

Good governance in political parties, current and required legislation

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First: Introduction

Good governance in political parties in Lebanon poses intricate challenges related to their performance, behavior, funding, and adherence to governance standards.

Politics in general, and party work in particular, aim to handle societal matters and strive for a better state in various political, economic, and societal fields. This pursuit is inherently tied to the achievement of the common good and public welfare.

Ethical considerations held a paramount position in Aristotle's exploration of politics, making it difficult to separate ethical conduct from political action.

A political party, comprising individuals united by a common belief or a shared project, seeks to achieve the common good. General ethical principles and good governance principles should govern party work, steering it away from individual and factional interests.

Therefore, political activism is fundamentally a noble pursuit that addresses public affairs with the aim of enhancing and developing society.

Political parties constitute a vital pillar in democratic systems, serving the community in managing and advancing its affairs. The prosperity of a society is often intertwined with the vibrancy of its political landscape, as the foundational pillar of change largely rests on the programs of the parties and their performance in governance or opposition. In the former case, parties translate these programs into tangible projects and executable steps on the ground. In the latter, they oversee the actions of the ruling authority. In both scenarios, the ultimate goal is to achieve the community's welfare.

While political work is inherently noble, seeking the common, and political parties are deemed essential, it remains perplexing to explain certain behaviors and actions of these parties, particularly in Lebanon, where there is a lack of good governance and basic democratic principles.

This approach resonates with the belief of some that politics is the art of the possible – an art that maneuvers affairs to achieve a goal, irrespective of ethical values and principles of good governance.

The challenges faced by political party activities in Lebanon revolve around two pivotal aspects: internal performance, often deviating from the simplest rules of good governance, including commitment to democratic principles, accountability, participation in decision-making, transparency, and gender equality.

These parties operate within an outdated legal framework – the Ottoman Associations Law issued on August 03, 1909, consisting of 19 articles – an aspect that calls for modernization and improvement.

Second: The reality of political life in Lebanon

Despite facing numerous criticisms, political parties maintain a substantial presence within communities. The unfavorable view of them in Lebanon stems from historical practices spanning decades, where party interests frequently overshadowed the common good. This negative perception was further reinforced by militia-like actions carried out by parties during the civil war between 1975 and 1990.

In the midst of rapid global changes, political parties worldwide are facing a myriad of challenges. Some historical parties, like the communist and socialist parties in the former Soviet Union and Eastern Europe, as well as entities like “Rally for the Republic” and the Socialist Party in France, have either vanished or seen a decline in influence. Conversely, the nationalist or far-right parties have gained prominence in countries such as Italy, France, Hungary, etc.

Lebanon underwent a significant transformation post-1990 and the end of the civil war, shifting from a state characterized by diverse parties to one relatively subject to party authority. Notably, many warlords-turned political leaders secured pivotal state functions, transitioning from trenches and battlefronts to parliamentary and ministerial positions. Alongside them, party loyalists and supporters infiltrated public administrations and institutions, carrying with them their wartime practices of favoritism and the distribution of spoils, often at the expense of constitutional principles, laws, systems, and the common good.

The amendment of Decree No. 112/1959, governing the Civil Service System, stands as a significant legal shift allowing members of political parties in Lebanon to enter public service, a privilege previously denied to them. The underlying concern is not merely the association with a political party but rather the overshadowing of essential criteria such as competence and merit in the appointment process. This transforms public servants into instruments for advancing party interests rather than dedicated contributors to public service.

The current parliament comprises over 80 MPs affiliated with parties, along with a considerable number of independents aligned with major parties. Party influence extends its reach into municipal and elective councils, professional unions, associations, and sports clubs, showcasing the pervasive presence of political parties in the diverse facets of public life in Lebanon.

The parliament formed after the 1972 elections witnessed a notable representation of legal professionals, including figures like Raymond Edde, Bahij Takkieddine, Boutros Harb, Nasri Maalouf, Khatchig Babikian, Mikhael Al-Daher, Edmond Rizk, Hassan Al-Rifai, and Abdo Awaidat, among others. Personalities such as Camille Chamoun, Kamal Jumblatt, Pierre Gemayel, Raymond Edde, Edmond Rizk, Louis Abou Charaf, Edward Henein, Mahmoud Ammar, and others have significantly contributed to shaping a commendable parliamentary experience.

On the flip side, the General Council of 2022 stands out as one of Lebanon's councils with a notable absence of legal expertise. This "shortcoming" has been addressed by opening the door to collaboration with human right organizations and specialized associations. Representatives from these entities participate in parliamentary committee meetings dedicated to the discussion and examination of legislative projects and proposals.

In Lebanon, political parties encounter difficulties in promoting the required democratic pluralism within the country's rich liberal pluralistic heritage. Overcoming sectarian identities to foster openness towards others remains a significant challenge.

In summary, the elements of Lebanon's political scene can be summarized as follows:

1. Sectarianism in party identity

The majority of Lebanese parties maintain strong ties to their sectarian affiliations. Sectarian allegiance has become an integral component of their identity, with parties essentially becoming the party of their respective sects, seeking to strengthen their position in power.

It is evident that the sectarian environment serves as a fertile breeding ground for the growth of most political parties. One can assert that sectarianism provides conducive conditions for the flourishing of these parties. What stands out in this context is the diminishing role of non-sectarian parties, with one notable example being the Communist Party, which has failed to secure parliamentary representation.

Adding weight to this observation is the current leadership landscape, where many party leaders are former war heroes deeply tied to the defense and advocacy of their sectarian communities. A notable trend is the adoption of political inheritance, with leaders passing down their roles to their children or to close family members.

The Constitution, in its preamble, states that "the abolition of political confessionism shall be a basic national goal and shall be achieved according to a staged plan." Article 95 of the Constitution further specifies, "...take the appropriate measures to bring about the abolition of political confessionism according to a transitional plan. A National Committee shall be formed, headed by the President of the Republic."

This implies the emergence of non-sectarian, nationalist parties that promote citizenship and modernity. Despite some notable experiments like the Constitutional Bloc, the National Bloc, the Chehabi approach, and a few secular parties, Lebanese parties have maintained strong ties to religious identity, often with evident exploitation. This is a major challenge in Lebanese politics, as corruption stems from deviating from political practice as a means to achieve the common good. Instead of serving society, politics has become captive to the agendas of political parties.

2. Common Denominators:

Lebanese parties do not significantly differ in their organizational structures and fundamental principles. Without generalizing, they converge on a set of common denominators in their behaviors, summarized as follows:

First - The failure in governance experience: Since 1920, parties in Lebanon have been part of the power structure and governance, starting from independence in 1943, through the civil war in 1975, and into the post-war era. Party participation in power has varied across legislative and executive branches. They bear a share of responsibility for Lebanon's profound national crisis, acknowledging the role of internal and external factors contributing to the crisis. Therefore, it's crucial not to oversimplify the approach and solely attribute the current situation to the parties, recognizing the broader context and shared responsibility of all Lebanese citizens.

Second - Leveraging state capacities: The majority of Lebanese parties have engaged with the state and its capabilities, often diverging from the criteria of the public interest and principles of good governance. The policy of political patronage has prevailed at various levels, from parliamentary seats to positions of top-level administrators and first-tier employees. The ministerial statements of post-independence governments included commitments and promises to implement administrative reforms, emphasizing competence and merit in handling public sector affairs, implicitly acknowledging the existing dysfunction.

Despite President Fouad Chehab's attempt to establish a state of institutions, Lebanon has not witnessed a true institutional state. The term "state of disarray" has been coined to depict the prevailing reality.

Third - The decline of self-evaluation: Lebanese parties grapple with a leadership dilemma predominantly centered around a single leader, often within a family, and the associated inner circle. Party members often regard the primary leader as infallible, with justifications, arguments, and mitigating reasons presented in the event of issues related to a crucial or pivotal decision that yields negative consequences.

The practical result of this is that the parties' self-evaluation remains limited, if it exists at all.

3. Absence of good governance principles in party practices:

Political affair specialists argue that the term "good governance" is ambiguous when applied to political parties, as it is often associated with the performance of United Nations organizations and international bodies that strictly adhere to these principles.

The reality of political parties in Lebanon reflects a weak embrace of democratic, transparent, just, accountable, and participatory principles. Parties often resort to concentrating decision-making and authority exclusively in the hands of the leader or a close-knit circle surrounding them.

Observations reveal multiple deficiencies in internal party life in Lebanon, characterized by the absence of democratic practices in elections, oversight, and accountability. Internal party opposition is often restricted when it arises.

The scene tends to be dominated by the exclusive decision-making authority of the president or secretary-general, distancing itself from the broader party base.

4. Funding challenges:

Transparency is notably lacking in this domain. The sources of funding, whether foreign or domestic, from individuals or entities, remain largely undisclosed. The same opacity extends to financial oversight.

5. Weak presence of women:

Women struggle with a limited presence in influential party positions, especially in decision-making roles. The overall structure of parties is generally unfavorable to achieving gender parity.

First - At the decision-making level: The issue at hand isn't about what the party does for Lebanese women but rather for women within the party and whether the adopted mechanisms allow their presence and influence, especially at the decision-making level.

A UN Women study addressing the obstacles faced by female party candidates in the parliamentary elections of 2018 and 2022 revealed that the primary obstacle was the parties' failure to endorse and support their nominations adequately. In 2022, only 12 female party candidates lacked the necessary party support, a stark contrast to their male party counterparts, especially in terms of receiving preferential votes and campaign financing

Second - Political targeting: Female party members face political targeting through bullying campaigns on social media. These campaigns are not linked to their political capabilities, political ideas, or the content of their electoral battles but rather reduce them to being just women. For instance, women are criticized for deviating from family matters and "wasting" their time in electoral battles.

Third - Lack of transparency: The majority of political parties in Lebanon do not rely on transparent mechanisms in their nominations, diminishing women's chances when confronting men in party decision-making positions. In contrast, most parties in democratic countries resort to internal pre-election systems where party candidates are chosen based on the results of these elections.

However, in Lebanon, criteria such as family legacy and favorable relationships with party decision-makers play a pivotal role in the selection process.

Third: Ottoman Law on Associations:

Political parties in Lebanon are subject to the Ottoman Law on Associations, which does not distinguish between the activities of different associations. Consequently, political parties are treated equally under the law with social, environmental, women's and children's organizations, as well as those focusing on agriculture, hunting, etc.

This law, enacted before the declaration of Greater Lebanon, is considered a liberal law with an excellent general principle, akin to the French law of 1901, according to legal experts. However, it requires amendments to modernize it and align it with the current era, considering the political and social changes that have occurred.

The liberal essence of the law is highlighted through the following:

1. Adoption of the knowledge and information system:

This law adheres to the knowledge and information system rather than the licensing system, which grants authorities control over political parties. For example, it avoids situations where the authority could withdraw the license of an opposing party whose policies do not align with those of the ruling power.

Under this system, a party can be established simply by apply knowledge and information once the founders' intentions align. The law specifies that the legal personality of the party only comes into existence after the publication of the founding decision, whereas, according to the Ottoman Law, this personality is established upon the submission of the knowledge and information.

2. Conditions for the dissolution of parties:

No party can be dissolved except by a decree issued by the Cabinet, deviating from the principle of formal and procedural equality since parties are established by a decision through the knowledge and information received by the Ministry of Interior and Municipalities.

This provides a form of immunity for party activities, as the dissolution of parties in this case must be based on serious reasons to secure the required approval from the ministers for the dissolution decree.

The dissolution is also subject to the scrutiny of administrative justice. Therefore, the decree can be challenged before the State Shura Council.

Fourth: Steps required to achieve good governance in parties:

The issue must be approached comprehensively through comprehensive legislative, operational, and optional steps.

1. Developing the Ottoman Law on Associations:

The development of this law should be part of the required political reforms in Lebanon. What hinders it is not a legislative matter but the political will that remains the foundation.

Thus, it can be said that the legislative text alone is not sufficient. There are experiences in several countries where the party law includes provisions that restrict and regulate party activities.

The current Ottoman Law on Associations is no longer valid in 2023. There is no need to demand a new law specifically for parties without addressing other associations. Instead, what is required is the development of the current associations law, with specific provisions for parties, especially since Article 13 of the Constitution guarantees the right to form associations. The Article states: "The freedom to express one's opinion orally or in writing, the freedom of the press, the freedom of assembly, and the freedom of association shall be guaranteed within the limits established by law."

There were two attempts in 1974 and 1982 (through a legislative decree) to enact a party law, both facing challenges in respecting Article 13 of the Constitution.

Any law that contradicts the freedom to form associations stipulated in Article 13 mentioned above can be challenged before the Constitutional Council.

Amending the law or introducing new party legislation should address three main issues:

First - Enhancing participation: Participation ensures the activation of party life, especially in decision-making processes and the necessary mechanisms for transparency and accountability, thus ensuring the principles of good governance.

Second - Financial oversight: This poses the most significant challenge, and the Ottoman law is insufficient to achieve the required oversight.

The law issued in 1962, implemented by Decree 1830, stipulates that associations, including parties, must annually submit a list of their financial documents (account statements and budget) and a list of members. However, this is not currently enforced, contrary to the principles of good governance. Before amending the Ottoman law, existing laws should be implemented.

According to this law, the relevant ministry, the Ministry of Finance, audits the financial accounts of the association. The Ministry of Finance has not submitted any requests to the Ministry of Interior and Municipalities for the budget or financial statements of any association.

In 2010, an attempt was made to amend the Ottoman law to facilitate the required audit by the donor agency for the association.

The Special Investigation Commission at the Central Bank of Lebanon has proposed an advanced draft law stipulating the financial supervision of associations under Law 44/2015 on combating terrorism, money laundering, and tax evasion.

Under no circumstances should the required oversight become a sword hanging over the heads of parties, preventing them from fulfilling their necessary role in the political arena.

Experience from democratic countries can be valuable, as the current trend leans towards adopting a public funding system for parties based on their proportional representation and the number of members, in addition to private funding from individuals and legal entities.

Third - Basic organizational affairs: Amendments should address the conditions for establishing parties, membership requirements, dissolution methods, specific cases for dissolution, and other organizational matters.

2. Optional application of good governance principles:

Political parties can voluntarily apply, independently of legislation, the fundamental principles of good governance. By adhering to transparency, they may publish their annual budgets and financial statements for the previous year, disclosing funding sources and detailing how available funds are spent.

They can also enhance internal control mechanisms and promote participation at various levels in decision-making, ensuring accountability. This prevents performance from being solely reflective of individual leadership and emphasizes the visual representation of oversight, participation, and accountability.

3. Adoption of a temporary women's quota:

This option can be pursued through legislation or voluntarily by political parties, to enhance women's representation. This measure should be for a limited period, facilitating the democratic transition towards active women's participation in political life.

In several democratic countries, the state funds parties that nominate women through a special fund. This funding is utilized to support their election campaigns.

4. Initiating a debate on the desired party system:

Several political experts advocate adopting a multi-party system, with the necessary amendments to the Ottoman Law on Associations. Others argue that a radical solution involves reverting to the two-party system Lebanon had before, especially with the Constitutional Party and the National Bloc, both of which included members from diverse sects. This option is also embraced by several democratic countries, such as the United States (Republican and Democratic parties) and the United Kingdom (Conservatives and Labour).

Some experts believe that the adopted political system, be it centralized or decentralized, plays a significant role in determining the desired party system.

It is crucial to open a broad discussion on this sensitive and important topic.

Fifth: Conclusion

The reform of Lebanon cannot be envisioned without implementing the principles of good governance across various influential sectors. It has become essential to approach the development of the Ottoman Law on Associations from a reformative standpoint because a robust political life relies on parties engaging in sound practices. This development might open the door to a transformed political landscape founded on democratic actions aimed at societal well-being.

The sought-after solution originates from two elements: voluntary behavior and the enhancement of laws.

It is evident that political reform should be comprehensive and multifaceted. The problem extends beyond the existing gaps in the Taif Constitution, which need addressing, to include the Law on Associations that significantly influences political life. Additionally, it encompasses the criticized party practices, dating back to the inception and birth of political parties.

Implementing the proposed suggestions in the paper would mark the initial stride toward a substantial transformation.

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