of the current government, or politically discriminate between all Ottoman citizens. They are not to be granted a notification and they are to be dissolved and banned by a decree issued by the Council of Ministers[2] .

2- The modification of its articles of association and administrative body

All associations are obliged to immediately inform the government of any amendment or alteration to their statutes, administrative board, or location. This amendment or alteration shall be implemented on a third party as of the date of informing the government, and shall be registered in the record. This record must be available whenever the judicial or royal governments request to review it[3] .

3- Keeping three registers

The headquarters of any association must contain an administrative board of at least two individuals. If the association has branches, each branch is to have an administrative board affiliated to the central board. These boards must keep three books: all information related to the members of the association and when each joined the association must be recorded in the first; decisions, correspondences, and notifications must be recorded in the second; and revenues, income, the type and amount of operations or transactions must be recorded in the third. These three books shall be presented to the judicial or royal governments upon request [4] .

As for Legislative Decree No. 10830 dated October 9, 1962, it states:

1- The obligation of submitting the balance, the income statement and lists

Every licensed association should submit to the Ministry of Interior a list including the members' name, a copy of its annual balance, and the income statement for the preceding year

[2] Article 3 of Associations Law amended by virtue of the law dated May 26, 1928

[3]Article 6 of Associations law by virtue of the law issued o August 03, 1909

[4]Article 7 of Associations Law issued on August 03, 1909

This account is subject to the competent ministry control”

Article eight of the same decree stipulates the following:

Whoever violates the provisions of this law previous article is subject to a fine ranging between 500 LP and 2000 LP. The fine will increase in case of repetition.”

Therefore, every association shall submit during the first month of each year the following documents:

- The income statement of the preceding year
- The balance of the coming year
- The General Body members names

2. Financial Fine

The association is subject to a financial fine in case it is late to submit the documents abovementioned.

3. Suspension of the association, dissolution of the secret association and confiscation of its assets

In case the bylaws of the association include an article regarding the assets belonging to an association banned by the government or voluntarily and consensually dissolved by its members or by virtue of its bylaws, therefore this article shall be applied, otherwise the decision taken by the General Assembly shall prevail.

It is not allowed to anyone to keep an association dissolved because its members committed in their capacity as party members crimes related to the State security and accompanied by a final judgment ...” Article 338 of the Penal Code stipulates that “All secret societies shall be dissolved and their assets confiscated...”

The second subject: what are the financing resources

Most countries have established a system for financing political parties. Switzerland is among the few Western countries that do not have a system yet. Transparency International severely criticized Switzerland in 2006.

Political parties financing means the financial resources or money provided to political parties between or during election campaign periods to cover the costs of electoral campaigns or political activities.

Financing is divided into public funding or private funding:

1- Public funding: Public funding is in the form of resources or funds allocated in the state budget, either as “financial” support, or non-financial resources. It may be direct, as any cash “money given to parties,” or indirect through granting these parties tax exemptions, using public facilities to establish electoral activities, or through the free use of the media. In France, French parties rely on public funding as a main resource, as it represents more than half of the French Socialist Party income, and one-third to two-thirds of the parties' total income for the remaining parties, which led the parties to be more connected to the state and to neglect the members training and the relationship with civil society. In Japan, it reached 50% of the total income of the parties, and 80% in Spain and Belgium.

In Lebanon, the Lebanese legislator granted associations tax exemptions and indirectly political parties because they were established according to the provisions of the Associations Law:

A-Exemption from income tax

Associations and parties are exempted from tax on profits without the existence of an explicit text, but because they do not make profits. The tax is imposed in the name of real and legal persons, residing in Lebanon or abroad, and on the total profits they achieve in Lebanon, even if associations own or invest in hospitals, orphanages and resting places, nursing homes, dispensaries, sanatoriums, and all what is similar as ambulance and nursing corporation. For this reason, political parties often constitute associations to benefit from this exemption.

B- Exemption from taxes and fees

Societies that are declared as Institutions of public interest benefit from

- Aids and subsidies granted by the state, municipalities and public institutions
- Exemptions from taxes and fees granted for public institutions

Associations established by political parties can be declared to be of public interest, provided that their objectives, upon their constitution, are limited to social fields or to any public service fields, determined by virtue of a decree passed in the Council of Ministers[5], and for conditions specified by the law.

The law did not originate a supervisory commission for associations similarly to institutions of public interest. It did not submit these associations to the control of the Audit Bureau unless they received a contribution by the state without being forced to submit, at the end of each year, a report to the "Superintendence of Public Interest Institutions" that includes: a presentation of the achievements and activities they carried out during the preceding year, their annual financial budget, and a statement of their work program for the following year specifying the methods and fields of spending the resources allocated to achieve their goals.

c-Beneficiating of all the profits stipulated in Article 5 of this Legislative Decree shall be suspended, by default, for every public interest institution that does not submit the report mentioned in Paragraph B of this Article within a three-month waiver period starting from the end of the year following the last report. In this case, the supervisory commission may propose depriving the violating institution from its public interest status, when necessary.

d- The supervisory commission should propose depriving an institution from its public interest status:

-If it breaks the laws.

- If it violates or deviates from the objectives for which it was granted the status of public interest.

-If, it failed during two consecutive years, to achieve the objectives for which it was granted the status of public interest.

-It may, when necessary, suggest to refer the institution of public interest to the competent penal judicial authority.

Buildings owned by political parties, syndicates and other non-profit associations and organizations are exempted, provided:

a. That the aforementioned bodies exist in accordance with the laws in force.

b. That the buildings are designated for purposes directly related to the activities of these bodies, and that they are not rented

[5] Article two of the Legislative decree number 98 dated September 16, 1983 and the law 8/88 dated February 6, 1988

The buildings used as hospitals, dispensaries, or educational institutes are also exempted, provided:

A- That the building is owned by non-profit associations or institutions or is endowed for religious or charitable purposes.

b- The project should be managed by the owner himself, or by any non-profit association or institution occupying the building on a basis of tolerance without any exchange or against a symbolic payment.

D - Exemption from value added tax

Operations taking place on the Lebanese Territories and that are related to the activities of non-profit organizations and associations to achieve the goals for which they were established are exempted from tax except for the activities that they frequently carry out and the exemption of which constitutes an unequal competition for the taxable institutions. They also enjoy the right to recuperate the Value Added Tax related to their exempted activity.

E- Benefit from non-financial resources

Benefit from free media appearance according to the audio-visual media law.

Public funding should be within the framework of compensating the parties for the lack of sufficient financial resources, to achieve equality, which means a fair and free political participation for all political parties, particularly the small parties. This funding method will limit the influence of private money and its ability to alter the democratic political process, it will prevent weakening the ties between voters and parties, and being the main source of parties, which is difficult in Lebanon in light of the financial and economic situation and the crises it is going through.

2- Private financing

Private financing includes the main traditional sources of internal financing, such as membership fees and revenues from various party activities, in addition to private donations, either from individuals, institutions or companies, and foreign donations.

However, membership fees are no longer important in light of the low standard of living, and some parties may conduct some commercial activities in the fields of marketing, and this type of activity is subject to corruption.

But private donations constitute the vital source for political parties, as they maintain the relationship between citizens and parties, the grassroots in other words. However, they affect equality in political participation and competition between parties, they do not provide a stable source of income and create opportunities for corruption and undesirable influence, which requires setting a maximum limit for donation, putting conditions on the characteristics of the donor, and imposing transparency so the people may constitute an opinion concerning the honesty of the party.

Private financing includes also foreign donations, i.e. funding from foreign governments or those of unknown origin. Some countries have adopted legal provisions to limit foreign donations or prohibit them, and some leave them without any organization.

The third subject: restrictions on funding sources

Law No. 44 dated June 17, 2017, was approved (election law), according to which, restrictions were imposed on electoral expenses, donations or contributions granted to candidates, and on funding, and it expanded the powers of the Election Supervisory Commission.

1- Definition of Contribution

The definition of contribution is broad and unspecified: it is any gift, donation, cash or in-kind gift, loan, advanced payment, financial payment, or anything having a material value offered to a list or a candidate. It is worth noting that the United Nations Convention recommended to define contributions or donations in a more comprehensive and clear manner, while the interpretation of electoral expenses was clearer, as electoral expenses are considered to be the total of the expenses paid by the list or the candidate as well as the expenses paid for the account or interest of any of them with their express or tacit consent by natural or legal persons, parties, associations or any other body, provided that they are directly related to the electoral campaign, the voting process and the achievement of legitimate connection between the list, the candidate and the voter, including, but not limited to:

Providing electoral offices and all other expenses related to these offices, organizing gatherings, festivals, public meetings, and banquets having an electoral objective, expenses related to the equipment used during the campaign, preparing, publishing, and distributing media and propaganda

materials such as books, fascicles, pamphlets, leaflets and messages in the form of publications or through regular or digital mail, preparing, distributing and hanging pictures, posters, banners and billboards, compensation and allowances paid in cash or in kind to persons working in the electoral campaign and to delegates, transportation expenses for the electoral campaign members and voters, transportation expenses for voters coming from abroad, electoral propaganda and opinion polls expenses in addition to any expenses paid for the electoral campaign to any Broadcasting radio or television station, any newspaper, magazine, or other means of publication, including electronic means.

2. Opening bank account and renouncing to bank secrecy

Each candidate and list should open a bank account in a bank seated in Lebanon called “the electoral campaign account”. It should be enclosed with the nomination proclamation, a bank statement proving the opening of such account, showing the account number and holder name. The electoral campaign account is not subject to bank secrecy, the candidate and the list should be considered automatically renouncing to bank secrecy for this account as soon as it is opened.

All the contributions shall be received and all the electoral expenses should be paid exclusively through this account, all during the electoral campaign period. It is not allowed to receive or pay any sum of money exceeding one million pounds except by virtue of a cheque. Each candidate and list shall upon submitting the nomination proclamation reveal the auditor’s name by virtue of a written letter registered before the notary public and submit it to the commission.

When it is not possible for any candidate or list to open and move a bank account for reasons beyond the control of any of them, the funds allocated for the electoral campaign of the candidate or the list shall be deposited in a public fund established at the Ministry of Finance, which replaces the bank account with all its clauses.

3- Expenses, financing and prohibition of foreign private funding

- The candidate may spend for his electoral campaign sums of his own money. The money of the spouse or any of the ascendants or descendants is considered as private money of the candidate. All expenses contracted or paid by the candidate from his own money for his electoral campaign are subject to the expenses maximum limit.

It is not allowed to offer any contribution to the electoral campaign of a candidate or list except by Lebanese natural or legal persons. Thus, foreign donations were prohibited, and the candidate or the list were strictly prohibited from accepting or receiving contributions or aids issued by a foreign country or a non-Lebanese natural or moral person, either directly or indirectly.

The contribution made by a single Lebanese natural or legal person to finance the electoral campaign of a candidate or the list may not exceed 50% of the electoral expenses maximum limit and must always be through a banking process (transfer, check, credit card...). The total contributions received by any candidate should not exceed the electoral expenses maximum limit, and contributions through an intermediary may not be accepted.

4. Expenses maximum limit

The maximum expenses limit to be incurred by each candidate during the period of the electoral campaign shall be calculated according to the following:

-A fixed lump-sum reaching one hundred and fifty million Lebanese pounds, to which is added a changing sum related to the number of voters in the constituency where he is elected, reaching an amount of five thousand Lebanese pounds for each of the voters registered on the voters lists in the major constituency. As for the list electoral expenses maximum limit, it is a fixed lump sum of one hundred and fifty million Lebanese pounds for each candidate.

This limit may be reconsidered at the opening of the electoral campaign period in light of the economic conditions, by virtue of a decree issued by the Council of Ministers based on the proposal of the Minister of Interior and Municipalities and after consulting the Commission.

5- Prohibited activities

During the electoral campaign period, commitments and expenses as well as providing services or paying sums of money to voters, including without being limited to: contributions, in-kind and cash assistance to individuals, charitable, social, cultural, family, religious or other associations, sports clubs and all official institutions are prohibited.

The above-mentioned contributions and assistances are not considered prohibited if they are provided by candidates or institutions owned or managed by candidates or parties who used to provide them in the same size and quantity on a regular basis for at least three years before the beginning of the electoral campaign period. In this case, the provided payments and assistances are not subject to the expenses maximum limit during the election campaign.

6- Auditing of accounts:

The accredited auditor for each of the candidates and lists shall periodically submit to the commission, within a period of one week from the end of each month of the electoral campaign period, a monthly statement of account showing the receipts, payments, and financial obligations for the previous month, to which is enclosed a statement of the electoral campaign bank account issued by the approved bank. At the end of his mission, he shall submit to the candidate a statement of account and a report of his administration activities. Each candidate and list must, after the end of the elections, organize a comprehensive statement of account approved by the accredited auditor, including in detail the total revenues received and in-kind contributions, according to their sources and dates, and the total expenses, paid or due according to their nature and dates, since the beginning of the electoral campaign. This statement shall be submitted to the Commission within thirty days from the date of announcing the official results of the elections, to which is attached supporting documents related to all the account items, such as receipts, exchange vouchers, etc. in addition to a comprehensive bank statement for the campaign account showing all the operations of this account until the date of submitting this statement.

The statement of account shall be enclosed with a report signed by the candidate and certified by the notary public. The candidate acknowledges, by virtue of this report and on his responsibility, that the attached account is correct and comprehensive and it includes all the collected revenues and the

paid or incurred expenses for the electoral campaign, and he explicitly acknowledges that there are no other cash or in-kind expenses or money paid in cash or through other bank accounts or third parties.

The accredited auditor, should in case the statement of account does not include any electoral revenues or expenses, organize a certificate to that effect. The Commission shall study and audit each candidate statement of account, and conduct investigations related to its validity or the validity of some of its elements. It may seek the assistance it deems appropriate for this purpose of any experts and other persons including members of the judicial police, after the approval of the competent Public Prosecution.

The Commission decides on the validity of the above statement of account within a period of thirty days from the date of its submission. It decides either to approve it or, after observing the principle of prima facie and the right of defense, not to approve it or to request its amendment or correction in whole or in part. The commission submits its decision justified and enclosed with a statement of account to the Constitutional Council. If a one-month period elapses since the submission of the statement of account and the Commission did not take a decision in this regard, this statement shall be deemed to have been definitely approved.

The commission rejects the statement of account if it finds that it is incorrect or that it exceeds after being corrected or amended, the expenses maximum limit, provided that in these cases the commission informs both the Presidency of the House of Representatives and of the Constitutional Council of this matter. But if it finds that the value of one of the electoral expenses reported in the statement of account and its attachments is less than the common and usually approved value for such expense, the commission, after observing the principle of prima facie and the right of defense, shall estimate the difference in comparison with several sources, and definitely record it within the expenses. This difference is considered to be subject to the expenses maximum limit stipulated in the election law. The provisions of this paragraph apply to direct or indirect benefits and all in-kind contributions and services that the candidate profited from.

7- Complaints and criminal prosecution

The commission shall refer the violation of the provisions of this chapter to the competent Public Prosecution if it finds that this violation meets the description of a criminal offense.

Whoever intentionally commits a violation in accordance with the provisions of the first paragraph shall be punished by imprisonment for a maximum period of six months and by a fine ranging between fifty million Lebanese pounds and one hundred million Lebanese pounds, or by one of these two penalties, without prejudice to the penalties that deal with criminal offenses stipulated in the Penal Code and in special penal laws.

Spending prohibited electoral expenses is considered an offense of bribery stipulated in the Penal Code. The penalties stipulated in the second paragraph above shall be applied to the legal person in accordance with Article 210 of the Penal Code.

The public and civil lawsuits related to the offenses stipulated in paragraph two above shall be prescribed six months after the date of announcing the elections results.

The decisions of the Constitutional Council concerning the electoral appeals enjoy the power of a binding court case for all judicial and administrative courts and for all state departments, so that the complaint and criminal prosecution are based on the said decision.

8- Imposed Sanctions

The candidate who does not submit the comprehensive statement of account shall be sanctioned by a fine of one million Lebanese pounds for each day of delay. This fine is imposed by the Ministry upon the Commission request.

The candidate who:

-Exceeded the electoral expenses maximum limit is sanctioned by a fine equivalent to three times the value of the excess in favor of the treasury, and the file is referred by the commission to the Constitutional Council.

-did not win the elections and did not submit the statement of account is sanctioned by a fine of one million Lebanese pounds for each day of delay imposed by the ministry based on a report issued by the commission.

-did not win the elections and who exceeded the electoral expenses maximum limit is sanctioned by a fine equal to three times the value of the excess. "

The fourth subject: transparency and disclosure

The Lebanese legislator approved a number of laws related to reducing corruption and following up the trace of money, such as the law on exchanging information for tax purposes, the law on money laundering and permitting the transfer of money across borders, the right to access information and the law on reporting financial disclosure and interests, as well as punishing illicit enrichment. Moreover, he had previously approved the imposed Tax Procedures Law forcing associations to submit a report to the Ministry of Finance, enclosed with their financial statements.

What is the impact of these laws on achieving transparency and on disclosure by associations and parties?

The Right to Information Act

Every person, natural or legal, has the right to access and review the information and documents held by the administration, in accordance with the provisions of this law, provided not to abuse of using the right. Among the administrations mentioned by this law the institutions of public interest, and consequently the associations and political parties were excluded.”

The law No. 189 of October 16, 2020 (Reporting Financial Assets and Interests as well as Punishment of Illicit enrichment)

This law did not include those who assume the presidency and positions of political parties as members of administrative bodies, accountants and treasurers. It is only imposed on a public official, i.e. the person who performs a public function or a public service, whether appointed or elected, permanent or temporary, paid or unpaid, and any subject of public or private law, at the centralized and decentralized levels, and in general any person who works for the benefit of a public property, a public establishment, a public utility, a public institution, a public interest or public money, whether owned, in whole or in part, by a person of common law, whether this position is legally or de facto occupied, including any position of constitutional authority or any legislative, judicial, executive, administrative, military, financial, security or advisory position. To submit statements signed by him, in which he states all of his financial assets and interests, and those of his spouse and his minor children, in Lebanon, as well as the positions, roles, jobs and memberships, whether by appointment or by election, regarding:

- any subject of public law (for example: membership of public institutions Boards of Directors, supervisory commissions, committees and advisory positions in public administrations, including commissions regulated by laws, municipalities or their unions, mayorship and mayor councils)
- Persons of Private law (for example: membership of boards of directors, companies, associations, parties, clubs, professional syndicates, and any conglomerate of local and/or foreign companies that won a commitment contract or partnership between the public and private sectors.

The advantage of this matter is that if representatives and ministers were members of the parties, they are obliged to report the money they received from the party, while presiding it. If he was not a deputy or a minister, he does not report his personal financial status.

Article 29 of the Tax Procedures Law, as amended according to Law No. 60 dated October 27, 2016 and according to Law No. 106 dated November 30, 2018.

This article binds the institutions exempted from income tax on profits for non-corporate business, to choose between keeping the records that are required to be kept by the taxpayers on the basis of real profit, or just keeping a cash accounting imperatively consisting of the two records required to be kept by the taxpayers on the basis of the lump-sum profit, daily and fixed assets in addition to the register of salaries and wages. An authorization has been issued, thus, associations became bound to keep these records, knowing that this article affects parties because the authorization identifies the concerned parties and leaves a place for others. the Ministry of Finance may through these data and through checking them determine their condition in front of institutions of public interest benefiting from the provisions of Article 59 of Law No. 379/2001 (Value Added Tax) and its amendments by keeping the records of income taxpayers on the basis of real profit. However, submitting a final account to the Ministry of the Interior not showing the real financial situation of associations and parties, given that they are not required to disclose their bank accounts or prepare a balance sheet showing their financial status, funds sources and ways of spending them, and the absence of the term "parties" in the statement left room for these latter to abstain from reporting.

Recommendations

- The obligation to define donations or contributions offered to political parties
- Imposing restrictions on the categories of persons or entities that are allowed to offer special contributions, among which legal persons, companies, organizations or institutions affiliated to the state or state-owned. In France, legal persons cannot offer contributions to political parties.
- Setting restrictions to the imposed monetary values. In France, the maximum limit for an individual is to offer to the political party a monetary contribution that does not exceed 7,500 euros per year, in Brazil it is 10% of the annual income, while Germany does not set a maximum limit for "contributions, but the law imposes obligations related to transparency and reporting, such as the detailed identification of the contributions resource exceeding a certain maximum limit."
- If there are Lebanese political parties, the aim of the state contribution to the parties is achieving equity in the financing of electoral campaigns, reducing funding gaps between the various political parties, making the capabilities of small parties emerging, and protecting them from economic influence.
- Putting restrictions on the amounts of money spent by political parties or during electoral campaigns, as some countries have required political parties to report the volume of public spending or the details of the money spent to allow people or supervisory commissions reviewing them
- Adoption of a law for political parties, allowing political participation and democracy achievement
- Confirming transparency included in the parties' tax procedures law
- Managing the revenue of associations and parties according to the provisions of the Right to Access Information Act and the Financial Disclosure Law.
- Drafting a law regulating the financing of political parties



Reflection on the Lebanese Political Parties

Camille Oheix & Venaïg Pijoff

If we can see that political parties lead political life in a society, it is clear that they occupy a prominent place during elections.

It is an organized assembly of citizens sharing a common vision, and the political party is the intermediary between the people and the authority. Therefore, it has a representative role, but it is also a vocation which mission is to conquer and exercise power. Political parties, which were considered harmful in the beginning, are now the primary road towards a democratic society. Legislation has been developed and reviewed to guarantee a legal framework for political parties and their actions.

In Lebanon, the law governing political parties goes back to 1909 and was developed under the Ottoman Empire. However, this law raises several problems. First, given its oldness does not allow it to have a legal framework in accordance with the current context in Lebanon.

In addition, this law concerns associations and not specifically political parties. Finally, many elements related to political parties are rarely mentioned, particularly concerning their financing. For this reason, it seems necessary to update this law.

A pioneering democracy

Lebanon is a democratic, parliamentary republic where powers are equally shared between various religious communities, this is confessionalism.

The Lebanese system is unique in the Middle East, in a country of 6.2 million inhabitants, there are 18 confessional communities, Christians and Muslims.

National cohabitation encourages a global climate of freedom, this distribution of powers had to adapt to the population, but in practice it appears more complex.

The question of Lebanese identity

Each community works for its own interests and ignores everyone's interests; therefore, the Lebanese political system is based on a precarious balance.

The question that is raised about the country's identity is part of the conflict between community interests and public interest. Can we talk about a "hesitant and worried" identity or of the politicization of breakups?

The will of the Lebanese youth leans towards liberation from belonging to a religious community, separating religion and politics, and consolidation of unity.

The review of 1909 law, although necessary, must adapt to new changes in society and promote the principles of transparency, independence, neutrality and sacrifice of exclusively private interests.

Funding of political parties

Political parties need resources to implement their actions. Their financing must be controlled. In some countries such as France, the legal framework related to the financing of political parties has seen several legal contributions. On the contrary, some states, like Lebanon, do not have legislation in this respect. In fact, the law of 1909 does not mention the financing of political parties which creates a lack of transparency as well as a legal gap enhancing corruption. Consequently, a revision of 1909 law is essential, particularly to regulate the public and private financing of political parties.

Conclusion

Confessionalism alters to some extent the Lebanese political system, so that religion takes priority over the public interest, and the predictions for "Lebanese identity" are found to be hopeless.

Changes appear necessary in a system where participation in public affairs and a legal framework for political parties is neglected. The modernization of the law of August 3, 1909 should allow to breathe new life into this democracy, which was considered in the past as the "Switzerland of the Middle East".

The review of 1909 law may allow the regulation of the establishment of political parties meeting required criteria, in order to ensure a conscious citizen vote, adhering to a program for Lebanon, rather than a vote focusing on a personality for what it represents as such. Also, a better supervision of political parties financing is necessary to ensure greater transparency.

Finally, it would be interesting to establish an honest and independent control mechanism to ensure the strict application of the law, the essential pillar of a lasting democracy.

Bibliography

Articles

BEYDOUN Ahmad, Lebanon: Communitarianism and democracy, *The Books of the East* n ° 94, 2009, p.65-75, [<https://www.cairn.info/revue-les-cahiers-de-l-orient-2009-2-page-65.htm>] (accessed August 27, 2021)

NAMMOUR Jihad, Identities in Lebanon, between complexity and perplexity, *Cities Magazine* n ° 29, 2007, p.49-58, [<https://www.cairn.info/revue-cites-2007-1-page-49.htm>] (Accessed August 28, 2021)

Sites

National Assembly, Financing of political life: parties and electoral campaigns [online]. Available at: [<https://www2.assemblee-nationale.fr/decouvert-l-assemblee/role-et-pouvoirs-de-l-assemblee-nationale/le-depute/le-financement-de-la-vie-politics-parties-and-electoral-campaigns>] (accessed August 25, 2021).

Public life, what is a political party [online]. Available at: [<https://www.vie-publique.fr/fiches/23999-quest-ce-quun-parti-politique>] (accessed August 25, 2021).