

Lebanon: Constitutional Law and the Political Rights of Religious Communities

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LEBANON

CONSTITUTIONAL LAW AND THE POLITICAL RIGHTS OF RELIGIOUS COMMUNITIES*

Executive Summary

The Lebanese constitution of 1926, as amended, is still in force today. Its main feature is the representation given to the various religious communities in public employment, the formation of government, and the selection of the legislature. It guarantees basic individual rights and freedoms and provides for a parliamentary form of government. The major amendments agreed to in 1989 shifted the balance of executive power from the Presidency of the Republic to the Council of Ministers. In 2008 following a military operation undertaken by Hizbullah, an agreement among the main political parties was concluded in Doha. This agreement reflected a de facto acknowledgement that no major decisions by the Lebanese government can be made without the consent of all major religious communities, no matter how large the majority supporting the government may be.

I. Introduction

On May 23, 1926, only a few years after Lebanon came into existence as a separate political entity under French mandate following the defeat of the Ottoman Empire in World War I, the French High Commissioner in Beirut promulgated the first Constitution adopted by the Lebanese Representative Council.¹ Article 1 of the Constitution declared Lebanon an independent state within its territorial boundaries as recognized by the Government of the Republic of France and by the League of Nations.² Other provisions of the Constitution provided for the establishment of a parliamentary form of government based on the democratic principles of protection of individual rights and freedoms, separation of powers, and the rule of law.

* This report is based on a speech delivered by the author as a guest speaker at the Lebanese American University, Beirut, Lebanon, in 2009.

¹ AL-JARIDAH AL-RASMIYAH [LEBANESE OFFICIAL GAZETTE] [O.G.], No. 1984 Supp., May 25, 1926.

² On July 24, 1922, the Council of the League of Nations entrusted to France a mandate to render administrative advice and assistance to the population of Lebanon and Syria in accordance with the provisions of article 22, para. 4, of the Covenant of the League of Nations. For a copy of the Mandate Charter, see LEAGUE OF NATIONS, PERMANENT MANDATES COMMISSION, MANDAT POUR LA SYRIE ET LE LIBAN (Geneva, 1922) (LOC Call No. JX1975.A2 1922.A.34.vi).

But the feature most unique to the Lebanese Constitution was its requirement to have the religious communities represented in public employment, the formation of the Council of Ministers or Cabinet, and the selection of members of the legislature.³ This representation transformed the Lebanese political system into a quasi federation among the various religious groups that became known as *al-nizam al-taeifi* or the confessional regime, where religious affiliation determined the extent of one's political rights and privileges.

Subsequent constitutional amendments and agreements, such as the Taef and Doha agreements, discussed below, reinforced and expanded the role of religious affiliation in the political structure of government. Some of these amendments and agreements were concluded outside the normal constitutional process and have not been fully integrated into the written text of the Constitution.

II. Individual Rights and Freedoms

The following three rights are among those protected by the Constitution:

1. *The right against arbitrary arrest or detention.* Article 8 states that personal freedom is protected and no one shall be apprehended, detained, or imprisoned except in accordance with the provisions of the law. It also subscribes to the *nullum crimen principle* under which no crimes or punishments can be established except by law.
2. *The right to private ownership.* Article 15 stipulates that ownership is protected by law and that no one shall be deprived of his property except for the public interest as described by law and after receiving fair and just compensation.
3. *The right to be secure in one's own domicile.* Article 14 provides that the domicile is inviolable and that no one shall be allowed to enter it except in the instances and by the means described by law.

The Constitution also guarantees the following freedoms:

1. *Religious freedom in all of its manifestations.* Article 9 stipulates that the freedom of belief is absolute and the State shall respect all religions and denominations, ensure free exercise of religious rites, and respect religious interests and personal status laws.
2. *Freedom of education.* Article 10 specifically provides for the right of religious communities to have their own schools, subject to compliance with applicable governmental regulations.
3. *Freedom of speech, freedom of association, and freedom of the press.* Article 13 stipulates that freedom of expression orally or in writing, freedom of the press, freedom of assembly, and freedom to form associations shall be guaranteed within the confines of the law.

³ The Lebanese Constitution arts. 24, 95.

As to the principle of equality, article 7 unequivocally stipulates that “[a]ll Lebanese are equal before the law. They enjoy equal civil and political rights and are subject to public duties and obligation without distinction among them.”⁴ Article 12 further stipulates that “[e]very Lebanese has the right to hold public office without preference of one over another except for merit and competence in accordance with the terms stated by law[.]”

III. Separation of Powers

The Constitution divides the powers of the state among three branches of government—the legislative branch, the executive branch, and the judicial branch.

A. Legislative Branch

Article 16 of the Constitution originally vested the legislative power in a Parliament composed of two separate bodies—a Senate and a House of Deputies. Article 22 provided that the Senate shall consist of sixteen members, seven of whom are appointed by the President of the Republic in consultation with the ministers, and the remaining nine are elected.

A constitutional amendment adopted in 1927 abolished the Senate and divided the members of the House of Deputies into two categories:

1. Members who are elected and whose number and modality of election are governed by Decree No. 1307 of 1922 or any subsequent law replacing it; and
2. Members appointed by the President of the Republic in a decree taken at a Cabinet meeting ensuring similar representation of the religious communities and the electoral districts as prescribed in the electoral law in force (the number of the appointed members was half of those who are elected).⁵

In March 1943 a constitutional amendment issued by the French High Commissioner abolished the appointed category and required all members of the House of Deputies to be elected.⁶ At present the House of Deputies consists of 128 members⁷ who represent the whole nation and their mandate cannot be restricted by those who elect them.

The Constitution gives every Lebanese citizen twenty-one years or older the right to vote if he meets the conditions required by the electoral law in force.⁸

⁴ All translations of this and other articles of the Lebanese Constitution from Arabic into English in this report are the work of the author.

⁵ The Lebanese Constitution art. 24, *as amended*, O.G. No. 2116, Oct. 19, 1927.

⁶ Decree No. 129 of March 18, 1943.

⁷ Law No. 25 of 2008 art. 1.

⁸ The Lebanese Constitution art. 21.

The House of Deputies convenes every year in two ordinary sessions. The first session starts on the Tuesday following the 15th of March and continues through the end of May; the second starts on the Tuesday following the 15th of October and continues to the end of the year.⁹ The President may, with the consent of the Prime Minister, call the House of Deputies to meet in extraordinary session, and he is required to do so if a request is made to this effect by a majority of the deputies.¹⁰

The House of Deputies has the power to:

- Legislate (art. 16);
- Confirm or disapprove of the formation of the Cabinet (art. 64);
- Oversee the performance of the Cabinet and its ministers and vote them out of office when necessary, (arts. 37, 69);
- Elect the President of the Republic (art. 49);
- Ratify certain categories of international treaties and agreements (art. 52); and
- Approve the annual budget of the State (art. 32).

No meeting of the Parliament is legally constituted unless the required quorum is present. The quorum for meetings convened to conduct the regular business of Parliament is the simple majority of its members.¹¹ For meetings convened to discuss proposed amendments to the Constitution the required quorum is two-thirds of the total number of deputies.¹²

The provisions of the Constitution are not clear on the issue of the quorum needed to elect the President. In 2008 there was an intense debate on this issue when the mandate of the outgoing President ended and the Parliament failed to elect a successor. Some argued that the electoral quorum is constituted when a simple majority of the deputies is present; others argued that no quorum exists unless two-thirds of the members of Parliament are in attendance.¹³

The issue was not resolved but became moot when the political leaders met in Doha, Qatar, in late May 2008, and agreed to elect the chief of the army as president, despite their

⁹ *Id.* art. 32.

¹⁰ *Id.* art. 33.

¹¹ *Id.* art. 34.

¹² *Id.* art. 77.

¹³ For a discussion on this topic, see ISSAM MICHAEL SALIBA, *LEBANON: PRESIDENTIAL ELECTION AND THE CONFLICTING CONSTITUTIONAL INTERPRETATIONS* (Law Library Report, Oct. 2007), <http://www.loc.gov/law/help/lebanon-election.php>.

knowledge that he was not eligible to be a candidate under article 49 of the Constitution until two years or more after the date on which he left the army.¹⁴

B. Executive Branch

In its original stipulation, article 17 of the Constitution vested the executive power in the President of the Republic with the assistance of the ministers. The ministers are not members of Parliament but members of Parliament can serve as ministers.¹⁵

C. Role of the President

Article 60 provides in pertinent part that no responsibility attaches to the President of the Republic in the performance of his duties unless he commits high treason or violates the Constitution.¹⁶ This is why the Constitution requires the President to be assisted by the ministers in the discharge of his official duties, with article 17 stipulating: “The executive power shall be entrusted to the President of the Republic who shall exercise it with the assistance of the ministers in accordance with the terms of this constitution.” Article 54 adds the following: “The concerned ministers countersign with the President on all presidential decisions except those decisions relating to the appointment and dismissal of ministers.” The assistance of the ministers is necessary to shield the President and substitute for him in assuming political responsibility before the House of Deputies.

Under the Constitution the President had the power to:

- Appoint and dismiss the Prime Minister and the ministers (art. 53);
- Preside over meetings of the Cabinet;
- Make appointments to public office (art. 53);
- Negotiate and conclude international treaties (art. 52);
- Propose new legislation (art. 18);
- Promulgate the laws as approved by Parliament (art. 51);
- Remit to Parliament for reconsideration laws that the Parliament has already approved (art. 57); and
- Dissolve the Parliament (art. 55).

¹⁴ See Doha Agreement, *infra* note 31.

¹⁵ The Lebanese Constitution art. 28.

¹⁶ The Constitution does not define the meaning of “high treason” (*khianat uzma*) or explain how it differs from normal treason.

D. Role of the Prime Minister and the Cabinet

The role of the Prime Minister and the Cabinet were only briefly mentioned in the Constitution. Except for a few cursory references, such as in articles 53 and 66, the Constitution was silent on this issue.

In its original version, article 53 provided that the President was to appoint the ministers and nominate one from among them to be Prime Minister. Article 66 gave the Prime Minister or a minister acting on his behalf the task of delivering to the House of Deputies the ministerial declaration upon which the Cabinet sought a vote of confidence confirming its appointment. However, the office of Prime Minister evolved through customary practices to acquire a constitutional role that was not defined in the Constitution. Among the functions that the Prime Minister assumed were the following:

1. *Presiding over ministerial meetings to discuss and review matters of governance.* However, these meetings were not considered Cabinet meetings representing the Executive Branch. A cabinet meeting could not be officially held without the President of the Republic presiding.
2. *Participating with the President in the formation of the Cabinet.* The practice was for the President to first nominate the Prime Minister who in turn consulted with the political groups in Parliament and reviewed the results with the President. The President then issued a decree, countersigned by the Prime Minister, appointing the ministers and designating their portfolios.
3. *Countersigning all other presidential decrees along with the ministers concerned.*
4. *Representing the Cabinet before the Parliament.*
5. *Exercising oversight over the work of the ministries.*

Yet, the role of the Prime Minister did not significantly infringe upon the power of the President, who always retained the authority to dismiss the Prime Minister at will.

As to the role of the Cabinet, it was not clear whether it constituted an organ of the executive branch separate from the President. Did the Cabinet have, for example, the legal power to disapprove of a presidential decree required to be taken in a Cabinet meeting if the concerned minister co-signed the decree? It is doubtful that the Cabinet had any such power and even if it did there is no evidence that it was ever exercised against the President.

E. The Judicial Branch

The Constitution addresses the Judicial Branch in one single article. Article 20 stipulates that:

Judicial power is exercised by the courts of all levels and jurisdictions within the framework prescribed by law that shall provide the necessary guarantees to both judges and litigants.

The conditions and limits of judicial guarantees shall be determined by law. Judges are independent in the exercise of their duties and their decisions and judgments shall be rendered in the name of the Lebanese people.

However, the laws enacted to organize the judiciary did not rise to meet the goals of article 20. The executive branch, through the Ministry of Justice, played a role in the appointment, promotion, and reassignment of judges, which brings the independence of the judiciary as a separate branch of government into question.¹⁷ Furthermore, neither the House of Deputies nor the Cabinet has made any efforts to establish a court with jurisdiction to decide on the constitutionality of laws or protect constitutional rights.

In a 1990 amendment, a constitutional court was established with limited jurisdiction and restricted access to its review. Under this amendment, only the President, the Speaker, the Prime Minister, and a minimum of ten deputies have the right to petition the court for review of the constitutionality of laws and resolution of disputes arising out of presidential or parliamentary elections. In addition, the heads of the recognized religious communities were also given the right to petition the court on matters related specifically to personal status, freedom of belief, the exercise of religious rites, and freedom of religious education.¹⁸ The law recognizes nineteen religious communities comprising eleven Christian, five Muslim, and three Jewish communities.¹⁹

IV. Rule of Law, Autonomous Churches, and Religious Representation

The original 1926 Constitution gave the religious communities in the then newly constituted western-style nation-state of Lebanon the right to be a part of the governing political structure.

Historically the religious minorities enjoyed a great deal of autonomy and freedom under the protection of Sharia' law, allowing Christians of various denominations and other groups to survive the political persecution exacted against them from time to time by the rulers of the Islamic state.²⁰ The drafters of the Lebanese Constitution could not ignore this historical reality

¹⁷ See Law No. 150 of 1983.

¹⁸ The Lebanese Constitution art. 19, *as amended*.

¹⁹ Law No. 553 of 1996.

²⁰ For a legal and historical discussion on this subject, see EDMOND RABBAT, *LA CONSTITUTION LIBANAISE: ORIGINES, TEXTES ET COMMENTAIRES* 1982 at 98-138 (1982).

given that Lebanon had become a multi-denominational state, with the Muslims losing their majority status for the first time. To ensure some level of equilibrium among all the components of the new state, article 95 of the Constitution addressed the issue by stipulating that:

As a temporary measure ... and for the sake of justice and concord the religious communities shall be equitably represented in public employment and in the formation of the Cabinet without causing harm to the interests of the State.

While contradicting the equality principle that article 7 strongly guaranteed, the positive aspect of this article was that it left open the opportunity, at least theoretically, for any individual to be employed in any public position or ministerial post; in other words, it did not assign specific positions to specific communities.

Article 96 provided for the division of the Senate seats among the religious communities by allocating five seats to the Maronites, three to the Sunnis, three to the Shias, two to the Greek Orthodox, one to the Greek Catholics, one to the Druze, and one to the minority denominations. The minority denominations are all those who are not assigned specific seats, meaning all who are not Maronites, Sunnis, Shias, Greek Orthodox, Greek Catholics, and Druze.

Furthermore, Decree No. 1307 of 1922 and all subsequent electoral laws to which article 24 of the Constitution referred²¹ allocated the seats of the members of the House of Deputies among the various religious denominations in a number that varied over time.²²

Because of apportionment on the basis of religious affiliation, for all practical purposes the deputies have become more the representatives of the religious communities whose seats they occupy rather than representatives of the whole nation or even the geographic districts that elected them.

V. The National Pact of 1943

Despite the declaration of article 1 of the Constitution, Lebanon was not an independent state. Article 90 stipulated that the mandatory power must preserve its rights and duties under article 22 of the Charter of the League of Nations and the terms of the mandate. France interpreted such rights to include the power to suspend the Constitution, shut down the House of Deputies, and dismiss the Cabinet and the duly elected President.²³

In 1943, two political leaders, Bechara al-Khuri, the Maronite Christian President, and Riad al-Solh, the Sunni Muslim Prime Minister, orally agreed to end the French mandate. Their agreement became known as *al mithaq al-watani* or the National Pact.

²¹ The Lebanese Constitution art. 24, *as amended*, O.G. No. 2116, Oct. 19, 1927.

²² The present electoral law in force is Law No. 25 of 2008, available at <http://www.lp.gov.lb/Client%20Resources/Download%20Pages/202008%20الانتخابات%20النيابية.doc> (in Arabic).

²³ See Decrees 55/LR & 56/LR of May 9, 1932 (issued by the French High Commissioner), O.G. No. 2656 of May 13, 1932, at 2, 3.

In order to understand the substance of the National Pact one has to go back to 1920, when the Allied Powers ceded control to France over a part of the occupied Ottoman territories of the Levant. Shortly thereafter, General Gauraud, acting on behalf of the French Government, declared the creation of the present State of Lebanon under the name of the State of Greater Lebanon.²⁴ Greater Lebanon consisted of the historical Ottoman Province of Mount Lebanon, inhabited mainly by Christians and Druze, and of several districts of other provinces inhabited mainly by Sunnis and Shiites.

The fault line in this newly constituted state was the lack of consensus among its inhabitants about their national identity. Most Muslims identified themselves as Arabs with an aspiration to unite with Syria and the rest of the Arab lands; most Christians identified themselves as Lebanese with an aspiration to maintain a close and special relationship with the West in general and France in particular as their protectors. This unsettled or confused identity was a major hindrance to the development of a normal Lebanese state and divided the Lebanese polity on most political issues, including the necessity of ending the mandate, along sharp religious lines.

Bechara el-Khoury and Riad el-Solh realized the importance of dealing with this national identity crisis in a manner palatable to both Christians and Muslims if their efforts to end the mandate were to be successful. The solution they offered was to acknowledge the Arab identity of Lebanon and accept the legitimacy and independence of the Lebanese state as a final homeland for all of its citizens. In other words, they offered Christians and Muslims a compromise whereby Christians would accept their Arab identity and forgo dependence on the West for protection and Muslims would accept their Lebanese identity and forgo their aspiration to be a part of a larger Arab state.

This compromise manifested itself in the program of the first Cabinet of Prime Minister Riad al-Solh as outlined in the ministerial declaration delivered to the House of Deputies on October 7, 1943.²⁵ In this declaration Riad al-Solh stated that Lebanon has an Arab face, that the government will seek constitutional amendments to end the mandate, and that it will establish close relations with the Arab states and protect the full independence, sovereignty, and present territorial boundaries of Lebanon.

In November 1943 the House of Deputies adopted the constitutional amendments proposed by the Cabinet and eliminated all references to the mandate from the Constitution. France reluctantly accepted the independence of Lebanon as a matter of fact and started to transfer powers to the Lebanese Government, as evidenced by the exchange of notes between the United States and Lebanon in which the American Diplomatic Agent G. Wadsworth wrote on September 7, 1944, to the Foreign Minister of Lebanon, stating that:

[The United States Government] has observed with friendly and sympathetic interest the accelerated transfer of governmental powers to the Lebanese and Syrian Governments

²⁴ See V ENCYCLOPAEDIA OF ISLAM *Lubnān* at 787 (C.E. Bosworth et al. eds., 1983).

²⁵ Relevant parts of the ministerial declaration are reproduced in EDMOND RABBAT, *AL-WASIT FIL QANON AL-DOUSTOURI AL-LUBNANI* 438-43 (1970).

since November 1943 and now takes the view that the Lebanese and Syrian Governments may now be considered representative, effectively independent and in a position satisfactorily to fulfill their international obligations and responsibilities.²⁶

The National Pact was, in essence, a political compromise between the two major religious communities to obtain independence and continue to govern the state on the basis of the religious representation provided for in the Constitution. However, following independence the customary practices expanded the religious representation to include assigning certain offices to certain communities both in administrative and political positions, including the top constitutional offices of President, Prime Minister, and Speaker of the House.

Some consider this expansion to have been a part of the National Pact.²⁷ While the spirit under which the National Pact was concluded may have contributed to this expansion, the evidence indicates that the expansion was not a part of the agreement between al-Khoury and al-Solh. Otherwise it would be very difficult to explain how the House of Deputies elected an Orthodox Christian, Habib Abu Shahla, as its Speaker from October 22, 1946, until April 7, 1947, instead of a Shiite Muslim.²⁸ This expansion was also at odds with Riad al-Solh's ministerial declaration, in which he expressed the desire of the government to work towards eliminating the confessional regime used in most instances, according to the declaration, to serve private interests and damage the national discourse. Furthermore, the religious representation in the House of Deputies on the basis of 6-to-5 ratio in favor of the Christians was not, as some believe, the result of the National Pact but of a July 1943 decision by the representative of the French Mandate, made shortly before the election that brought al-Khoury and al-Solh to power.²⁹

VI. The Taef Agreement

The National Pact succeeded in ending the mandate, but failed to transform Lebanon into a cohesive functioning state. The political position of the various groups continued to be divided mainly along religious lines. It was only a matter of time before the political divide between Christians and Muslims exploded into a full armed conflict. This explosion occurred in 1975 and lasted until 1989, when the surviving deputies elected in 1972 met in Taef, Saudi Arabia, and agreed on a modest restructuring of the confessional regime to placate the warring factions and end the fighting.³⁰ A smaller but similar conflict had occurred earlier in 1958 during which the

²⁶ Exchange of Notes Constituting an Agreement Between the United States of America and Lebanon Relating to the Recognition of the Independence of Lebanon and to the Rights of the United States and Its Nationals, Sept. 7-8, 1944, 188 U.N.T.S. 1952, available at http://untreaty.un.org/unts/1_60000/3/38/00005878.pdf. This exchange of notes recognizing the independence of Lebanon was filed with the United Nations at the request of the United States on March 20, 1952.

²⁷ LEBANESE PARLIAMENT & UNDP, SIXTEENTH REPORT, CONSENSUAL DEMOCRACY IN THE WORLD AND IN LEBANON 29 (2007), available at [http://www.lp.gov.lb/Client%20Resources/Download%20Pages/\(16\)%20DEMOCRATIE%20CONSENSUELLE.pdf](http://www.lp.gov.lb/Client%20Resources/Download%20Pages/(16)%20DEMOCRATIE%20CONSENSUELLE.pdf) (in Arabic).

²⁸ For names and pictures of speakers of the Lebanese Parliament, see <http://www.lp.gov.lb/PhotoGalleryAr.Asp?id=4738> (last visited Nov. 10, 2010).

²⁹ Decree No. 312/FC of July 31, 1943, O.G. No. 4093, p. 11327.

³⁰ For an account of the 1975 conflict, see *Background Note: Lebanon*, U.S. DEP'T OF STATE (Mar. 22, 2010), <http://www.state.gov/r/pa/ei/bgn/35833.htm>.

United States Marines landed in Beirut in response to the crisis and helped restore order and return the country to normalcy.³¹

The Taef Agreement required, and the House of Deputies adopted, the following amendments to the Constitution:

1. A provision stipulating that “[t]here shall be no legitimacy to any authority that contradicts the pact of co-existence” (however, there was no explanation as to what pact was being referred to or what legal consequences would result from contradicting this pact) (Preamble);
2. The vesting of the executive power of the State in the Council of Ministers rather than in the President (art. 17);
3. The necessity of a two-thirds vote by the Cabinet on all major decisions (art. 65);
4. The creation of a Constitutional Court (art. 19);
5. The distribution of the seats of the House of Deputies or Parliament equally between Christians and Muslims and proportionally among each of them until such time as the House of Deputies has enacted an electoral law not on the basis of religious representation (art. 24); and
6. The creation of a Senate where all religious communities are to be represented when the members of House of Deputies are no longer elected on a confessional basis (art. 22).

The Taef Agreement stripped the President of his constitutional powers and arguably left him with only one effective tool of governance—the authority to appoint the members of the Cabinet as agreed with the Prime Minister. It is interesting to note that under the Taef Agreement the President is the Supreme Commander in Chief of the Army but that the Army is under the authority of the Cabinet in which the President does not have the right to vote.

VII. The Doha Agreement

The Taef Agreement failed to address the issue of the confused national identity, which is the underlying reason for the perennial conflict in Lebanon. The sponsors of the Agreement—the Arab League, Saudi Arabia, and Syria—were content to have been able to put an end to the fighting and bring Lebanon back to a semblance of normalcy. The Taef Agreement was a repackaged version of the National Pact. On the one hand it acknowledged the need to end the confessional regime in the future, but on the other it redistributed the executive power on a confessional basis by expanding the power of the Sunni Prime Minister and the Cabinet at the expense of the Maronite President.

³¹ For an account of the U.S. Marines’ mission in Lebanon, see JACK SHULIMSON, *MARINES IN LEBANON* 1958, available at <http://www.au.af.mil/au/awc/awcgate/usmchist/lebanon.txt> (last visited Nov. 10, 2010).

In the post-Taef Agreement era the question of national identity became even more confused. The major split was no longer limited to Christians against Muslims but expanded to include Sunnis against Shiites. Following the withdrawal of Syria in 2005 a constitutional crisis developed between a Sunni dominated Cabinet and a Shiite dominated opposition, resulting in the withdrawal of all Shiite representatives from the Cabinet.

A new version of the 1975 war showed its ugly face briefly when, on May 7, 2008, a Cabinet meeting lacking Shiite representation adopted two decrees considered hostile to the Shiite organization of Hizbullah that were summarily rejected by the majority of the Shiite community. A few days later fighters allied with Hizbullah took over the Sunni area of West Beirut and forced the Cabinet to retract its decrees. This was enough for all the parties involved to rethink their positions, meet in Doha in May 2008, and agree to:

1. Elect a consensus candidate to the post of President that had become vacant several months earlier;
2. Form a national unity government in which the opposition (Hizbullah and its allies) has veto power over major decisions; and
3. Conduct a parliamentary election according to an earlier law thought to reflect a more accurate representation of the Christian religious communities.³²

In reality the Doha Agreement was an acknowledgement that no major decisions of the Lebanese Government can be effective without the consent of all major religious communities, regardless of how large the majority supporting the Government in the House of Deputies may be. This Agreement was not consistent with the provision of the written Constitution to which the Lebanese polity is supposed to refer in resolving their political differences.

VIII. Conclusion

The Doha Agreement, like the ones preceding it, was a tacit acknowledgement by the Lebanese political leaders that constitutional rule in Lebanon is subordinate to the consensus of its major religious communities, irrespective of the democratic rule under which the parliamentary minority submits to the majority. When such a consensus occurs, all constitutional barriers can be removed either within or outside the constitutional process, as illustrated by the election of the current President of the Republic before the expiration of the two-year period prescribed in article 49 of the Constitution.

Prepared by Issam Saliba
Senior Foreign Law Specialist
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³² An English translation of the Doha Agreement is available online, at <http://www.nowlebanon.com/NewsArchiveDetails.aspx?ID=44023> (last visited Nov. 10, 2010).