

**Basic Law and Constitutional Pact**

*for the*

**Federal Republic of Lebanon**

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*This document was prepared by Iyad Georges Boustany in compliance with PRINCIPIA POLITICA Politics & Ethics under Scaling and Uncertainty Nassim Nicholas Taleb ( [www.academia.edu/38433249/Principia\\_Politica](http://www.academia.edu/38433249/Principia_Politica) )*

## I – Preamble

Lebanon is the aggregation of four (4) different national narratives (“*Roman Nationaux*”), deriving from four (4) distinct “Cultural Groups” (each also referred to as an “Ethno-Cultural Group” or a “Group” or an “Identity” or a “Community”) living side-by-side on the territory that is currently the Republic of Lebanon, are distinct groups of individuals sharing within each Group and amongst themselves a specific set of values, beliefs, references, history, and background. The members of these Groups are specifically registered as Lebanese nationals. The four (4) Groups are the Sunni, Shia, Druze, and Christians.<sup>1</sup>

While each Group keeps its national narrative, history, references, hopes and dreams, culture, civilization, and religion, each Group has agreed to enter into one supra national entity called the Federal Republic of Lebanon.

Each Group will be able to administer and handle its own affairs within its own Canton/Region under laws each Group decides to impose upon itself.

After being adopted by all four Cantonal Parliaments, the Federal Parliamentary, meeting in public session in Beirut, confirmed, signed, and promulgated the Basic Law for the Federal Republic of Lebanon. The Basic Law is hereby published in the Federal Official Gazette.

Lebanese in the Chiite, Druze, Sunni and Christian Cantons, have decided to live amongst themselves in peace and prosperity. This Basic Law thus applies to the entire Lebanese population organized under the four (4) ethno-religious Groups.

All the provisions of the current constitution shall be amended and replaced by this Basic Law.

The present Basic Law shall prevail in case of any contradiction between the present Basic Law and any previous text, law, decree, constitution, decision, order, or judgement.

This federation deed is valid until 2099 and will be resubmitted for vote at that time. It can be terminated earlier in certain instances where the federal government ceases to perform its function or under certain other conditions stated herein.

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<sup>1</sup> As a matter of Fact, the Christian Group is diverse and is composed of various Sub-Groups. For the purpose of this Federal Constitution, the Sub-Groups will be considered as one homogenous group. The Cantonal Laws will have to agree with each Sub-Group of their reserved rights, requirements, and representation. More specifically, it is provided for in this Constitutional document that all positions within the Canton are open to all Canton Citizens without distinction. Therefore Armenians, Greek Orthodox, and Maronites, among others, all have access indiscriminately to all positions. As for parliamentary representation, some Sub-Groups may want to have “reserves seats.” The matter will be discussed and resolved at the Cantonal level.

## II – Summary of Governance Framework

Lebanon, in its current boundaries, houses four (4) different Ethno-Cultural **Groups**, namely: Sunni, Shia, Druse, and Christian. The result of which is a four (4) **cantons federal country**.

The Federal model has three (3) governance layers: Municipalities, Canton/Region, and Federal. Within the Christian Ethno-Cultural Groups, there are several communities.

All Lebanese Nationals shall also be Canton Citizens (depending on the Group they belong to) and Municipal Residents (depending on their elected primary domicile). The political rights and obligations stem from the Lebanese Nationality, the Cantonal Citizenship, and the Municipal Residency.

**There are two (2) electoral colleges**, one for the municipal elections and another for the cantonal elections.

The Municipal Electoral College is based on residency (ie Municipal registration of residency), and therefore, all residents over eighteen (18) can participate as voters irrespective of their belonging to a particular Group.

The Cantonal Electoral College, tasked with electing members of parliament as well as the cantonal prime minister, is comprised of all the men and women belonging to the relevant Group irrespective of their residency. Voters vote based on their “hometown” of birth. The system retained herein is two-round “uninominal” i.e. an electoral system that elects one Member of Parliament from each district (as redefined herein see maps attached). The voting system is designed to elect a single winner where a second round of voting is used if no candidate wins an absolute majority in the first round (“*scrutin uninominal majoritaire à deux tours*”). For avoidance of doubt, all voters have to belong to one same Group (with possible accommodation within the Christian Group for positive discrimination to ensure representation of sub-Group sensibilities like Armenians, Orthodox, etc....).

Cantonal elections are held to elect (i) Cantonal Parliament and (ii) the Canton Prime Minister. Parliament and the Prime Minister are elected for four (4) year terms.

All four (4) Canton Prime Ministers compose the Federal Government. And they choose the eldest among them to serve as the President of the Federation for one (1) year. The four (4) Canton Prime Ministers rotate thereafter by age.

Parliamentarians of each Canton compose the Federal Parliament. The President of the Federal Parliament is the president of the Cantonal Parliament chosen by age (the eldest to the youngest) for a period of one (1) year.

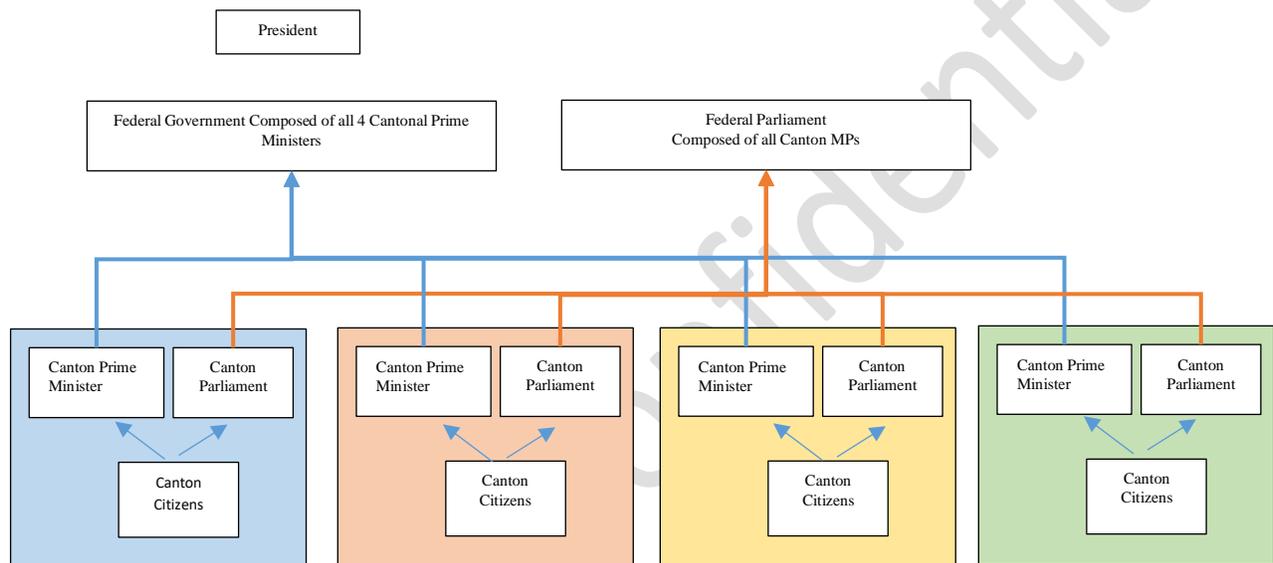
Each Canton is geographically delineated as being the aggregation of all the municipalities belonging to such Canton. The Municipalities belonging to a Canton are those whose native electors/residents at the time of the approval of this Basic Law compose at least 67% of that Canton’s Ethno-Cultural Group.

A **Cantonal Citizen** is a person belonging to the Ethno-Cultural Group of his canton irrespective of his Municipal Residency. The **Municipal Resident** is any resident of any municipality. Municipal Residents vote in the municipality in which they reside.

**Here are some basic indicative reference numbers. These will be firmed out once the maps and the statistical work is finalized.**

1. The number of Canton MPs are proportionate to the overall population. It is expected to be around: 100 Christian, 100 Sunni, 100 Chiite, and 25 Druse.
2. There should be 1 MP for each 10,000 inhabitants. For the rationale behind the suitable electoral law, see attached Appendix B.

### Governance Schematic Overview



The above schematic describes the cantonal elections (i.e. per Group members) for legislative and executive powers. Another schematic will describe the vote of each residence in his municipality, such vote to happen based on residency and irrespective of the Group to which one belongs.

## III – The Basic Rights

### Article 1 Human rights

Insofar as the Cantonal laws do not state otherwise, the following basic rights shall bind the legislative, the executive, and the judiciary as directly applicable to the law of each Canton.

### Article 2 Personal freedoms and collective freedom

- (1) Every person shall have the right to free development of his personality insofar as he does not violate the rights of others. Every person shall have the right to life and physical integrity. Freedom of the person shall be inviolable.
- (2) Every Community shall have the right to the free development of its personality insofar as it does not violate the rights of others. Every Ethno-Cultural Group shall have the right to live in accordance with its own beliefs under its own laws without imposing its own beliefs, customs, habits, culture, requirements, or architecture on others. Individuals or communities are not authorized to request modifications of other Cantons' laws in order to accommodate such beliefs. Freedom of the Ethno-Cultural Groups shall be inviolable.

### Article 3 Equality before the law

- (1) All persons shall be equal before the respective applicable laws.
- (2) Men and women shall have equal rights.

### Article 4 Freedom of faith and conscience

- (1) Freedom of faith and of conscience and freedom to profess a religious or philosophical or political view or creed shall be inviolable even when such creed or belief infringes on another Group's rights and beliefs.
- (2) Relationships between Cantons are based on respect and reciprocity.

### Article 5 Freedom of movement and expression

- (1) All Lebanese shall have the right to move freely throughout the federal territory.
- (2) This right may be restricted only by or pursuant to a Cantonal law.
- (3) All Lebanese shall have the right to reside freely throughout the federal territory and be subject to policies set by Local authorities in accordance with Cantonal policies.
- (4) Every person shall have the right freely to express and disseminate his opinions in speech, writing, and pictures.
- (5) Every person shall have the right to inform himself from generally accessible sources without hindrance.
- (6) Freedom of the press and freedom of reporting shall be guaranteed.
- (7) There shall be no censorship.
- (8) These rights shall find their limits in the provisions of general laws as decided by Cantonal Parliaments.

### Article 6 Freedom of assembly

Cantonal authorities shall ensure that its citizens and/or residents shall have the right to assemble peacefully and unarmed, indoors or outdoors, without prior notification or permission.

### Article 7 Freedom of association

- (1) Cantonal Citizens shall have the right to form societies and other associations.
- (2) Only associations whose aims or activities contravene the criminal laws (as defined in each Canton) shall be prohibited.
- (3) The right to form associations to safeguard and improve working and economic conditions shall be guaranteed to every individual and to every occupation or profession.

(4) Laws, directives, decisions, agreements, practice, implicit or explicit behaviors, measures, or actions that tend to *de facto* or *de jure* restrict, limit, or impair the freedom of association as described in this Article shall be null and void (even if such laws, directives, decisions, agreements, etc. conform to Cantonal laws). Measures directed to this end shall be unlawful even if aligned with Cantonal law. Any Cantonal law to this effect is null and void.

### **Article 8 Marriage – Family**

- (1) Each Canton will decide how it wishes to organize and protect Marriage and family.
- (2) The care and upbringing of children is the natural right of parents and a duty primarily incumbent upon them.
- (3) Each Canton shall decide how to watch over children in the performance of its duty.
- (4) Custody of children shall be decided at the Cantonal level.

### **Article 9 School system**

- (1) The entire school system shall be under the supervision of each Canton.
- (2) Parents and guardians shall have the right to decide whether children shall receive religious instruction.
- (3) Cantonal national narratives and philosophical or religious beliefs shall be taught in accordance with the curriculum in Canton schools as designed and defined by the Cantonal authorities.
- (4) Private schools, if and when authorized by Cantonal authorities, must commit to teach the historical and religious curriculum of the Canton as well as its national narrative.

### **Article 10 Occupational freedom**

- (1) All Lebanese shall have the right to freely to choose their occupation or profession and their place of work. The practice of an occupation or profession may be regulated by or pursuant to a Cantonal law and/or certification.
- (2) Only persons deprived of their liberty by the judgment of a court can be imposed into forced labour.

### **Article 11 Compulsory military and alternative civilian service**

- (1) Men who have attained the age of eighteen (18) may be required to serve in the Cantonal Armed Forces, the Federal Armed Forces, the Cantonal or Federal Army, or a Cantonal or Federal civil defense organization.
- (2) Women between the age of eighteen (18) and fifty-five (55) may be called upon to render such services.

### **Article 12 Inviolability of the home**

- (1) The home is inviolable.
- (2) Searches may be authorized only by a judge or, when time is of the essence, by other authorities designated by the Cantonal laws. Searches may be carried out only in the manner prescribed therein.
- (3) Surveillance is possible upon a competent judge's authorization. Such action shall be for a limited time.
- (4) A panel elected by the Federal Parliament shall exercise parliamentary oversight. A comparable parliamentary oversight shall be afforded by each Canton.
- (5) Interferences and restrictions shall otherwise only be permissible to avert a danger to the public or to the life of an individual or, pursuant to a law, to confront an acute danger to public safety and order.

### **Article 13 Property – Expropriation**

- (1) Private property (and the right of inheritance) shall be guaranteed. The content and limits shall be defined by Cantonal laws.
- (2) Expropriation shall only be permissible for the Cantonal public good. Expropriation may only be ordered by or pursuant to a Cantonal law that determines the nature and extent of compensation.

(3) Any Federal request for expropriation shall require the approval of the relevant Cantonal authorities.

#### **Article 14 Nationality - Citizenship – Extradition**

(1) No Lebanese may be deprived of his Nationality except if he is the holder of another nationality.

(2) Any Lebanese can be deprived of his Cantonal Citizenship under specific conditions set out in the Cantonal laws.

(3) Cantonal Authorities are responsible for deciding how and to whom Nationality and Cantonal citizenship is granted.

(4) Acknowledging the importance of demographics imbalances and its destabilizing impact on the federal construction and its viability, any action, law, decree, decision, behavior, or failure to act (including acceptance of refugees) shall be a direct breach of this Basic Law agreement and henceforth could result in the legitimate request by any Canton to leave the Federation.

(5) Any decision by any Cantonal Authority to grant citizenship to or accept non-Lebanese populations (even under the “refugee” or migrant status) in ways that create or threaten to create demographic imbalances (i.e. populations that have at least one parent not from Lebanese descent) will result in the Cantonal Authorities legal claim to (i) terminate this Basic Law contract early or (ii) take action to counter the effects of such action taken by this Cantonal Authority or (iii) leave the Federation.

(6) Loss of citizenship may occur only pursuant to a law.

(7) No Lebanese may be extradited to a foreign country. The law may otherwise provide for extraditions to an international court or a given country, provided that (i) the rule of law is observed and (ii) the Cantonal judicial authorities clear it.

#### **Article 15 Right of asylum**

(1) Individual persons (one person or his direct family members) persecuted on political grounds shall have the right of asylum, provided that Cantonal Authorities authorize it.

(2) This right of asylum applies only to individuals. It does not apply to populations, groups, or human communities. This right does not apply for migrants and other individuals or groups that relocate for socio-economic purposes, even if such relocation is under a claim of security risk.

#### **Article 16 Restriction of basic rights in specific instances**

(1) The right of members of the Armed Forces and of alternative services to freely express and disseminate their opinions in speech, writing, and pictures may be constrained by Federal or Cantonal laws.

(2) Laws regarding war, including protection of the civilian population, may provide for restriction of the basic rights of freedom of movement and inviolability of the home.

## IV – The Basic Principles

### Article 17 Constitutional principles

- (1) The Federal Republic of Lebanon is a federation of four (4) different Ethno-Cultural Groups having partial common history and sharing one territory.
- (2) All Cantonal authority is derived from the Cantonal Citizens. It shall be exercised by the Cantonal Citizens through elections and other votes and through specific legislative, executive, and judicial bodies.
- (3) The legislature shall be bound by the constitutional order, the executive, and the judiciary by law and justice.

### Article 18 Sovereignty

- (1) Local sovereignty is the primary level of sovereignty. Cantonal sovereignty is the ultimate source of sovereignty. The Federal Government has no sovereignty rights over the Cantons or the municipalities.
- (2) Sovereignty is derived from the will expressed by each Cantonal Citizen.

### Article 19 Federal capital – Federal flag

- (1) Beirut is the capital of the Federal Republic of Lebanon. Each Canton shall elect a capital city.
- (2) The federation shall have a flag. Each Canton shall have a flag.

### Article 20 Protection of basic rights – Principle of subsidiarity

- (1) The Federal Republic of Lebanon is committed to democratic, social, and economically liberal principles, the rule of law, the principle of subsidiarity, and the guarantees of basic rights as per this Basic Law.
- (2) Each Canton is committed to democratic principles, the rule of law, the principle of subsidiarity, and the guarantees of basic rights as per this Basic Law.
- (3) A Canton may transfer sovereign powers by law with or without the consent of the Federal Parliament.
- (4) The Cantonal Parliament shall have the right to bring an action before any court of justice to challenge a legislative act of the Federal Government or Parliament or any subdivision thereof for infringing the principle of subsidiarity and Cantonal sovereignty. The Cantonal Parliament is obliged to initiate such an action at the request of one fifth of its Members.
- (5) The Cantons, through the Federal Parliament and the Federal Government, shall participate in matters concerning the Federation.
  - a. The elected Members of the Cantonal Parliament are *de facto* and *de jure* Members of the Federal Parliament. In other words, the Federal Parliament is comprised of the Cantonal parliamentarians.
  - b. The elected Prime Minister of each Canton is a *de facto* and *de jure* Member of the Federal Government. The Federal Government is thus comprised of 4 Members. Each Member holds the seat of President of the Federal Republic for one (1) year.
- (6) Any Federal decision, law, decree, action, or failure to act on a subject that either (i) falls within the domestic competence of the Canton or (ii) impacts the Canton or its citizens must be approved by Cantonal Government to become enforceable.
- (7) Insofar as, in an area within the exclusive competence of the Federation, interests of the Canton are affected and in other matters, insofar as the Federation has legislative power, the Federal Government shall require the authorization of the Cantonal Parliament prior to legislation.

### Article 21 No bellicosity

- (1) Acts tending to and undertaken with intent to disturb the peaceful relations between nations, especially to prepare for a war of aggression, shall be unconstitutional. They shall be criminalised.
- (2) Weapons designed for warfare may be manufactured, transported, or marketed only with the permission of the Federal Government.

## **Article 22 Delimitation of Federal and Cantonal territory**

- (1) The Federal Republic of Lebanon spans over 10,452km<sup>2</sup>.
- (2) The federal territory is divided into four (4) Cantons.
- (3) Each Canton delineation is determined dependent of the municipalities that belong to the Canton. Cantonal geography and boundaries are determined and delineated by the aggregation of all municipalities belonging to the Canton.
- (4) No geographical continuity is required for a municipality to be part of a Canton.
- (5) Municipalities are allocated to a Canton based on the following criteria:
  - a. Municipal Territory as per current status at the time of this Basic Law's enactment.
  - b. Municipalities whose current voters (original inhabitants prior to the modification of the municipal voting laws) belong to the Group in a proportion exceeding 67% belong to the Canton of such Group.
  - c. Municipalities whose current voters (original inhabitants prior to the modification of the municipal voting laws) belong to the Group (Ethno-Cultural Group) in a proportion exceeding 51% and the remaining 49% is divided between several other Groups (i.e. not one block of 49% for another Ethno-Cultural Group) will be allocated to the Canton of the cultural group holding majority.
  - d. Municipalities with demographic configurations that differ from the ones mentioned above will determine a given dismemberment (per neighborhood) to ensure each portion of the municipality is properly re-delineated and each allocated to the proper Canton.
- (6) Municipalities and Cantons may be revised to ensure that each be of a size and capacity to perform its functions effectively. Due regard shall be given in this connection to regional, historical and cultural ties, economic efficiency, and the requirements of local and regional planning as well as the necessary governance tools commensurate with the empowerment of large Municipalities.

## **Article 22-bis Determination of Federal Languages**

- (1) The official languages of the Federal Republic of Lebanon shall be the aggregation of the official languages chosen by each of its 4 Cantons.
- (2) By default and by way of legacy, the official languages of the Federal Republic of Lebanon shall be Arabic and French.
- (3) Any Canton that decides to add a language or adopt a new one (Armenian, Syriac, Lebanese, etc...) such language shall become official federal language ranking similar to the ones mentioned in point 2 of the present Article.

## **Article 23 Referendum – Acceptance – Enforceability – Revisions**

- (1) Revisions of the constitution into *this federal construct must* be confirmed by Cantonal referendum. Any Canton holding such referendum and abiding by its results shall be able to oppose its rights to the Federal Government and other Cantons even if they have not held their referendum.
- (2) Other changes concerning the territory of a Canton may be affected by agreements between the concerned Canton or by a federal law with the consent of the concerned Cantons. The law must provide affected Municipalities with an opportunity to be heard.
- (3) Each Canton may revise the division of its existing territory or parts of its territory. Affected Municipalities shall be afforded an opportunity to be heard.
- (4) A majority of the votes cast in a referendum shall be decisive, provided the majority vote amounts to at least one quarter of those entitled to vote in Cantonal Parliament elections. Only voters allowed to vote in the Cantonal Elections (Cantonal Citizens) are entitled to participate in Cantonal referendum votes (general or partial). This revision shall not require the consent of the Federal Parliament.

#### **Article 24 Precedence of law**

In matter of conflict and disparity, Cantonal law shall take precedence over Federal law.

#### **Article 25 Foreign relations**

- (1) Relations with foreign states shall be conducted by the Federation.
- (2) Before the conclusion of a treaty affecting the special circumstances of a Canton, that Canton shall be consulted in timely fashion. Cantonal powers can block any agreement detrimental to them.
- (3) Insofar as the Cantons have power to legislate, they may conclude treaties with foreign states with the consent of the Federal Government.

#### **Article 26 Federal execution**

If a Canton fails to comply with its obligations under this Basic Law or other federal laws which have been previously agreed upon, the Federal Government may take necessary steps to compel the Canton to comply with its duties.

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## V – The Federal Parliament and the Four Cantonal Parliaments

### Article 27 No Federal Elections

- (1) There are no elections of deputies at the Federal Level.
- (2) The Federal Parliament is comprised of the duly elected Members of Cantonal Parliaments. Each Member of such Cantonal Parliament is a *de facto* and *de jure* member of the Federal Parliament.

### Article 28a Cantonal Elections

- (1) Each Canton has its own Parliament.
- (2) Members of each Cantonal Parliament shall be elected in general, direct, free, equal, and secret elections. They shall be representatives of the whole cantonal population.
- (3) Any Cantonal Citizen who has attained the age of eighteen (18) shall be entitled to vote; any person who has attained the age of twenty-one (21) may be elected.
- (4) The Mandate is for four (4) years.

### Article 28b Electoral Principles

- (1) The same electoral law shall apply to all four (4) Cantons
- (2) The electoral college being the Cantonal Citizens
- (3) The ratio of number of electors per deputy shall be the same of all Cantons set
- (4) The principle of full geographical coverage shall apply to all. Which means that each Canton has to provide that any resident and/or nonresident Cantonal Citizen can vote irrespective of his residency.
- (5) The system is based on a single-seat, two-round system (*scrutin uninominal majoritaire a deux tours*)
- (6) Each circumscription will elect a single winner
- (7) Each voter casts a single vote for their chosen candidate.
- (8) The two-round system may resolve an election in a single round if one candidate receives more than 50% of the votes. If no candidate receives enough of the vote in the first round, then a second round of voting is held with either just the top two candidates.
- (9) During the first round each voter chooses one candidate amongst the many running. . The one candidate collecting more than 50% of the votes (of more than 25% of the registered voters) is elected. Otherwise a second round is organized.
- (10) In the second round, the candidate receiving the highest number of votes in elected.

### Article 29 Cantonal Parliament Electoral term – Convening

- (1) The Cantonal Parliament shall be elected for four (4) year terms. The term shall end when a new Cantonal Parliament convenes. New elections shall be held no sooner than forty-six (46) months and no later than forty-eight (48) months after the electoral term begins.
- (2) If the Cantonal Parliament is dissolved, new elections shall be held within sixty (60) days.
- (3) The Cantonal Parliament shall convene no later than the thirtieth day after the elections.
- (4) The Cantonal Parliament shall determine when its sessions shall be adjourned and resumed.
- (5) The President of the Cantonal Parliament may convene it at an earlier date. He shall be obliged to do so if one third (1/3) of the Members or the Cantonal Prime Minister so demand.

### Article 30 Federal Parliament Electoral term – Convening

- (1) The Federal Parliament is comprised of the individuals elected for seats in the Cantonal Parliaments.
- (2) The Federal Parliament shall convene no later than the fortieth day after the Cantonal parliamentary elections.
- (3) The Federal Parliament shall determine when its sessions shall be adjourned and resumed.

- (4) The President of the Federal Parliament may convene it at an earlier date. He shall be obliged to do so if one third of the Members and the Federal President so demand.

### **Article 31 Federal and Cantonal Parliament Presidency**

- (1) The Cantonal Parliament shall elect its President, Vice-Presidents, and secretaries. Cantonal Parliaments shall adopt rules of procedure.
- (2) The Federal Parliament shall select its President from the four (4) Cantonal Parliament presidents, beginning with the eldest and ending with the youngest (rotating the Federal Presidency with one (1) year mandates for each of the four (4) presidents of the Cantonal Parliaments). Vice-Presidents and secretaries are also elected from the similar positions in each Cantonal Parliament.
- (3) The absence of one or more Cantonal President and/or Vice President and/or Secretaries will not derail the process of Election of the Federal Parliament governance office (President, Vice President, or others). The Federal Parliament will remain valid even without the President, Vice President, or secretaries from one or more failing Canton(s).
- (4) The Federal Parliament shall adopt rules of procedure.

### **Article 32 Rule of Continuity – No Blackmail**

- (1) The Federal Government at all levels, including both the governance and operational levels, must stay in operation and cannot be “high jacked” by one or more Canton. Its operations cannot be hindered, stopped, or delayed for “blackmailing” purposes or for any other reason whatsoever.
- (2) This rule shall apply as a general guideline for all Federal level processes, procedures, and positions herein mentioned or thereafter created.
- (3) The Federal governance structure and bodies thereof will continue to operate normally even if three (3) out of four (4) Cantons fail to appear and populate their rightful seats (in parliament, in government, or any other position). It is irrelevant whether this no show is deliberate or not. The reason for the no show is also irrelevant.
- (4) Any canton that fails to fill his position within the Federal structure and its various administrative and governance bodies cannot use such void to claim any unconstitutionality or oppose any decision made in its absence. Any position unoccupied by a representative of a Canton shall be occupied by another Canton (or alternatively left void). And all decisions will be made by the Federal authority remain as valid and legal and enforceable as if made when such position was filled by a representative of such Canton.

### **Article 33 Termination of this Federal Association**

- (1) Any key position in the federal governance bodies will continue to function even if the committee leading thereto is populated by only one (1) out of the four (4) Cantons.
- (2) If all four (4) Cantons fail to populate at least one of the governance bodies necessary for the functioning of the Federal Government (be it the executive, legislative, judiciary, or any other critical body) than this Basic Law is deemed terminated. Each Canton is then free to apply its own sovereignty as if an independent country on its territory. Each Canton may seek independence or a new social pact will be negotiated between the Cantons.

### **Article 34 Scrutiny of elections**

- (1) Federal and Cantonal Parliament shall be jointly responsible for the scrutiny of elections.
- (2) Cantonal authorities shall decide whether a Member has lost his seat.
- (3) Complaints against such decisions of the Cantonal Parliament may be lodged with the competent Cantonal court.

### **Article 35 Right to require presence, right of access, and right to be heard**

- (1) The Cantonal Parliament and its committees may require the presence of any member of the Cantonal Government. Likewise, the Federal Parliament and its committees may require the presence of any member of the Federal Government.
- (2) The members of the Cantonal Government as well as their representatives may attend all sittings of the Cantonal Parliament and meetings of its committees. They shall have the right to be heard at any time. The members of the Federal Government as well as their representatives may attend all sittings of the Federal Parliament and meetings of its committees. They shall have the right to be heard at any time.

### **Article 36 Committees of inquiry**

- (1) The Cantonal Parliament shall have the right, and on the motion of one quarter of its Members, the duty, to establish a committee of inquiry, which shall take the requisite evidence at public hearings. The public may be excluded. Likewise, the Federal Parliament shall have the right, and on the motion of one quarter of its Members, the duty, to establish a committee of inquiry, which shall take the requisite evidence at public hearings. The public may be excluded.
- (2) Courts and administrative authorities shall be required to provide legal and administrative assistance.
- (3) All Federal Committees which deal with Federal matters are mirrored in Cantonal Committees. All Federal Committees shall be comprised of four (4) members: the president of each such Cantonal committee.
- (1) The Cantonal and the Federal Committees shall also have the powers of a committee of inquiry. At the request of one of its members, it shall have the duty to make a specific matter the subject of inquiry.

### **Article 37 Immunities of MPs**

- (1) At no time may a Member of the Cantonal Parliament be subjected to court proceedings or disciplinary action or otherwise called to account outside the Cantonal or Federal Parliament for a vote cast or a remark made by him in the Cantonal or Federal Parliament or in any of its committees. This provision shall not apply to defamatory insults.
- (2) A Member may not be called to account or arrested for a punishable offence without permission of the Cantonal or Federal Parliament (as the case may be) unless he is apprehended while committing the offence or in the course of the following day.
- (3) The permission of the Cantonal or Federal Parliament (as the case may be) shall also be required for any other restriction of a Member's freedom of the person or for the initiation of proceedings against a Member.
- (4) Any criminal proceedings or any proceedings against a Member and any detention or other restriction of the freedom of his person shall be suspended at the demand of the Cantonal or Federal Parliament (as the case may be).

## VI – The Federal Government

### Article 38 Composition

- (1) The Federal Government shall consist of the four (4) prime ministers from each Canton. They appoint the required numbers of ministers (“directeurs de cabinets” or secretaries for affairs) and recall them.
- (2) All decisions on any matter requires unanimous voting i.e. four (4) votes
- (3) The votes may be cast only by the present Members or by remote vote.

### Article 39 President – Decisions

- (1) The Federal Government shall appoint the eldest of the prime ministers as its President for one year.
- (2) The President shall convene the Federal Government. He shall be obliged to do so at the request of at least one (1) of the four (4) members.
- (3) Decisions of the Federal Government shall require a unanimous vote.
- (4) Its meetings shall be open to the public. The public may be excluded.
- (5) Other members or representatives of Canton governments may serve on committees of the Federal Government.

### Article 40 Compulsory Attendance

The four (4) members of the Federal Government shall have the right, and on demand, the duty, to participate in meetings of the Federal Government and of its committees. They shall have the right to be heard at any time.

### Article 41 Election of President of the Federation – Term of office

- (1) The Federal President shall be selected from the four (4) members of the Federal Government.
- (2) The term of office of the Federal President shall be one (1) year.
- (3) Of the four members of the Federal Government, the eldest shall be the first President for term of one (1) year. After the eldest’s term, the second eldest shall be President for a term of one (1) year and so forth.
- (4) The Federal Government shall choose its secretaries/ministers in numbers and for functions to be determined in due course by specific laws to be issued by the Federal Parliament.

### Article 42 Federal President’s Oath of office

The Federal President shall take the following oath before the assembled Members of the Federal Parliament and the Federal Government: “I swear that I will work to uphold and defend the Basic Law and the laws of the Federation, perform my duties conscientiously, and do justice to all. So help me God.” The oath may also be taken without religious affirmation.

### Article 43 Vacancy

If the Federal President is unable to perform his duties, or if his office falls prematurely vacant, the member of the Federal Government who is next in line to become President shall take his position until the end of the current mandate. The next in line will then continue his own term.

### Article 44 Unanimity

Orders and directions of the Federal President shall require for their validity the countersignature of the other three (3) members of the Federal Government.

### Article 45 International representation of the Federation

The Federal President shall represent the Federation in international law. He shall conclude treaties with foreign states on behalf of the Federation. He shall accredit and receive envoys.

**Article 46 Appointment of civil servants – Pardon**

- (1) Except as may otherwise be provided by law, the Federal Government shall appoint and dismiss federal judges and federal civil servants.
- (2) Federal Ministers shall be appointed and dismissed by the Federal Government.
- (3) The Federal President shall exercise the power to pardon offenders on behalf of the Federation in individual cases.

**Article 47 Power to determine policy guidelines**

- (1) Each Federal Minister shall conduct the affairs of his department independently and on his own responsibility.
- (2) The Federal Government shall arbitrate differences of opinion between Federal Ministers.
- (3) The Federal Government shall conduct the proceedings in accordance with rules of procedure adopted by the Federal Government.

**Article 48 Command of the Armed Forces**

- (1) Command of the Federal Armed Forces shall be vested in the Federal Government.
- (2) Command of the Cantonal Armed Forces shall be vested in the Cantonal Prime Minister.

**Article 49 No Term of office – Perpetual**

The Federal Government does not have any specific term. It is in constant open sessions permanently comprised of the four (4) Prime Ministers.

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### **Article 50 Division of powers between the Federation and the *Canton***

- (1) The Cantons shall have the right to legislate insofar as this Basic Law does not confer legislative power on the Federation.
- (2) The division of authority between the Federation and the Cantons shall be governed by the provisions of this Basic Law concerning exclusive and concurrent legislative powers. Subsidiary principles shall always be considered.

### **Article 51 Exclusive legislative power of the Federation**

On matters within the exclusive legislative power of the Federation, the Cantons shall have power to legislate only when and to the extent that the Federal Parliament has not legislated.

### **Article 52 Concurrent legislative powers**

- (1) On matters within the concurrent legislative power, the Federal Parliament shall have power to legislate so long as and to the extent that the Canton has not exercised its legislative power by enacting a law.
- (2) If the Federation has made use of its power to legislate, the Cantons may enact laws at variance with this legislation. As for the relationship between federal law and law of the Cantons, the latter shall supersede.

### **Article 53 Matters under exclusive legislative power of the Federation**

- (1) The Federation shall have exclusive legislative power with respect to:
  - a. foreign affairs and defense, including protection of the civilian population;
  - b. citizenship in the Federation;
  - c. freedom of movement, passports, immigration, emigration, and extradition;
  - d. currency, money and coinage, weights and measures, and the determination of standards of time;
  - e. the unity of the customs and trading area, treaties regarding commerce and navigation, the free movement of goods, and the exchange of goods and payments with foreign countries, including customs and border protection;
  - f. safeguarding Lebanese cultural assets against removal from the country;
  - g. air transport;
  - h. the operation of railways wholly or predominantly owned by the Federation (federal railways), the construction, maintenance and operation of railway lines belonging to federal railways and the levying of charges for the use of these lines;
  - i. postal and telecommunications services;
  - j. the legal relations of persons employed by the Federation and by federal corporations under public law;
  - k. protection by the Federal Criminal Police Office against the dangers of international terrorism when a threat transcends the boundary of one *Canton*, when responsibility is not clearly assignable to the police authorities of any particular Canton or when the highest authority of an individual Canton requests the assumption of federal responsibility;
- (2) cooperation between the Federation and the Cantons concerning:
  - a. criminal police work;
  - b. protection of the free democratic basic order, existence and security of the Federation or of a Canton (protection of the constitution);
  - c. protection against activities within the federal territory which, by the use of force or preparations for the use of force, endanger the external interests of the Federal Republic of Lebanon, as well as the establishment of a Federal Criminal Police Office and international action to combat crime;
  - d. statistics for federal purposes;
  - e. the law on weapons and explosives;

- f. benefits for persons disabled by war and for dependents of deceased war victims as well as assistance to former prisoners of war;
- g. the production and utilization of nuclear energy for peaceful purposes, the construction and operation of facilities serving such purposes, and protection against hazards.

#### **Article 54 Matters under concurrent legislative powers**

**(1)** Concurrent legislative power shall extend to the following matters:

- a. Civil law, criminal law, court organisation and procedure (except for the law governing pre-trial detention);
- b. The legal profession, notaries, and the provision of legal advice;
- c. registration of births, deaths, and marriages;
- d. the law of association;
- e. the law relating to residence and establishment of foreign nationals;
- f. matters concerning refugees and expellees;
- g. public welfare (except for the law on social care homes);
- h. war damage, reparations, and war graves;
- i. the law relating to economic matters (mining, industry, energy, crafts, trades, commerce, banking, stock exchanges, and private insurance), except for the law on shop closing hours, restaurants, amusement arcades, display of persons, trade fairs, exhibitions and markets;
- j. labour law, including the organisation of enterprises, occupational health and safety and employment agencies, as well as social security, including unemployment insurance;
- k. the regulation of educational and training grants and the promotion of research;
- l. the law regarding expropriation, to the extent cross-Cantonal;
- m. the transfer of Cantonal natural resources and means of production to public ownership or other forms of public enterprise;
- n. prevention of the abuse of economic power;
- o. the promotion of agricultural production and forestry, ensuring the adequacy of food supply, the importation and exportation of agricultural and forestry products, deep-sea and coastal fishing, and coastal preservation;
- p. measures to combat human and animal diseases,
- q. admission to the medical profession and to ancillary professions or occupations, as well as the law on pharmacies, medicines, medical products, drugs, narcotics and poisons;
- r. the economic viability of hospitals and the regulation of hospital charges;
- s. the law on food products (including animals used in their production), the law on alcohol and tobacco, essential commodities, and feedstuffs as well as protective measures in connection with the marketing of agricultural, forest seeds and seedlings, the protection of plants against diseases and pests, and the protection of animals;
- t. maritime and coastal shipping, as well as navigational aids, inland navigation, meteorological services, sea routes, and inland waterways used for general traffic;
- u. road traffic, motor transport, construction and maintenance of long-distance highways, as well as the collection of tolls for the use of public highways by vehicles and the allocation of the revenue;
- v. medically assisted generation of human life, analysis and modification of genetic information as well as the regulation of organ, tissue and cell transplantation;

**(2)** In the event of variance, divergence, conflict, or contradiction between Cantonal law and Federal law, the Cantonal law shall always prevail.

#### **Article 55 Amendment of the Basic Law**

- (1) Except for cases of justified suspension or outright exit from this agreement due to belligerent action(s) or inaction(s) paralyzing the Federal Government, this Basic Law may neither be amended nor abrogated nor suspended in whole or in part by any law or any party thereto (i.e., the Cantonal Governments) except with the consent of all Cantonal Parliaments.
- (2) Any amendment to this Basic Law shall require the consent of all four (4) Conational Parliaments with two thirds (2/3) majority of casted votes.

#### **Article 56 Certification – Promulgation – Entry into force**

- (1) Laws enacted in accordance with the provisions of this Basic Law shall, after countersignature, be certified by the Federal President and promulgated in the Federal Official Gazette.
- (2) Laws enacted in accordance with the provisions of this Basic Law shall, after countersignature, be certified by the Prime Minister and promulgated in the Cantonal Official Gazette.

#### **Article 57 Execution by the *Canton***

The Cantons shall execute federal laws in their own rights insofar as this Basic Law does not otherwise provide or permit.

#### **Article 58 *Canton* administration – Federal oversight**

- (1) Where the Cantons execute federal laws in their own rights, they shall provide for the establishment of the requisite authorities and regulate their administrative procedures.
- (2) The Federal Government, with the consent of the Cantonal Governments, may issue general administrative provisions.
- (3) The Federal Government shall exercise oversight to ensure that the *Cantons* execute federal laws. For this purpose, the Federal Government may send commissioners to verify.
- (4) Should the Federal Government identify any deficiencies in the Cantons' execution of federal laws and should those deficiencies not be corrected, the Federal Government shall decide whether that Canton has violated the law. The decision of the Federal Government may be challenged in the Federal Constitutional Court.

#### **Article 59 Execution by the *Canton* on federal commission**

- (1) Where the Cantons execute federal laws, establishment of the authorities shall remain the concern of the Cantons, except insofar as federal laws enacted otherwise provide. Federal laws may not entrust municipalities and associations of municipalities with any tasks.
- (2) The Federal Government may request the Canton to issue general administrative provisions. It may request the Canton to provide for the uniform training of civil servants and other salaried public employees.
- (3) Insofar as to matters within its exclusive or shared prerogatives, Federal oversight shall extend to the legality and appropriateness of execution. For this purpose, the Federal Government may require the submission of reports and documents and send commissioners to all authorities.

#### **Article 60 Federal administration**

Where the Federation executes laws through its own administrative authorities or through federal corporations or institutions established under public law, the Federal Government shall, insofar as the law in question makes no special stipulation, issue general administrative provisions. The Federal Government shall provide for the establishment of the authorities insofar as the law in question does not otherwise provide.

#### **Article 61 Matters**

- (1) The foreign service, the federal financial administration, and the administration of certain federal assets like

shipping or airports shall be conducted by federal administrative authorities with their own administrative substructures. A federal law may establish Federal Army authorities and central offices for police information and communications.

- (2) All government and/or social institutions (i.e., NSSF) whose jurisdiction extends beyond the territory of a single Canton shall be administered as federal corporations under public law. Canton authorities can set up similar institutions dedicated to operating exclusively within the boundaries of the Canton.
- (3) New federal corporations and institutions under public or private law may be established by a federal law for matters on which the Federation has legislative power.

#### **Article 62 Armed Forces**

- (1) The Federation shall establish Armed Forces for purposes of defense. Their numerical strength and general organizational structure must be shown in the budget.
- (2) During a state of war or a state of emergency, at the demand of the competent Cantonal authorities, the Armed Forces shall have the power to protect civilian property and to perform traffic control functions to the extent necessary to accomplish their defense mission. Moreover, during a state of war or a state of emergency, the Armed Forces may also be authorized to support police measures for the protection of civilian property; in this event the Armed Forces shall cooperate with the competent authorities.
- (3) In order to avert an imminent danger to the existence or free democratic basic order of the Federation or of a Canton, the Federal Government, if forces of the police and the Federal Army are insufficient, may employ the Armed Forces to support the police and the Federal Army in protecting civilian property and in combating organised armed insurgents. Any such employment of the Armed Forces shall be initiated if, and only if, the Federal Government so demands.
- (4) Federal laws concerning defense, including recruitment for military service and protection of the civilian population, may, with the consent of the Federal Government, provide that they shall be executed, wholly or in part, either by federal administrative authorities with their own administrative substructures or by the Cantons on federal commission.

#### **Article 63 Federal assets administration**

- (1) Federal infrastructure and assets shall be managed by and under federal administration.
- (2) By a federal law requiring the consent of the Federal Government, responsibilities for federal administration may be delegated to the Cantons acting on federal commission.
- (3) Each Canton can solely invest in new assets, erect new facilities, and improve the use of the resources and/or infrastructure (solar, wind, water, communication, commuting, electricity, public transport, etc.) after due studies on the overall impacts thereof without the consent of the Federal Government and/or Federal Authorities. Such action may only be taken to the extent that such new investment is (i) funded by the resources of the Canton itself or by private investors, (ii) aligned with the overall sectoral policy of the Cantonal government, and (iii) not conflicting with sectoral policy adopted by the Federal Government.
- (4) The Federation and/or the Canton and/or the Municipality (as the case may be) may make use of a company under private law to discharge its responsibilities.

#### **Article 64 Air transport and Federal Rail transport administration**

- (1) Federal Railways and Air transport shall be administered by federal authorities. Responsibilities for air and/or rail transport administration may be delegated by a federal law to the Cantons acting in their own right or on federal commission.
- (2) Federal railways may be operated as enterprises under private law. Assets may remain the property of the Federation to the extent that their activities embrace the construction, maintenance, and operation of the railway lines.

- (3) Laws enacted pursuant to paragraphs (1) and (2) of this Article shall require the consent of the Federal Government. The consent of the Federal Government shall also be required for laws regarding the dissolution, merger, or division of federal railway enterprises, the transfer of federal railway lines to third parties, or the abandonment of such lines or affecting local passenger services.

#### **Article 65 Posts and telecommunications**

- (1) In accordance with federal law and with the consent of the Federal Government, the Federation shall ensure the availability of adequate and appropriate postal and telecommunications services throughout the federal territory. Cantonal authorities might and should take over this responsibility in the event of failure by the Federal Government to ensure these basic services to the overall population or if the level of service required by the Cantonal population exceeds the quality, reliability, and security of service offered by the Federal entities.
- (2) Services within the meaning of paragraph (1) of this Article shall be provided as a matter of private enterprise. Sovereign functions in the area of posts and telecommunications shall be discharged by Cantonal or Federal administrative authorities (as the case may be).
- (3) The present article applies to the Cantonal Authorities and Sovereignty and could be read by replacing Federal with Cantonal.

#### **Article 66 The Federal Central Bank – The Banque du Liban**

- (1) The Federation has a note-issuing and currency bank as the Central Bank called the Banque du Liban.
- (2) The Banque du Liban has four (4) Cantonal Central Banks, with each one managing the monetary and financial aggregates within its Canton.
- (3) Each Cantonal Central Bank has a Governor.
- (4) The Banque du Liban is managed by a Central Council comprised of the four (4) Governors.
- (5) The Governor of the Banque du Liban is the Chairman of the Central Council elected for a period of one (1) year by rotation from its members, rotating from the eldest to the youngest.
- (6) All decisions must be unanimous.
- (7) Each Cantonal Central Bank Governor is appointed for a period of four (4) years by the newly elected Cantonal Prime Minister and Cantonal Central Bank Governor functions are terminated with Cantonal Prime Minister departure.

#### **Article 67 Administration of water resources**

- (1) The Federation shall administer water resources. Each Canton shall be in charge of applying the federal water policy to the portion of water resources falling into its territory. The Federation may delegate the administration of water resources to the Canton on federal commission or handle directly the administration of water resources itself.
- (2) In the administration, development and new construction of water-related assets (dams, power plants, etc.) shall be assured by the Federal authorities in agreement with the Cantons.
- (3) Each Canton can improve the use of its resources, including water resources, and incept dams or power plants after due studies on the overall impacts thereof without the consent of the federal Government and/or Federal Authorities. Such action may be taken only to the extent that such new investment is (i) funded by the resources of the Canton itself and (ii) aligned with the overall sectoral policy of the Federal government.

#### **Article 68 Federal roads and motorways**

- (1) Roads and highways will be classified as (i) local, (ii) Cantonal and (iii) Federal.
- (2) The Federation shall remain the owner of the Federal motorways. This ownership shall be inalienable. The

Canton shall remain the owner of the Cantonal motorways. This ownership shall be inalienable.

- (3) Inter-cantonal motorways are considered Federal and Intra-cantonal motorways are considered Cantonal.
- (4) The administration of the Federal or Cantonal motorways shall be a matter for the Federal or Cantonal administrative authorities respectively.
- (5) The Federation or the Canton may make use of a company under private law to discharge its responsibilities.
- (6) The Cantons, or such self-governing corporate bodies as are competent under Cantonal law, shall administer the roads on federal commission.
- (7) At the request of a Canton, the Federation may assume administrative responsibility for the Cantonal roads insofar as they lie within the territory of that Canton.

#### **Article 69 Joint tasks – Responsibility for expenditure**

- (1) The Federation shall participate in the discharge of responsibilities of the Cantons, provided that such responsibilities are (i) important to society as a whole and (ii) that federal participation is necessary for the improvement of living conditions (joint tasks).
- (2) All the cost of all joint operations share be jointly borne by the Federation and the Canton in proportions to be agreed upon.
- (3) The Federation and the Cantons may cooperate on the basis of agreements in the promotion of sciences, research, and education.
- (4) The Federation and the Cantons may cooperate in planning, constructing, and operating information technology systems needed to discharge their responsibilities.
- (5) The Federation and the Cantons may agree to specify the standards and security requirements necessary for exchanges between their information technology systems.
- (6) Comprehensive access by means of information technology to the administrative services of the Federation shall be regulated by a federal law with the consent of the Federal Government.
- (7) With a view to ascertaining and improving the performance of their administrations, the Federation and the Cantons may conduct comparative studies and publish the results thereof.

## VII – The Judiciary

### **Article 70 Court organization**

- (1) The judicial power shall be vested in judges.
- (2) At the Federal level, judicial power shall be exercised by the Federal Constitutional Court and by the Federal courts.
- (3) At the Cantonal level, judicial power shall be exercised by the Cantonal Constitutional Court and by the Cantonal courts.

### **Article 71 Jurisdiction of the Federal Constitutional Court**

- (1) The Federal Constitutional Court shall rule:
  - a. on the interpretation of this Basic Law;
  - b. in the event of disagreements or doubts concerning the compatibility of federal law or Cantonal law with this Basic Law;
  - c. in the event of disagreements or doubts concerning the compatibility of Cantonal law with other federal law or application of the Federal Government;
  - d. in the event of disagreements concerning the rights and duties of the Federation and the Cantons;
  - e. on other disputes involving public law between the Federation and the Cantons or between different Cantons;
  - f. on complaints, which may be filed by any Canton or Municipality alleging that one of its basic rights has been infringed by public authority or another Canton;
  - g. on complaints filed by the Canton or a municipality or associations of municipalities on the ground that its right to self-government has been infringed by a federal law or by another Canton or any sub-entity thereof;
  - h. For avoidance of doubt, conflicts between municipalities of a Canton and Cantonal Authorities are heard at, and solved by, the Cantonal court system and cannot be taken to the Federal Constitutional Court of any other Federal court;
  - i. in the other instances provided for in this Basic Law.
- (2) The Federal Constitutional Court shall also rule on such other matters as shall be assigned to it by a federal law.

### **Article 72 Composition of the Federal Constitutional Court**

- (1) The Federal Constitutional Court shall consist of eight (8) federal judges. Each Cantonal Parliament shall appoint two (2) members. They may not be members of the Federal Parliament, of the Federal Government, or of any of the corresponding bodies of a Canton.
- (2) The organization and procedure of the Federal Constitutional Court shall be regulated by federal law.

### **Article 73 Supreme federal courts**

- (1) The Federation shall establish the five (5) Supreme Federal Courts of Justice: the Federal Constitutional Court, Federal Administrative Court, the Federal Finance Court, the Federal Labor Court, and the Federal Social Court as supreme courts of constitutional, administrative, financial, labor, and social jurisdiction.
- (2) The judges of each of these courts shall be chosen jointly by the unanimous decision of the competent Canton ministers.
- (3) A Joint Chamber of the courts specified in paragraph (1) of this Article shall be established to preserve the uniformity of decisions. Details shall be regulated by federal law.
- (4) The Federation may establish other federal courts.

#### **Article 74 Judicial independence**

- (1) Judges shall be independent and subject only to the law.
- (2) Judges appointed permanently to positions as their primary occupation may be involuntarily dismissed, permanently or temporarily suspended, transferred, or retired before the expiry of their term of office only by virtue of judicial decision and only for the reasons and in the manner specified by the laws. The legislature may set age limits for the retirement of judges appointed for life. In the event of changes in the structure of courts or in their districts, judges may be transferred to another court or removed from office, provided they retain their full salary.

#### **Article 75 Legal status of judges – Impeachment**

- (1) If a federal judge infringes the principles of this Basic Law or the constitutional order of a Canton, the Cantonal Constitutional Court may order that the judge be transferred, retired, or dismissed. The Canton who appointed the judge will propose another name for the position.
- (2) The Cantons may provide that Canton judges shall be chosen jointly by the Canton Minister of Justice and a Cantonal Parliamentary Committee for the selection of judges.
- (3) With respect to judgements relating to the Federal Government and or entities, the decision in cases of judicial impeachment shall rest with the Federal Constitutional Court. With respect to federal judgements relating to the Cantonal Government and or its entities, the decision in cases of judicial impeachment shall rest with the Cantonal Constitutional Court.

#### **Article 76 Constitutional disputes within a Canton**

The adjudication of constitutional disputes within a Canton are assigned to the Cantonal Constitutional Court.

#### **Article 77 Primality to Canton**

- (1) Where a Canton law, judgement, or decision is held to be incompatible with a federal law, Cantonal Laws, decisions, and judgments (one upheld by a Cantonal Constitutional Court) shall prevail.
- (2) If a Cantonal Constitutional Court, in interpreting this Basic Law, proposes to derogate from a decision of the Federal Constitutional Court, it shall first obtain a decision from the Federal Constitutional Court.

#### **Article 78 Ban on extraordinary courts**

- (1) Extraordinary courts shall not be allowed. No one may be removed from the jurisdiction of his lawful judge.
- (2) Courts for particular fields of law may be established only by a law.

## VIII – Fiscal and Budgetary Matters

### **Article 79 Apportionment of expenditures – Financial system – Liability**

- (1) The Federation and the Cantons shall separately finance the expenditures resulting from the discharge of their respective responsibilities insofar as this Basic Law does not otherwise provide.
- (2) Where the Cantons act on federal commission, the Federation shall finance the resulting expenditures.
- (3) The Federation and the Cantons shall finance the administrative expenditures incurred by their respective authorities and shall be responsible to one another for ensuring proper administration.
- (4) In accordance with the internal allocation of competencies and responsibilities, the Federation shall bear the costs entailed by a violation of obligations incumbent on Lebanon under supranational or international law, to the extent the violation is a Federal violation. Any violation which can be imputed to a Canton shall be funded by such Canton.

### **Article 80 No Federal grants**

- (1) Each Canton must raise its own taxes from its own population.
- (2) Unless an exceptional decision to the contrary, no Canton can be entitled to any allocation of federal tax revenues for any purposes.

### **Article 81 Federal of powers regarding tax laws**

- (1) The Federation shall have exclusive power to legislate with respect to customs, duties, and fiscal Federation-wide monopolies.
- (2) Federal laws, decrees, and decisions relating to taxes – the revenue from which accrues wholly or in part to the Canton or to municipalities – shall require the consent of the Cantonal Government.

### **Article 82 Cantonal powers regarding tax laws**

- (1) Each Canton shall have exclusive power to legislate with respect to taxes. Cantonal taxes accrue wholly to the Canton.
- (2) The Municipalities shall have power to legislate with regard to local taxes so long and insofar as such taxes are not substantially similar to taxes regulated by Cantonal or Federal law. Municipalities are empowered to determine the rate of the tax on acquisition of real estate.

### **Article 83 Financial assistance for investments**

- (1) To the extent that this Basic Law confers on the Federation the power to legislate, the Federation may grant Cantons financial assistance for particularly important investments by Cantons, municipalities, or associations of municipalities which are necessary to:
  - a. avert a disturbance of the overall economic equilibrium,
  - b. Level differing economic capacities, or
  - c. promote economic growth.
- (2) The Federation may grant financial assistance even outside its field of legislative powers in cases of natural disasters or exceptional emergency situations beyond governmental control and substantially harmful to the Canton's financial capacity.

### **Article 84 Apportionment of tax revenue and yield of fiscal monopolies**

- (1) The yield of fiscal monopolies and the revenue from the following taxes shall accrue to the Federation:
  - a. customs duties;
  - b. federal road freight tax and federal motor vehicle tax;
  - c. federal taxes on capital gains and transactions, insurance, and bills of exchange;

- d. non-recurring levies on property and leveling of burdens levies;
- e. federal income and corporation taxes;
- f. other taxes for specific public infrastructure

**(2)** Revenue from the following taxes shall accrue to the Canton:

- a. property tax;
- b. inheritance tax;
- c. motor vehicle tax;
- d. tax on gambling establishments;
- e. cantonal road freight tax and cantonal motor vehicle tax;
- f. cantonal taxes on capital gains and transactions, insurance, and bills of exchange;
- g. cantonal income and corporation taxes;
- h. value added tax;
- i. other taxes for specific public infrastructure

**(3)** Revenue from the following taxes shall accrue to the Municipalities:

- a. property tax;
- b. inheritance tax;
- c. motor vehicle tax;
- d. tax on gambling establishments;
- e. municipal road freight tax and municipal motor vehicle tax;
- f. municipal taxes on capital gains and transactions, insurance, and bills of exchange;
- g. municipal income and corporation taxes;
- h. other taxes for specific public infrastructure

**(4)** The financial requirements of the Federation and of the Canton shall be coordinated in such a way as to establish a fair balance, avoid excessive burdens on taxpayers, and ensure uniformity of living standards throughout the federal territory.

**(5)** Revenues and expenditures of municipalities and associations of municipalities shall also be deemed to be revenues and expenditures of the Canton.

### **Article 85 Financial Leveling among the Cantons**

Grants and/or soft loans to be made by the Federation to financially weak Cantons from the Federation's own funds to assist them in meeting their general financial needs. Grants may be made to such financially weak Cantons whose municipalities or associations of municipalities have a particularly low capacity to generate tax revenue.

### **Article 86 Financial administration of the Federation and the Cantons – Financial courts**

**(1)** Federal fiscal revenues shall be managed by the federal finance authorities.

**(2)** Cantonal fiscal revenues shall be managed by the Cantonal finance authorities. Municipal fiscal revenues shall be managed by the Cantonal and municipal finance authorities.

**(3)** Where taxes accruing wholly or in part to the Federation are administered by a Canton's revenue authorities, those authorities shall act on federal commission.

**(4)** To the extent this is efficient, a collaboration between Federal and Canton revenue authorities in matters of tax administration is encouraged.

**(5)** The administration of taxes whose revenue accrues exclusively to municipalities or associations of municipalities may be delegated by the Canton to municipalities or associations of municipalities, wholly or in part.

### **Article 87 Budget management in the Federation and the Cantons**

- (1) The Federation and the Cantons shall be autonomous and independent of one another in the management of their respective budgets.
- (2) The budgets of the Federation and the Cantons shall, in principle, be balanced.
- (3) The Federal Government and the Cantonal Governments shall provide for:
  - a. the continuing supervision of budgetary management of the Federation and the Cantons by a joint body (Stability Council);
  - b. the conditions and procedures for ascertaining the threat of budgetary shortfalls/emergencies;
  - c. the principles for the establishment and administration of programs for taking care of budgetary shortfalls/emergencies.

#### **Article 88 The Federal and Cantonal budget**

- (1) All revenues and expenditures shall be included in the budget. In the case of enterprises and special trusts, only payments to or remittances from them need be included. The budget shall be balanced with respect to revenues and expenditures.
- (2) The budget for one or more fiscal years shall be set forth in a law enacted before the beginning of the first year and making separate provision for each year. The law may provide that various parts of the budget apply to different periods of time, divided by fiscal years.
- (3) The Budget Law may contain only such provisions as relate to revenues and expenditures and to the period for which it is enacted.
- (4) The Budget Law may specify that its provisions shall expire only upon promulgation of the next Budget Law.

#### **Article 89 Interim budget management**

- (1) If, by the end of a fiscal year, the budget for the following year has not been adopted by law, the Federal and/or Cantonal Governments may make all expenditures that are necessary until such law comes into force, including:
  - a. to maintain institutions established by law;
  - b. to carry out measures authorized by law;
  - c. to meet the legal obligations of the Cantons and/or the Federation;
  - d. to continue construction projects, procurements, and the provision of other benefits or services or to continue to make grants for these purposes, to the extent that amounts have already been appropriated in the budget of a previous year.
- (2) To the extent that revenues based upon specific laws and derived from taxes or duties referred to in paragraph (1) of this Article, the Federal and/or Cantonal Governments may borrow the funds necessary to sustain current operations up to a maximum of one quarter of the total amount of the previous budget.

#### **Article 90 Increase of expenditures**

Laws that increase the budget expenditures proposed by the Federal Government or entail or will bring about new expenditures shall require the consent of the Federal Government. This requirement shall also apply to laws that entail or will bring about decreases in revenue.

Laws that increase the budget expenditures proposed by the Cantonal Government or entail or will bring about new expenditures shall require the consent of the Cantonal Government. This requirement shall also apply to laws that entail or will bring about decreases in revenue.

#### **Article 91 Submission and auditing of accounts**

- (1) For the purpose of discharging the Cantonal and/or the Federal Government, the Cantonal and/or Federal Minister of Finance shall submit annually to the Cantonal and/or Federal Parliament and to the Cantonal and/or Federal Government an account for the preceding fiscal year of all revenues, expenditures, assets,

and debts.

- (2) The Cantonal and/or Federal Court of Audit (Cour des Comptes), whose members shall enjoy judicial independence, shall audit the account and determine whether public finances have been properly and efficiently administered by the Canton and/or Federation. For the purpose of the audit pursuant to the first sentence of this paragraph, the Canton and/or Federal Court of Audit may also conduct surveys of authorities outside the Cantonal and/or Federal administration.

#### **Article 92 Limits of borrowing**

- (1) The borrowing of funds and the assumption of surety obligations, guarantees, or other commitments that may lead to expenditures in future fiscal years shall require authorisation by a Cantonal and/or Federal law (as the case may be) specifying or permitting computation of the amounts involved.
- (2) Revenues and expenditures shall, in principle, be balanced without revenue from credits.
- (3) In cases of natural catastrophes or unusual emergency situations beyond governmental control and substantially harmful to the Canton's financial capacity, these credit limits may be exceeded on the basis of a decision taken by a majority of the Members of the Cantonal and/or Federal Parliament.

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## IX – Legacy and Transitional Matters

### **Article 93 Definition of “Lebanese” – Restoration of citizenship**

- (1) Unless otherwise provided by law, a “Lebanese” within the meaning of this Basic Law is a person who possesses Lebanese nationality or who is a descendant of such person.
- (2) Former Lebanese citizens and their descendants who lost their citizenship and migration grounds shall, on application, have their citizenship restored. They shall be deemed never to have been deprived of their citizenship.

### **Article 94 New delimitation of the territory**

The division of the territory shall be into four (4) Cantons. Each Canton shall be the aggregation of the municipalities that compose this Canton. All previous intermediary organizations of the territory (i.e., Caza, Mohafaza) shall be abolished.

### **Article 95 New delimitation of Beirut**

The division of Beirut into three (3) municipalities: Christian, Chiaa, and Sunni.

### **Article 96 Refugees, displaced and migrants**

- (1) Matters relating to residency shall be addressed to the Canton authorities and instructed and delegated to the municipalities.
- (2) Matters relating to refugees, migrants, and other displaced persons shall be addressed to the Canton authorities.

### **Article 97 Date of transmission of legislative powers**

- (1) From the date on which the Federal Parliament first convenes, laws shall be enacted only by the legislative bodies recognized by this Basic Law.
- (2) Legislative bodies and institutions participating in the legislative process in an advisory capacity whose competence expires by virtue of paragraph (1) of this Article shall be dissolved as of that date.

### **Article 98 Continued applicability of existing laws**

- (1) Laws in force before the Federal Parliament first convenes shall remain in force insofar as they do not conflict with this Basic Law.
- (2) Subject to all rights and objections of interested parties, treaties concluded by the Republic of Lebanon shall remain in force, provided they are not in conflict with this Basic Law.
- (3) Unless otherwise cancelled, existing laws will be allocated between Federal and/or Cantonal Governments.
- (4) For legacy laws (including the previous constitutional texts and its preamble) to become Federal law, Federal Parliamentary approval is needed as well as approval by all four (4) Cantonal Parliaments. Absent such general approval, the text will be cancelled.
- (5) Each Cantonal Parliament shall make the legislative effort to integrate the legacy legislation into its own legislative framework and/or reject whatever is not acceptable to it.

### **Article 99 Implementation of legacy situation**

- (1) Unless canceled, laws of the Republic of Lebanon shall become either Federal Laws or Cantonal Laws.
- (2) Law that, by virtue of this Basic Law could not be enacted as Federal laws, shall be superseded by Cantonal law or cancelled.
- (3) International treaties shall be rescinded or renegotiated.
- (4) The Federal Republic of Lebanon will exit all supra-federal “international” forums, such as the Arab League.

### **Article 100 Continued applicability of law – issuance of instructions and legal acts**

- (1) Disagreements concerning the continued applicability of law as federal law shall render it null and void.
- (2) Insofar as law that remains in force grants authority to issue instructions, this authority shall remain in existence until a Cantonal or Federal law otherwise provides.
- (3) Insofar as legal provisions that remain in force as federal law grant authority to issue general administrative rules, such powers shall pass to the authorities that henceforth have competence over the subject matter. In cases of doubt, the Federal Government shall decide in agreement with the Cantonal Governments.

### **Article 101 Transfer of existing administrative institutions**

- (1) As a general rule, each of the Administrative agencies, government entities, government-owned entities, or private entities rendering public service or utility (in the broadest meaning public or private) shall be split into four (4). Each Canton shall take its share of the “hard and soft” assets (including “its” employees).
- (2) All Cantonal Citizens of any legacy admiration, public service, or utility shall be allocated to the budget of such Canton and shall become the share of this Canton in the distribution of the assets and liabilities of the incumbent public service.
- (3) Each Canton will decide whether it needs to keep such employees (the Canton Citizens currently employed in the public sector and which have been moved to the public sector of the Canton) or let them go.
- (4) The payment for dismembered and decentralized utilities shall be funded by each Canton from its Cantonal and municipal taxes.
- (5) No Federal Tax, funding, grant, or loan is admissible to fund Cantonal utilities or public service.
- (6) Administrative agencies and other institutions that serve the public administration (including, but not limited to, the administration of justice) and are not based on Cantonal law or on agreements between Cantons, shall be liquidated. The Federal Government, with or without the consent of the concerned Cantonal Governments, shall provide for their dissolution or liquidation.
- (7) Corporations and institutions under public law not directly subordinate to a Canton nor based on agreements between Cantons shall be cancelled and liquidated. No corporations and institutions under public or private law *shall be maintained* if (i) not directly subordinate to a Canton nor (ii) no agreements for which between Cantons has been reached.

### **Article 102 Retirement of civil servants**

- (1) Civil servants (including judges who enjoy life tenure) when this Basic Law takes effect may, within six (6) months after the Federal Parliament first convenes, be retired, suspended, or transferred to lower-salaried positions if they lack the personal or professional aptitude for their present positions. This provision shall apply, *mutatis mutandis*, to salaried public employees other than civil servants or judges whose employment cannot be terminated at will.
- (2) In the case of salaried employees whose employment may be terminated at will, notice periods longer than those set by collective bargaining agreements may be rescinded within the same period.
- (3) If Cantonal Authorities wish to re-employee such civil servants they can at their discretion and under their own Cantonal budgets.
- (4) Details shall be specified by a statutory instrument issued by the Federal Government with the consent of the relevant Cantonal Government.

### **Article 103 Succession in Rights and Duties**

The Federation shall succeed to the rights and duties of the Republic of Lebanon.

### **Article 104 Succession to National assets**

- (1) National assets shall, in principle, become federal assets. The general rule is to have those assets decentralized into four (4) separate operations/entities.
- (2) Insofar as such assets were originally intended to be used principally for administrative tasks not entrusted to the Federation under this Basic Law, they shall be transferred without compensation to the authorities now entrusted with such tasks.
- (3) To the extent that such assets are now being used for administrative tasks that under this Basic Law are now performed by the Cantons, they shall be transferred to the Cantons. The Federation may also transfer other assets to the Cantons.
- (4) Assets that were placed at the disposal of the Republic of Lebanon by *Wakf* or municipalities or associations of municipalities shall revert to those *Canton* or municipalities or associations of municipalities insofar as the Federation does not require them for its own administrative purposes, in which case it shall negotiate their use with the Cantonal Government.

#### **Article 105 Assets in case of territorial changes between the *Canton***

- (1) The assets of Cantons or of other corporations or institutions established under public law that no longer exist, insofar as they were originally intended to be used principally for administrative tasks or are now being so used, not merely temporarily, shall pass to the Canton, corporation, or institution that now performs those tasks.
- (2) Real property of *entities* that no longer exist shall pass to the Canton within which it is located, insofar as it is not among the assets already referred to in paragraph (1) of this Article.
- (3) In all other respects, the succession to and disposition of assets, insofar as it has not been affected by agreement between the affected Canton or corporations or institutions established under public law, shall be regulated by a federal law requiring the consent of the Federal Government.

#### **Article 106 Old debts**

- (1) Debts of the Republic of Lebanon, or of such other corporations and institutions established under public law that no longer exist, shall be discharged by the Federal Republic of Lebanon.
- (2) Paragraph (1) of this Article shall apply, *mutatis mutandis*, to debts of the Republic of Lebanese or its institutions as well as to debts of other corporations and institutions established under public law that are connected with the transfer of assets of the Republic of Lebanese to the Federation, Cantons, or municipalities, and to debts arising from measures taken by the Republic of Lebanese or its institutions.

#### **Article 107 First convening of the Federal Government**

The Federal Government shall convene for the first time on the day on which the Federal Parliament first convenes.

#### **Article 108 Right of Canton employees to stand for election**

The right of civil servants, other salaried public employees, professional or volunteer members of the Armed Forces, and judges to stand for election in the Federation, in the Cantons, or in the Municipalities may be restricted by Federal and Cantonal laws.

#### **Article 109 Lebanese notaries**

Changes in the rules governing the notarial profession (as well as other professions) as it now exists shall require a Cantonal law or a Cantonal government decree.

#### **Article 110 Compensation for the cessation of joint tasks**

The Federal Government shall agree with Cantonal Governments for the payment of services rendered under

the joint tasks. Such payments are disclosed to all, and in case of unjustified payments, the matter can be vetoed by any Cantonal government which is not receiving such payments.

#### **Article 111 Federal assets, transformation of commissioned administration**

- (1) Any asset (i.e., road, pipeline, railway, communication asset, electrical grid, etc.) linking one Canton to another is a Federal Asset.
- (2) Any Federal Asset can be administered on federal commission by the Cantons or such self-governing bodies as are competent under Cantonal law.
- (3) Any attempt by any Canton to limit or hinder the use of such Asset in or by another Canton or limit the access to another Canton is a direct infringement of this Basic Law and a mishandling of Federal Assets. Any limitation on the supply of energy through a grid or by blocking roads or by shutting pipelines or any similar action is direct infringement of this Basic Law and a mishandling of Federal Assets. The consequence of which triggers the right for the other Cantons to retaliate or to take legal action to seek reparation.
- (4) At the request of any Canton, or upon an infringement by any Canton, the Federation shall assume administrative, executive, and operational responsibility for the federal assets, insofar as such asset lies within the territory of that Canton. Upon the occurrence of any such event, the assumption of direct management of any Federal Asset by the Federal authorities shall not require any specific decision from the Federal Government. No Canton can oppose the absence of such a specific decision to question the federal assumption of management of the Federal Assets.
- (5) A Canton may take over, on commission of the Federation, the function of planning, constructing, and/or altering certain Federal Assets for which the Federation has assumed administrative responsibility.

#### **Article 112 Ratification of the Basic Law – Beirut**

This Basic Law shall require ratification by the parliaments of the four (4) *Canton*.

#### **Article 113 Entry into force of the Basic Law**

- (1) The Federal Parliament, in its first meeting, shall confirm the ratification of this Basic Law in public session and shall certify and promulgate it.
- (2) This Basic Law shall take effect at the end of the day on which it is promulgated.
- (3) It shall be published in the Federal Official Gazette.

#### **Article 114 Duration of the Basic Law**

- (1) This Basic Law, which, applies to all four (4) Cantons of which Lebanon is comprised, shall be put to vote on July 30, 2099.
- (2) If, at such time, one or more Canton decides (through referendum) to reject such Basic Law and absent the adherence to a new agreement, such Canton would be able to declare its independence.

## X – Religion and Religious Societies and Rights to National Narrative

- (1)** Civil and political rights and duties shall be neither dependent upon nor restricted by the exercise of religious freedom.
- (2)** In each Canton, and at the Federal level, enjoyment of civil and political rights and eligibility for public office shall be independent of religious affiliation.
- (3)** No person shall be required to disclose his religious convictions. The authorities shall have the right to inquire into a person’s membership of a religious society only to the extent that rights or duties depend upon it or that a statistical survey mandated by law so requires.
- (4)** No person may be compelled to perform any religious act or ceremony, to participate in religious exercises, or to take a religious form of oath.
- (5)** Notwithstanding the foregoing, it is acknowledged that religion is a crucial component of the identity and the national narrative of each Canton in Lebanon. No individual person can invoke this Basic Law or any of the provisions herein or any human right or other “right” to try and modify the Cantonal Basic Law or any restriction therein imposed by any Canton on eligibility or any other law. Laws, rights, and obligations in any Canton can only be modified by another Cantonal Law.
- (6)** The right to preserve each Canton’s national narrative, history, and religion is a Basic Law, as well as the right to preserve the “carte postale.” No claim by any individual or group to modify laws and regulations set by a Canton in preservation on its “carte postale” is admissible in Cantonal or Federal court.
- (7)** The freedom to form religious societies shall be guaranteed.
- (8)** Religious societies shall regulate and administer their affairs independently within the limits of the law that applies to all. They shall confer their offices without the participation of the Canton or the civil community.
- (9)** Religious societies shall acquire legal capacity according to the general provisions of civil law.
- (10)** Associations whose purpose is to foster a philosophical creed shall have the same status as religious societies.
- (11)** Such further regulation as may be required for the implementation of these provisions shall be a matter for Cantonal legislation.
- (12)** Property rights and other rights of religious societies or associations in their institutions, foundations, and other assets intended for purposes of worship, education, or charity shall be guaranteed.
- (13)** Holidays recognised by the Canton shall remain protected by law as days of rest from work and of spiritual improvement.
- (14)** To the extent that a need exists for religious services and pastoral work in the army, hospitals, prisons, or in other public institutions, religious societies shall be permitted to provide them, but without compulsion of any kind.

## XI – Principles of Cantonal Powers and Governance

### **Article 115 Cantonal Asset and Federal Assets**

- (1) Land, natural resources, means of production, soft or hard infrastructure, and facilities that are solely within the boundaries of a given Canton and that are owned by Cantonal Governments are, in essence, the common ownership of the Canton Citizens and shall be defined as “Cantonal Assets.”
- (2) Any transfer of any Cantonal Asset to a Federal public enterprise or another entity will need a special authorization from the Cantonal Parliament with a two thirds (2/3) majority approval.
- (3) Any land, resource, means of productions, soft or hard infrastructure, or facilities that cross from one Canton another or connect one Canton to another is a Federal Asset, at least insofar as the connecting portion is concerned. Such Federal Asset (or portion thereof) cannot be alienated or disposed of or managed by Cantonal authorities except as otherwise expressly commissioned by the Federal Authorities.

### **Article 116 Protection of the natural foundations of life**

- (1) Mindful of its responsibility towards future generations, each Canton shall enact laws that protect its national (i.e. Group) heritage, national narrative, culture, natural animal vegetal, and foundations of life all in accordance with law and justice, by executive and judicial action, within the framework of the constitutional order.
- (2) Cantonal authorities are encouraged to enact “carte postale” laws to preserve the cultural identity of the Cantonal landscape.

### **Article 117 Transfer of sovereign powers**

- (1) Power currently granted to Governor (mouhafez) and/or District Manager (Caimacam) shall be integrally transferred to the Municipal Council.
- (2) Each Canton shall open, organize, control and manage all the specific Registers (land and real estate, commerce ...). The Federal authorities shall hold a consolidated mirror of the four (4) registers of each nature for statistics and conflicts purposes. More specifically, each Canton shall have one (1) Commercial Register.
- (3) The Federation enjoys no sovereign powers to enable it to transfer to international organizations.
- (4) Insofar as the Cantons are competent to exercise Cantonal powers and to perform Cantonal functions, they may, without the consent of the Federal Government, transfer sovereign powers to trans-frontier institutions.
- (5) With a view to maintaining peace, the Federation shall ensure total neutrality of Lebanon. This includes resigning from organizations including the Arab League and other multi-lateral organizations.
- (6) The settlement of disputes between Cantons shall be done through international arbitration.

### **Article 118 Canton constitutions – municipalities**

- (1) The constitutional order in the Cantons must conform to the principles of a republican, democratic, and social Canton governed by the rule of law within the meaning of this Basic Law.
- (2) In each municipality, the people shall be represented by a body chosen in general, direct, free, equal, and secret elections. In municipal elections, persons who possess Lebanese nationality (passport issued from any Canton) and residing in such municipality (referred to as a Municipal Resident) is eligible to vote.
- (3) Only Cantonal Citizens, of the Canton within which the Municipality is located, are eligible to be elected to municipal positions.
- (4) Municipalities must be guaranteed the right to regulate all local affairs on their own responsibility within the limits prescribed by law. Within the limits of their functions designated by law, associations of municipalities shall also have the right of self-government in accordance with the law. The guarantee of self-government shall extend to the bases of financial autonomy; these bases shall include the right of

municipalities to a source of tax revenues based upon economic ability and the right to establish the rates at which these sources shall be taxed.

#### **Article 119 Political Parties**

- (1) Political Parties may be freely established. No Cantonal, Municipal, or Federal law, decree, decision, action, inaction, or authorization can limit such right. Any law, decision, decree, action, or inaction request for registration that in effect limits, restricts, or hinders the right to political expression is considered invalid.
- (2) Political Parties' internal organizations must conform to democratic principles.
- (3) Political Parties must publicly account for their assets and for the sources and use of their funds.
- (4) Political Parties that, by reason of their aims or the behavior of their adherents, seek to undermine or abolish the free democratic basic order or to endanger the existence of any Canton or the Federal Republic of Lebanon shall be excluded from Federal and Canton financing. If such exclusion is determined, any favorable fiscal treatment of these parties and of payments made to those parties shall cease.

#### **Article 120 Sovereign powers of the Canton**

Except as otherwise provided or permitted by this Basic Law, the exercise of Cantonal powers and the discharge of Cantonal functions is a matter for the Cantons.

#### **Article 121 Cantonal citizenship – Public service**

- (1) Every Cantonal Citizen shall have within his Canton the same political rights and duties.
- (2) Every Cantonal Citizen within his Canton shall be equally eligible for any public office according to his aptitude, qualifications, and professional achievements.

#### **Article 122 Election of Cantonal Prime Minister – Term of office**

- (1) The executive powers of each Canton vest in the Cantonal Prime Minister. The Cantonal Prime Minister is elected by direct voting by the Electoral College of the Canton (the same Electoral College which is entitled to elect the Members of Parliament—i.e., the Cantonal Citizens meeting all the criteria to vote).
- (2) The Term of office is four (4) years.
- (3) Any Lebanese who is entitled to vote in Cantonal Parliament elections and has attained the age of thirty-five (35) may be elected.
- (4) Each Cantonal Prime Minister shall be a *de facto* and *de jure* member of the Federal Government.
- (5) Each Prime Minister shall choose his secretaries/ministers in numbers and for functions to be determined in due course by specific laws to be issued by the Cantonal Parliament.

#### **Article 123 Incompatibilities**

A Cantonal Prime Minister may not hold any other salaried position, engage in any trade or profession, or belong to the management or supervisory board of any enterprise conducted for profit.

#### **Article 124 Appointment and dismissal of Cantonal and Federal Ministers – Oath of office**

- (1) Cantonal Ministers shall be appointed and dismissed by the Cantonal Prime Minister.
- (2) On taking office, the Cantonal Prime Minister and his Ministers shall take the oath before the Cantonal Parliament.

#### **Article 125 Vote of confidence**

- (1) The Elected Prime Minister has to present himself with his completed team of Ministers to the Cantonal Parliament for a vote of confidence within thirty (30) days from his election as Prime Minister.
- (2) The new Prime Minister takes office as soon as elected. His Team (the Ministers) take office as soon as

appointed, but no longer than thirty (30) days from his election (i.e. before they present themselves for a vote of confidence). During such time, the newly elected Prime Minister and his appointed Ministers have “Care Taking” powers. They will maintain Care Taking powers until they receive a vote of confidence.

- (3) If the motion of the Cantonal Government for a vote of confidence is not supported by the majority of the Members of the Cantonal Parliament (be it a “swore-in” vote of confidence or a subsequent vote of confidence), the Prime Minister may dissolve the Cantonal Parliament within twenty-one (21) days thereof, and call for general elections within a period of ninety (90) days following such dissolution.
- (4) In case the Prime Minister and his government are unable to organize general elections within such ninety (90) day period, then they are automatically considered a “Care Taker” government, *strcito sensu*. The Cantonal Government will remain a “Care Taker” government until proper elections are held and the Cantonal Government is granted a vote of confidence.

#### **Article 126 Vote of no confidence**

- (1) The Cantonal Parliament may express its lack of confidence in one or more Minister of the Cantonal Government as appointed by the Prime Minister.
- (2) The Cantonal Parliament can vote to dismiss the Minister(s).
- (3) In such case, the Prime Minister is forced to remove and replace the voted-down Minister(s) within a period of fifteen (15) days from the vote.
- (5) If a motion of no confidence concerns or includes the Prime Minister himself, then his government enters a “Care Taking” phase. The Prime Minister must dissolve the Cantonal Parliament within twenty-one (21) days thereof, and call for general elections within a period of ninety (90) days following such dissolution.

#### **Article 127 Term of office**

The tenure of office of the Cantonal Government shall be four (4) years and end in any event when a new Cantonal Prime Minister is sworn in.

#### **Article 128 Deputy Prime Minister**

- (1) The Cantonal Prime Minister shall appoint a Cantonal Minister as his deputy.
- (2) The tenure of the office of a Cantonal Minister shall also end on any other occasion upon which the Cantonal Government ceases to hold office.

#### **Article 129 Matters under exclusive legislative power of the Canton**

- (1) The Canton shall have exclusive legislative power with respect to:
  - a. Civilian protection;
  - b. Residency within the Canton;
  - c. Education, schooling, cultural heritage;
  - d. Language;
  - e. non-federal public transport, local railways, mountain railways;
  - f. waste disposal, air pollution control, and noise abatement;
  - g. Canton liability;
  - h. statutory rights and duties of civil servants of the Canton,
  - i. municipalities and other corporations established under public law as well as the judges in the Canton;
  - j. hunting;
  - k. protection of nature and landscape management;
  - l. Cantonal and regional planning;
  - m. management of cantonal water resources;

- n. admission to institutions of higher education and requirements for graduation in such institutions;
- o. industrial property rights, copyrights, and publishing;
- p. Land ownership, Real estate, real estate transactions, limitations, and building permits;
- q. Graves, religious sites, and other memorial monuments

#### **Article 130 Internal emergency**

- (1) Any Canton (upon the approval of 75% or more of the Cantonal deputies) may call upon police forces of/from another Canton, or request to draw upon personnel and facilities of other administrative authorities and/or of the Federal Army only to address an imminent danger to the democratic order of the Federation or of a Canton.
- (2) If the Canton where such danger is imminent is not itself willing or able to combat the danger, the Federal Government may place the police in that Canton and the police forces of other Cantons under its own orders and deploy units of the Federal Army.
- (3) If the danger extends beyond the territory of a single Canton, the Federal Government, insofar as is necessary to combat such danger, may issue instructions to the Canton Governments.

#### **Article 131 Name of Canton**

- (1) Any Canton (upon the approval of 51% or more of the Cantonal deputies) may decide to name itself or rename itself or amend its name

#### **Article 132 Language of Canton**

- (1) Any Canton (upon the approval of 51% or more of the Cantonal deputies) may decide to choose any language (or alphabet or script) as its official language.

#### **Article 133 Registers**

- (2) Each canton shall be in charge of incepting and organizing all the required registers and registries including: register of commerce (*registre de commerce*), land and real estate register (*registre foncier*), criminal register, automobile register, etc.

## Appendix A – Rational for Federalism – A Conceptual Framework

With a view to maximizing the level of representativity, election laws must always use appropriate eligibility criteria in order to define the electoral body, both locally and in its entirety. These criteria need to ensure a maximum level of representativity. Our party proposes an election model based on two selection criteria, the first one community-based (the primary criterion), and the other one geographic in nature (the secondary criterion).

The primary criterion (community-based) that we have chosen works on the assumption that each community will elect its representatives. That the Sunni representatives will be elected by the Sunnis, the Maronite leaders by the Maronites, the Shiites by the Shiites, and so on. Actually, to deny the predominance of the community in Lebanese politics is to ignore the scientific and objective approach and to rush into ideological presuppositions, to potentially allow religious, cultural, political or personal considerations to take precedence.

The secondary criterion involves limiting the electoral body to a geographical area. I believe that the areas should be divided up using an approach which takes into account different circumstances. Imagine a community with 200,000 voters. Let's imagine that this community has the right to 4 seats. By dividing the number of voters by the number of seats allocated to the community, we can work out the number of voters required to elect a deputy from this community (in this example, 50,000). For this community, the Lebanon will be divided into 4 zones which include 50,000 voters. Should the situation arise, splitting a geographic area with historical consistency should be avoided (as far as is possible), in order not to introduce artificial distortions of the shared pasts of the residents.

Let us remember that there is no point trying to use the secondary criterion without the first criterion, or to try to force the secondary criterion to take precedence over the primary axis. To (genuinely) want a representative electoral system (as is the aim of any electoral system designed with integrity) while retaining the geographical apportionment as the primary criteria would amount to opting, at best, for a single-member constituency. This is the system I would consider «second best». But this «second best» brings about inequality among citizens that no legislator, or at least not one who wants equal citizens' rights, can allow. This inequality would affect tens of thousands of our fellow citizens who belong to communities which find themselves in a minority in a single-member constituency. An example of injustice caused by the small electoral (single-member) districts themselves is that of the Shiites in Byblos, who find themselves with no political rights and without sound representation, all in the name of a misleading ideology and based on empty, dogmatic slogans on unity and living together in harmony.

Differentiated democracy, as it proposed here, is also based on analysis of the human reality as it presents itself to us, and as described by one of the greatest sociologists of organization. Maslow's hierarchy of needs is these days recognized as reflecting the needs of Mankind within political, social or commercial organizations. Maslow himself said that there is no point trying to meet a higher need until the need below it has been satisfied. Yet at the very bottom of the needs of Man, we find the need for security (hence the need for community recognition – primary criterion – which meets and guarantees this need). After this need for security comes material need, followed by the need to meet intellectual requirements (political programs, etc....), a secondary criterion in our analysis. There is much to be said for transposing Maslow's analysis onto the world of political organization, but that is not the scope of this paper.

The adoption of the electoral system we recommend is the first essential step towards (genuine and necessary) State reform. The proposed system of differentiated democracy will result in (i) a reduction in

communitarianism (and resentment within communities), (ii) the path to the process of political parties and ideologies opening up, and (iii) the creation of a 'matrix' parliament or congress.

A reduction in communitarianism and resentment within communities

Inasmuch as each community elects its representatives, it will not be able to avoid accepting responsibility for its own choices (responsible freedom), and it will not be able to offload its grievances, reproaches and dissatisfaction (which are often legitimate) onto the State. The 'mandate' given to the representatives cannot run the risk of being amended by the central actor in a democracy: the people. In fact, what is a mandate worth if the electors say «this Christian deputy was voted in by Muslims» or vice versa). We now know that from time to time democratic systems open the way for political change through elections. This opportunity inevitably ushers in a period of turbulence, which begins with the preparations for the election and which ends when the polling stations close. This window of opportunity for change belonging to the voters, is accompanied by the mobilizing of often clashing energies and feelings. These frictions would be only too happy to take on a sectarian, religious or ethnic nature as far as the constitutional process allows. But the Lebanese electoral system currently in place is the main thing which creates resentment and friction in communities, as I will demonstrate.

Let us consider the electoral system currently in place in the Lebanon. Let us take the case of a majority community in a given district. The candidates who are part of the majority community really need to have a sectarian position for the following reasons: (i) to mobilize the voters who are part of this community (stimulating feelings like fear is a very strong incentive to mobilize and draw voters to the polls. An example would be the use of terminology which references disasters, such as «tsunami»), and (ii) secondly, to win the maximum number of votes in the competition between candidates from this same community (aggression and a warlike stance towards others is seen by the public as proof that they care about their community). Thus, in the context of a mixed electoral body, which is the situation in Lebanon at the moment, the structure of the electoral system inexorably and systematically creates a movement which revolves around and is intensified by a sectarian approach. This is what I describe as «communitarianism».

But what about the minority? The candidates who belong to the minority community in an electoral district have no chance of being elected unless they are «on the list» or «co-opted» by the majority community in that district (this is the case in the current Lebanese system). Therefore, they will need to take a line which is out of touch with their electoral base and more in line with the views of a majority community (which their success or failure depends on). As is often the case, a candidate from the minority community will receive the (vast) majority of votes within their community (because they take a line which reflects the views of their community, but which is therefore poles apart from the views of the other majority community in this district), but they will still not be elected for all that. This failure, which is written into the very nature of the electoral system and which repeats itself in exactly the same way from one election to the next, creates a strong feeling of frustration in the minority community in this district and develops what I call «community resentment.»

Communitarianism or community resentment are created and developed by the current electoral system, which is based on geographic area as the primary criterion.

In the proposed electoral system (Differentiated Democracy), a candidate will no longer win under cover of taking a position which plays on fear of the Other, as the electoral body is made up only of members of the community and their rights are in no way threatened. What's more, competition is between candidates who have just as strong ties to the community (or who see themselves in that way, at least). In any event, another community doesn't have the option to legally favor with his vote the candidate who is seen as being less tied to the community. The unfortunate candidates (there are always more unfortunate candidates and there still will

be in a democracy) will not be able to put forward sectarianism, the extremism of the other community to justify their failures in the election, which would considerably reduce the stirring up of feelings of hatred or vindictiveness towards Other people. Thus, this electoral system reduces inter-community friction. The fact that each community elects its own representatives reduces the stirring up of communitarianism (intra-community) and community resentment (inter community).

#### Opening the way for political parties and ideologies

Once representation is no longer the object of a sectarian debate and that stirring up community feeling is no longer the main way of canvassing votes, the possibility of debate between parties, ideas and ideologies opens up. It is once there can be no more doubt about the community «credentials» of the candidates in the running within a same community that we can start to listen and compare the political or ideological positions of the different candidates. The parties (socialists, communists, liberals, religious candidates, secular candidates, green candidates...) will be able to develop and will be able to be part of a congress which is made of several representatives.

#### A « matrix » parliament

One could reasonably expect to see that the structure of the congress to come out of an electoral system like this would be matrix by nature, since each representative would have a double mandate; one to represent their community, the other to represent their political party/ movement/ ideology. This congressional structure is similar to what we see in the European parliament, where the representatives are elected by national voting bodies, but on the basis of their political affiliation. German Communists (socialists, liberals, nationalists, green parties...) sit with French, Spanish, Italian and other Communists (socialists, liberals, nationalists, green parties...). Similarly, Maronite liberal members of congress will sit with Sunnite, Druze, Shiite, Orthodox, Catholic, etc. liberals and will form a block for the promotion of their common ideas. Likewise, with Communist, Green, Socialist, Religious... groups.

Let us imagine that the legislator were to adopt the proposed system of Differentiated Democracy, and let us take for example the case of Casa du Chouf. Let us imagine that there are 7 Druze candidates in the running (2 communists, 2 socialists, 2 liberals and 1 from the green party). Let's imagine that the Druzes from Chouf have elected a socialist representative and a green party representative. I am convinced that the socialist Druze representative will swell the ranks of the Orthodox, Sunnite, Shiite or other socialists of the assembly, while the ecologist representative will join the other ecologist representatives from the other communities. The proposed system is first and foremost representative, but it also has the advantage of being simple, effective, honest and flexible.

That still leaves the question of whether the electoral seat itself should be allocated to a community. A priori it does not seem necessary to tie the condition of belonging to a certain community to the mandate of the representative. If a Catholic or a Sunnite has the favor of the Shiite electorate of Beirut, there's no reason which would justify that they (the members of the Shiite electoral body) could not elect him. We do not see any justification or argument which would support a ban (by rights) on an electoral body (as defined above according to primary and secondary criteria) having the right to give votes to a candidate from another community. The only constraint to such a reform right now is the number of representatives per community as defined and fixed in the Taef agreements. In fact, if for example the electoral body (i) which is Sunnite (primary criterion) and (ii) from Saida (secondary criterion) chooses a representative who turns out to be Druze, because he conveys ideas that better represent them than all the other candidates, the number of Druze members of parliament would increase by one representative, while the number of Sunnite members would decrease by the same amount,

which contravenes the Taef agreements. So, for now, we need to keep the combination of seat and community affiliation of candidates.

An overview of the proposed electoral system offers a satisfactory solution to this problem. Actually, as demonstrated above, the proposed system, by «neutralizing» the denominational factors in the political equation will move the debate to the area of ideas and political ideals. Yet, the expression of political ideologies is weaponized by and through the political party, which will be reflected in the necessity for political parties. This development of parties and non-denominational political groupings will manage the constraint of the number of representatives per community. The current system pairs the seat with a community, we propose to try to get rid of this pairing at a later date, so that the electoral body may give votes to any eligible person irrespective of the community they belong to.

#### Over-representation and guaranteeing rights

One of the arguments put forward by critics of fully representative projects is that the number of Christians in congress is not proportional to the actual number of Christians in the Lebanon. So, they suggest that a certain number of Christian representatives be elected by Muslims. This proposal gives rise to the following considerations:

1. Would the proportion of Christians in the total population be what it is, if we remove from the statistics hundreds of thousands of Palestinians and Syrians who have been naturalized illegally and in such a way as goes against the Taef agreements and the constitution?
2. Would the proportion of Christians in the total population be what it is, if we add the hundreds of millions of Lebanese Christians living abroad and who have been banned from voting for several decades?
3. Can we ever think in constitutional law or conflict management in multicultural societies that we can correct one injustice with another? Have we not learned that this only creates frustration, hate and extremism?

But why this over-representation of Christians, if over-representativity there is? First of all, because it is not as obvious as some people would have us think. Secondly, because it is the only method the delegates of Taef have found to guarantee the rights of Christians in an environment where there are no examples to convince them that these kinds of guarantees are not necessary.

Once the fundamental problem has been identified (that is, the necessity of having constitutional mechanisms to protect the rights of Christians), it remains to be seen how to resolve it. We are opposed to the very principle of over-representation of any community whatsoever. Therefore, we need to look elsewhere for a means of protecting the rights of communities. This is where the notion of a congress with a matrix structure reveals all its power and flexibility. In fact, within a congress like this, the subjects to be debated are generally classed into two types: (i) subjects which do not affect, directly or indirectly, the rights of any community, and (ii) the subjects which directly or indirectly concern the rights of one or more communities. All the subjects which do not concern directly or indirectly the rights of any communities are discussed directly in a full session, and voted on by qualified majority (which could be a simple majority). However, any subject which affects the rights of a community must be approved beforehand by the members of congress who belong to the relevant community. If they have been elected by their community, as we propose, representativity will be strong and the risk of «suspicion», cultural isolationism, fanaticism or rejection are low. The number of seats reserved for this or that community can then evolve freely depending on the size of the community in relation to the total population.

This solution resolves the problem of the protection of communities' rights, as well as that of the number of seats per community (proportional to the size of the community in question, in relation to the population). We only need to think of the example of the reform project of the Druze community to be reminded of the ridiculous situation we are living in (and the poor quality of the Taef document). The members of parliament from the other communities could have – and the president of the republic actually did- block this project, which does not affect them in any way! A good example of the absurdity of non-differentiated democracy.

The philosophical justification of all of the above can be found in works which are today considered as authorities on democracy, multiculturalism or human rights theories (and practices), as much because of their scientific rigor as the coherence of their approach and the empirical validation of the models they put forward. Here I am essentially referring to the works of: Michael Walzer (Sphere of Justice, Pluralism and Democracy), William Galston (Justice and the Human Good), Nicholas Rescher (Distributive Justice), Blandine Kriegel (Philosophy of the Republic), Will Kymlicka (Multicultural Citizenship, The Theories of Justice), Sylvie Mesure, Jean Baubérot, Alain Peyrefitte. The following pages will be set out as follows:

- I. The Pact to define the scope of the primary criterion
- II. Efficiencies of systems of differentiated rights
- III. Equality and Differentiated Rights
- IV. Secularity and Differentiated Rights
- V. Differentiated Democracy and Political Unity

- I. The Pact to define the scope of the primary criterion

A democratic process based on the number of voters can only be conceived between members of a same « social pact ». This is how it is in all known democracies. The pact always and everywhere constitutes the primary criterion of the electoral body. I will demonstrate that in the Lebanon there are as many social pacts as there are communities. 17 communities, 17 social pacts. This number could be reduced to four (Sunnite, Shiite, Druze and Christian), by grouping together the Christian communities, given the cultural similarities, and due to the sociological changes of the last few decades. It is only within each pact (4 or 17), that the democratic process of «numbers» can take place.

The social pact which binds the members of a group can be explicit, but is more often implicit. It is a bond where identity, history, mythology, common beliefs, the relationship with Others, with the earth and with the hereafter, come together. To explore this notion, one needs to look at each of these aspects.

Aristotle stated that « the Republic is a community of free men ». The term « community » is telling, because it goes directly back to the principle of coming together, of agreement, of a pact. The notion of free men goes back to the notion of voluntary membership, which goes against forced membership or the modification of the pact (after joining) against the will of some of the people. It is well-known that the vast majority of Christians in the Lebanon did not sign up to Taef. That does not mean that they don't want a fair solution for all parties or that they are choosing to wage war. But it is to say that they would have liked a balanced pact, which the parties could sign up to. Aristotle again states that the republic is a system of a civil bond, with the aim of good living and the general interest. Here again we find the notion of a pact (civil bond) at the heart of the republic. Moreover, Aristotle sets out that the republic is a community (koinomia) and not a people (ethnos) . Thus, the community and the social pact are the two fundamental aspects of the political organization.

It is edifying to see that Aristotle and the entire line of Roman jurists who followed him restricted democracy to the community. The laws only had value between the members of the city, in other words, those who adhered to the pact. Rome based its *res publica* on the *status rei publicae*: the civil bond. This restriction was long seen as a flaw in the French political tradition. The French universalist approach could not understand that the pact could be anything other than universal. It is only when faced with the eminently modern notion of community, the will of citizens to differentiate themselves (or to be recognized as such) and to have differentiated rights for different groups, that the French philosophical tradition rediscovered the relativity of the pact and the restriction of the scope of electoral regulations and laws to a specific group within the Nation-State. We find this idea of the pact gain strength in the Christian message, which significantly contributed to the development of pairing republic and democracy: the people agree to the law, through a pact. From then on, and for the first time, civil identity is no longer based on territory or ethnic filiation, but on the adherence to a pact (the Covenant between God and mankind). The notion of pact as the basis of the republican system can also be found in Saint Augustin, who formalizes this by asserting that only those who comply with the New Covenant (love, peace and justice) will be able to lay claim to the benefits of the City of God, also limiting the effects of the pact to those who adhere to it. Saint Augustin, whose argument is not neutral, wanted to discredit and reclassify the Roman republic, by arguing that there never was a Roman republic, because the organization of the Romans was based on inequity and injustice. In any event, and as far as we are concerned, the models of the Roman republic and the Augustinian republic are both based on a pact, and could only be applicable within the community or to the members of the community.

It is futile to try to date the birth of the republic. The debate around this question goes far beyond the scope of this paper, which is limited to drafting an electoral system for multi-ethnic republics. It is however important to note that after Aristotle's Greece, the Roman Empire (and the Roman republic) and Saint Augustin, it was the turn of Saint Thomas Aquinas to confirm the principle according to which the first society (the smallest state) is an institution, a *consortium* (again, the notion of a pact). As for Hobbes, he uses the term *vinculum*, pact or contract. A pact of submission, according to Pufendorf, or a pact of association according to Rousseau. The foundation of a Republic is not based on force. The main attribute of power is legislation and not the army. Yet, when you talk about a legislative base, you are actually talking about a pact from the start or even a constituent pact, which these days we call a constitution. The sovereign weapon is not the sword, but the law, which in Anglo-Saxon terminology is « common law » (common to the members of the community). Whereas, in Lebanon, there are 17 « common laws ».

The distinctive feature of a republican State is that it transfers sovereignty to the people rather than to a monarch or to the aristocracy. This sovereignty is conferred and protected by and through the pact, implicitly or explicitly, and works from the assumption that the « co-contractors » are free and equal. Blandine Kriegel, representing Bodin, asserts that the very genesis of the rationalization of the sovereign State contains an elementary term of the pact: freedom.

Thus, at the start there was the pact. This pact can take different forms, but it always exists and it always precedes the development of republican community life. The pact can be internal and institutional in nature, based on the shared history, and transmitted by the collective consciousness or by way of an explicit contractual bond. All we need to do is to look at our sociological context in the Lebanon honestly and objectively to see that each of the Lebanese communities has its own past, its own history and its own martyrs, its own reference system. Thus, everyone has a pact which binds the different members of the community together, and the

democratic process can be applied within it. Thus, each community represents the normal and natural context of free and responsible political expression of each of its members. As for the national pact, it plays an organizational role within a geo-political space which is simultaneously united and differentiated, in order to allow citizens to realize their potential within a viable social, economic and political framework, which respects the different interests.

For Aristotle, there are only two forms of government: a government which seeks the common good, which is called republican, and a government which looks out for personal interests, and is qualified as despotic (the personal interest may be that of a group or a community, to the detriment of another community). To work and to govern in the public interest in multicultural societies works with guarantees and the differentiation of rights of different groups and communities. To work and to govern for private interests is also to work and to govern in the interest of one group to the detriment of another. The denial of rights, and particular the right to sound political representation, means that the system tips over into what Aristotle calls despotic. The examples of the Christians of Tyre or of Beirut, the Shiites of Jbeil or the Sunnites of Zahlé are very telling. In fact, these groups do not have any political rights at all, as their representatives are «named» by other groups. Thus, the system in force (and any electoral system based on geographic area as the primary criterion) is fundamentally unjust .

The aim of the democratic process is to ensure sound representation of the different political opinions of the population within the political authority created to that effect, which we call Congress or Parliament. This assertion, which may seem trivial, poses two major conceptual problems: (a) the fact that in all democracies, the representatives are systematically elected by groups and not by the whole population, and (b) the fact that the democratic process does not have any other role than sound representation.

The democratic process and the electoral body

There are no known examples where a representative is elected by all of the voters. On the contrary, all democracies have divided up the population one way or another to allow sound representation. Divisions by groups of citizens are done according to one or more of the following parameters (or criteria): geographical area, ethnicity, religion, language, culture. Nowhere has this carving up of the electoral body into sub-groups called into question the validity, the coherence or the representativity of the process. In France, a country with a long democratic tradition, but also a country with a homogenous, uniform and monolithic culture, a country with a unitary political structure par excellence, it is telling to see that nobody is calling for the many to elect the representatives. Only a sub-group of several tens of thousands of citizens, out of a total of 60 million, made up of the residents of a district elect the representative!

Therefore, the idea of the group is in no way in contradiction with the democratic approach, either in principle or in fact. This notion is not new: for a long time now, the French and Anglo-Saxon approaches have been opposed in the perception of the role of the group in the relationship between citizen and state. The French approach is described as universalist, whereas the Anglo-Saxon approach is classed as differentialist. The first approach concentrates the rights in the hands of individuals, whereas the second confers the rights upon groups (communities) of collective rights, which are superior to individual rights. These days it is recognized that the two approaches are in no way contradictory and that both give groups more powers than individuals. The essential distinction stems from the criteria chosen to define a group, and the reasons for this are historical. In France, a supremely homogenous country, the regional and geographical aspect is chosen as primary criterion to define the group, whereas Belgium, Switzerland, Canada, the United Kingdom (heterogeneous countries),

choose the community as the primary criterion, paired with other criteria depending on the circumstances, such as geographical area as a secondary criterion. In order to see which system better reflects the reality in the Lebanon, we find ourselves asking trivial questions, such as whether the Lebanon is a homogenous or a heterogeneous country, monoculture or multicultural. I do not even dare to answer, as it is so blindingly obvious!

Once we have accepted the idea that only a sub-group of the population is called to elect a representative, the question becomes how to ascertain this subgroup? In countries with a homogenous culture, the geographical criterion seems to prevail, through common thinking, perceptions, history, experience, problems and concerns which are all specific to the residents of a same geographical area. In multi-ethnic countries like the Lebanon, the primary criterion for defining a group cannot be anything other than the community, possibly paired with a secondary geographical criterion. So, we need to group together into an electoral body the population by communities, then by Casa, or district, so that we have a coherent electoral body which will result in real representativity, which will in turn guarantee real political expression for its citizens.

As we saw above, in any democracy the electoral body is made up of sub-groups of citizens. Yet, there are two types of groups, depending on the social fabric. In «homogenous», monolithic countries, the electoral body is made up of a group which adheres locally to a same social pact which binds all the citizens overall. The local electoral body, in charge of electing their representative, is a sub-group of the national pact. They share with other subgroups, and all the citizens who share the same values, their strict adhesion to the same pact and they do not differentiate themselves by very subtle local specificities which could be linguistic intonation, a local historical past or some symbols which are specific to this geographical area. The essential values are all shared to a very large extent with the rest of the population. The local pact and the overall pact overlap. This is the reason why the primary criterion for defining the electoral body (the pact) is not visible to the naked eye. An informed analyst, with an exhaustive scientific coherent key for understanding, can see it. But for everyone else, the only criterion chosen is the geographical criterion. This primary criterion for determining the electoral body is neutral, because the local pact and the overall pact overlap. The voters are interchangeable and undifferentiated. The same cannot be said in multi-ethnic (or even multi-cultural) societies, where subgroups merge with the culture or ethnicity or language accordingly. The members of the community make up the subgroup, which is the electoral body.

Let us develop this notion of (sub-) group. It is recognized that any shared values (religious, social...) are experienced in groups. This group, defined under the name of community, comes together around a common theme and seeks to obtain or to retain rights which are specific to them. It is edifying to see how the French political system, historically opposed to the constitution of communities, had to review its thinking in the context of the regulations of the Muslim faith. The establishment of the French Council for Muslim Faith (or CFCM, *Conseil Français de Culte Musulman*) is the first step in the start of a dialogue between the Muslim community and the Administration. In spite of this advance in the direction of recognizing community realities, French political thinking remains fiercely opposed to the application of differentiated rights. The principle which guides the French approach remains that the application of laws in an undifferentiated way is the guarantee of the rights of everyone. The so-called issue of the Muslim headscarves confirms this tendency. This approach tends to become minor on the overall scale both in continental Europe and in the Anglo-Saxon democracies, where communities have specific rights which neutralize the laws which «by being applied indiscriminately to everyone could have a discriminatory effect on a single group of people, by imposing obligations and restrictive conditions upon them which do not affect other citizens». In fact, it is now recognized that discrimination is not only the fact of acting in a discriminatory way, but also the effect of a seemingly neutral measure or will (which

is not differentiated like the law on the Muslim headscarf). Canada, as well as having a federal system, and as far as the federal principles are concerned (which in theory should be shared principles), has gone so far as to introduce the notion of « reasonable accommodation », which imposes an obligation to accommodate and even modify norms and practices to take into account the needs of a group. This tendency of differentiation in laws is not only motivated by philanthropic approaches or for the sole purpose of opening up the scope of freedoms. Differentiation of law is also driven by economic considerations.

## II. Efficiencies of systems of differentiated rights

### Efficiency, Political Will and the decision-making process

Political will and the expression thereof in terms of political decisions is another aspect influenced by the political construction of the republic. Multicultural democracies which benefit from a system of differentiated rights (among others, the election of representatives by each group) are systems where political decisions cannot ensue from the process of judicial arbitration. This empirical observation is linked to the system of « checks and balances », which is inherent within differentiated systems. At the other end of the scale, unitary or monolithic systems have a propensity to base decisions on the administrative bodies. These models are described as administrative. The differentiated model is essentially based on the principle of subsidiarity, where decisions are taken as close to the citizens and by the group concerned as possible, and this decision is then « validated » by the national or federal authority, inasmuch as (i) it does not go against common principles, or (ii) it does not have an impact on the other groups. The decision follows the process (understood not as a discrepancy, but as a test), and the opposing parties, according to a predefined outline and which gives the « lead » to those who are primarily concerned. Therefore, the parties buy into the process. The differentiated model assumes the process, the argument, the comparing and contrasting of the parties, the sentencing after the event, the fragmentation and specification of the action. The administrative model projects the arbitration of a will, without necessarily gaining the adhesion of those concerned. The administrative model accommodates orders, but not consent. The administrative model ends up coming up against democratic aspirations and the every-increasing needs for liberty. So, we are in the pre-eminence of the administrative right over the justice requirements of the time, where the Lebanon essentially requires a frank, transparent, suitable and just process.

### Economic efficiency, subsidiarity and development

In actual fact, human development and in particular economic enrichment, are a result of the extension of freedoms. The extension of freedoms stem from recognition of the reality of communities and the differentiation of rights as per community specificities. Economic growth is intimately and inexorably linked to the genuine democratic process, as we propose. Growth is in substance making the choice of Freedom. I will restrict myself here to citing a few conclusions of eminent economists, a Nobel prize winner for economics, the adviser to the President of the World Bank, Amartya Sen, resumes in his thesis that economic growth cannot take place without freedom. His thesis is entitled «Development as Freedom». His notion of freedom is not restricted to political freedom, the words must also be understood as ‘emancipation’ (taharror) from religion, from poverty, from social classes or casts, clans or tribes... Alain Peyrefitte, a thinker on development, insists that ‘economic growth, before it becomes a growth rate, is a choice of values.’ The ethos of competitive behavior, faith in an impartial and fair legal order. Jean de Witt places religious and judicial freedom as factors which must come before any economic growth. Spinoza and Locke both refuse to think about the causal foundations of modernity and development outside of the context of freedom. Hegel, when talking about the Phoenicians, argues that their development is due to a society which lives ‘in confidence’ and is left to its own devices. Hegel talks about people who are audacious, free and responsible. Bastiat, Shumpeter and Von Hayeck profess that political, religious, social, centralized or authoritarian authorities stifle both freedom and growth.

Robert Lucas, one of the masters of the school of Chicago, insists that the combination of capital and labor is not enough to explain growth. He suggests adding a third material factor into his mathematical equations: an index of the degree of freedom! Francis Fukuyama went so far as to entitle his book dedicated to the relationship between democracy and growth: 'Trust'. Freedom as tolerance, freedom as confidence, freedom as having a critical mind, freedom and individual and collective responsibility, freedom as emancipation, freedom as a principle of subsidiarity... that is the sine qua non condition for human and economic development. Each of the theoreticians on modernity and development has contributed to laying bare one of the many aspects. The final thought comes from both Pope John Paul II in his encyclical *Centesimus Annus* (1991) and from the Noble Prize winner in economics, Kenneth Arrow, who both assert: Economic activity is never anything more than the fulfillment of a demand for freedom.

The example of civil marriage in the Lebanon speaks volumes. A study by the PNUD shows that a majority of Christians are in favor of civil marriage, whereas a majority of Sunnites and Shiites are opposed to it. The State of Lebanon, based on the administrative model, was unable to settle the question, whereas a differentiated approach to the question would have led to an adaptation of the rights in such a way as to ultimately do the best thing for the well-being of individuals. But is the differentiation of rights fair, egalitarian and ethically recommended This is the question we will look at below.

### III. Equality and differentiated rights

The main argument put forward against differentiation of rights is that «the differentiation of rights affects the equality of individuals». I am going to demonstrate in the following paragraphs that this statement is totally wrong, first of all by using an argument about the form around the very construction of the sentence, and then a substantive argument around the notion of equality.

This statement is false in that individuals do not have the same rights in any case. People do not have equal rights: a Lebanese person does not have the same rights as a French person living in France. Thus, a more correct statement would have been: «the differentiation of rights could damage the equality of individuals within a same State or a same political entity.» The defenders of an undifferentiated monolithic approach know perfectly well that by expressing a correct and coherent sentence, they therefore put forward an argument which destroys their theory. The correct assertion implies recognizing the fact that people do not have the same rights everywhere, and that rights change or are applied in a differentiated way, depending on whether we adhere to this pact or another pact (this adhesion is materialized by documents of national belonging: identity cards). This inequality of people's rights is in no way seen as an injustice. It is fully justified by the intuitive statement: «I don't have the same rights, because I don't have the nationality», implying «because I don't belong to the social contract linking all the holders of the nationality.» Once we recognize this logic, (and it is universally accepted), all we need to do is to transpose it to the national multicultural context, where several social pacts are superimposed within a same geopolitical entity. The same logic can be applied: different rights, or differentiated rights, according to whether one belongs to one pact or another. A Walloon Belgian cannot vote with Flemish Belgians. So, he does not have the same rights, because he does not have the most important one: the right to political expression materialized by the right to vote, and this within the same Belgian State.

In reality the equality of rights is perfectly assured in differentiated legal systems. The equality of rights is even better assured in differentiated legal systems than in unitary systems. Let us look at two examples of this, that of days off and that of civil marriage. The egalitarian approach assumes that all the citizens of a State take Sunday off (or Saturday or Friday). This same approach assumes civil marriage for everyone or for no one. We are going to see how in these two situations, «equality» is flawed, it is just «cosmetic» and badly masks inequality, hegemony, or even segregation.

The whole misunderstanding between the advocates of egalitarianism and the advocates of differentiated rights stems from the fact that they are not applying their reasoning to the same objects. To take Sundays or even Fridays off is not a right in itself which requires people to have equal access. Having such and such day off is nothing more than the consequence of a right, which is the right to rest within a cultural frame of reference. Citizens must have the same rights (they must have equal rights), not in terms of the consequences, but in terms of causes. The State needs to ensure the same rights for the principles held by individuals or groups of individuals. The application of the egalitarian principle leads us to work towards all citizens, in a totally undifferentiated way, having the same right to have a day off which is in line with their beliefs and their culture. Let's take the example of civil marriage. Let us look at the results of the PNUD study, where the Shiite and Sunnite communities are as a majority opposed to civil marriage, and where the Christian communities are as a majority favorable to it. Let us imagine that the Lebanon were made up of a 100% Sunnite population. A referendum would have been equivalent to a rejection of civil marriage, and those (from the Sunnite communities) who voted for civil marriage would need to fall in line with the majority opinion (within a same social pact). Now let us imagine that the Lebanon was made up 100% of Maronites. A referendum would have led to civil marriage being adopted, and those who had voted against it would have to fall in line and go to the town hall before a church wedding (let us remember that the application of the rules of numbers are only possible between members of a same social pact). Now let's get back to the Lebanon as it is today, that is, a grouping (or should I say a federation) of communities which are all minorities (even if one of them had been a majority, it would not have changed anything for the mechanism that I am trying to describe). The pseudo-egalitarian approach would not be able to reach a decision. To adopt civil marriage for everyone is pseudo-egalitarian (from that flawed egalitarianism that we saw above is not really equal and is also fundamentally unjust). To reject it for everyone is also pseudo-egalitarian. But which of the two options should we choose? Let us imagine that the State decides not to adopt a law which makes civil marriage compulsory or allows civil marriage. This decision is (to simple minds) egalitarian in the sense that it is the same for everyone. But in reality, it is profoundly inegalitarian because it does not treat the relationship of each group to this issue equally. As we demonstrated above, equality assumes the same treatment to the same requests for justice, choice and liberties which are made by individuals or groups. Yet, in the case where the choice of civil marriage would be rejected by all citizens, the State would have treated the request of a group in the decision not to introduce civil marriage without answering the request of the other group who would want it to be introduced. So, there is no equality of treatment, and therefore no equality of rights. The same thing would have happened if the State had taken the opposite decision. By introducing civil marriage for everyone, the State would have claimed to be making an egalitarian decision. But it is not, because it is not allowing individual choice of the individuals and groups in the same way, by agreeing to the legitimate request of one group and refusing another (contrary) legitimate demand from another group. As well as being inegalitarian, retaining just one or other of the choices is unjust. Whereas the solution is to agree to the legitimate requests (taken from the majority within each group) in both cases. Here equality and justice will be applied in full. This approach is nothing more than the differentiated system that we are proposing to reform the State. The differentiation of rights will allow multicultural groups to continue to evolve, each in their own way and in continuity with their own history, while keeping the same geo-political rooting.

We have just shown how the differentiated approach allows equality and freedom between citizens, both within the community and overall, to be preserved. In both cases, the differentiated approach maximizes social well-being and increases the scope of freedoms.

#### IV. Secularity and differentiated rights

It is now recognized that there is no absolute secular system, as opposed to the theocratic systems. There are degrees in the implementation of political systems based on a greater or lesser distinction between religious faith and political thinking. Any non-theocratic system is secular. There is therefore no doubt that the current Lebanese political system is a secular system. How then do we explain that several political movements extol secularity in the context of the fundamental reform of the state? This question poses the problem of secularity in multicultural societies.

The process of secularization signifies the weakening or even the suppression of religion as an aspect of national identity. Yet, as we shall demonstrate, the religious factor is an integral part of the culture, and the disappearance or weakening of this factor would diminish the cultural identity of the group. This reality can be sensed by the members of the group who automatically «huddle up» around their religion, even in the absence of any religious feelings or religious faith. Likewise, those who preach secularity often do it with the aim of weakening the cultural bases of the other group and with the aim of better establishing their own domination. This falls within the domain of the conflict of civilizations, and not that of scientific research of the suitable structure for co-government. We are far from searching objectively and in good faith the most representative electoral process.

The absolute assertion that the election of representatives be done by the largest number is nothing more than a demagogic and simplistic statement which is only used in the most anti-democratic countries and with the most anti-democratic people. This affirmation neither strengthens democracy nor encourages groups to come together. It results in a reduction in the quality of representation and contributes to reinforcing the climate of suspicion between communities. This instrumentalization of the universal only masks a desire for domination. In order not to take an example based on the many political positions in the Lebanon, let us remember the time where French secular (anti-Catholic) schools discriminated against left-handed people by forcing everyone to write with their right hand . This practice highlights two realities which are in contradiction with the idea of extending the field of liberties and developing equality between individuals, first of all by forcing through « democracy by numbers » a totally unfair decision (the vast majority of students being right-handed). And then, knowing that the Christian tradition had filled people's minds with the notion that the left-hand side is harmful, by validating the thesis according to which the cultural phenomenon, however «secular» it claims to be, cannot get away from its past. Thus, however anticlerical, atheist or agnostic one claims to be (in good faith), I suspect that we cannot leave our own cultural frame of reference behind, which is inevitably filled with religious phenomena we have experienced or inherited through the culture. From this arises the fact that electoral models (and more generally, government systems) based on the process of the « undifferentiated majority », arguing that de-sectarianism or «secularity» looks very much like models with a hegemonic vocation whose ulterior motive is the cultural and even religious enslavement or destruction of the Other.

For all that, secularity is not a negation of all religions. Other than the fact that secular systems can accommodate one or more religions in the population, secularity claims its own religion: a «civil» religion, or a religion of the citizens. Secularity contributes to weakening the links between groups of a same community, which contributes to weakening the community in question (which is where the reluctance, conscious or unconscious, of the members of the community comes from, who see in secularity an attack on their culture and their way of life, rather than an attack on their religion itself), and transfers the religious phenomenon by making the identity group of a national collectivity sacred. The destruction of a pact for another pact is only possible in a multicultural society if all the communities buy into the process, the new religion, the new pact. This assumes membership of this «civil religion», which now forms the common beliefs. This is light years away from the reality of the Lebanon. The attempt in 1943 did not have positive buy-in (the 1943 pact is an act of renunciation), at best people hypocritically gave up their culture (Arab for Muslims and Western for Christians),

only for each group to come back to it decades later. To speak of civic religion means new common rites, new common cultural landmarks, a new scale of common values (without necessarily everyone having to give up their original religion). But in that case, is it possible that the Lebanon of today gives up the days off which are specific to each community to set up new « neutral » days for the glory of secular religion? What about civil marriage? Successions? Deaths? Because these are just a few telling examples which only touch the fringe of the questions and some of its most trivial practical aspects without touching on fundamental cultural differences, and in particular the relationship to the Other. Are all men equal in rights according to the different religions? Can we assert that the relationship with Other people is the same according to Christianity and to Islam? Is the same thing true of Shiite Islam and Sunnite Islam? Do we have the right to allow a secular model which is more inspired by one model more than the others to prevail?

To design a secular project is to think of the state as a superstructure that has no history and no direction and no purpose. Any process which would tend to give meaning to the State is a process which inevitably is part of the history of this State, and at the end of the day is nothing more than the history of the groups which make it up. To say that the Lebanon is a country with a message, as Pope John Paul II said, is to place it back in its historical perspective at the crossroads of the civilizations, of histories, cultures and languages. So, it is to validate its multicultural aspect, while seeking to pacify and to harmonize. An approach which is total contradiction with the project of secularization. At the end of the day, the public sphere is never neutral. France as a Nation-State was not able to leave its history and its heritage behind. Every day, their political, economic and social action reminds them and reminds us how the project fits into the course of their history. The homogeneity that the Nation-State seeks comes from the fact that a dominant group, or a group with a dominant will, wants to organize communal life in continuity with this history and to ensure the continued existence of this culture. The secular project is therefore in essence hegemonic. The people who have worked on this historical project with a vague hegemonic desire set the symbols as per their own history in defiance of cultural and religious or linguistic otherness of the other groups, all under the cover of secularity. The symbols are just as much the choice of public holidays, the content of history lessons and other elements specific to the Department of Education, public symbols and ceremonies, as well as the official calendar. This is all the more true as the French model is now described as majority communitarianism . To introduce rights which are specific to groups/ communities, to differentiate the law is now recognized and proved as being a necessary increase of freedoms in this inexorable movement which tends towards the extension of freedom and equality. The references to universalist models or quite simple majority models or so-called majority models (in the sense of the numbers game regardless of the social pact) seem in reality in their vast majority to be hegemonic, self-centered models which have no other purpose or ultimate aim than the destruction of the culture of the Other under the guise of and through the application of secular ideology.

Scientific research on a common living environment for multicultural groups requires us to answer all these questions honestly. Therefore, secularity can only survive by destroying the edifice of community social pacts in order to create, almost from the ground up, a new specific pact. So, we will need to disregard all the historical baggage of the different communities in the construction of this new pact, both collectively and individually. Suppose that the secular project is a success, would we be within our rights to ask ourselves whether it was all worth it? To allow the different cultural groups to live together, did we not have to destroy diversity? Is the unified political organization (unitary Nation-State and undifferentiated citizenship) an end in itself? Have we not thrown the baby out with the bath water? Have we not sacrificed diversity to allow coexistence? Can we still talk of coexistence when all people are undifferentiated? Coexistence between whom?

#### V. Differentiated democracy and political unity

It may also be the case that we want to assign the electoral process functions other than the function it was originally designed for (i.e. the best representation of political opinions), and to seek or desire a «unifying» role

or an integrating role (or in some cases a separating role). This idea is not inherently bad, inasmuch as this desire to unify does not end up distorting the primary function of the electoral system, which remains sound representation. Out of two electoral systems which both have the same fairness of representation, it is understandable from a political point of view, and ethically acceptable, to choose the one which favors inter-community cohesion and greater national unity.

This question amounts to comparing the proposed electoral model of Differentiated Democracy to other models, because like any man-made thing, the proposed system is not without its imperfections, and it is only in relative terms that we can best judge it.

We need to start by setting the objectives of the proposed model. Differences between the theoretical model and empirical reality are accepted. What we reject outright is any electoral model or system which results (knowingly or unknowingly) in a structural difference between a professed model and a desire for domination. By that I mean the unequivocal condemnation of an ideological position which uses «democracy by numbers» terminology, «political anti-denominationalisation» or «large districts to unify the population» with the clear goal of domination of one group over another.

To sort the electoral systems and rate them better, let us start by listing those which have already been implemented, and as any tree is recognizable from its fruits, let us judge them based on their results.

It seems possible to classify the electoral systems in a matrix which shows the level of representativity and the unifying impact of an electoral system.

#### Strong representativity

- 1 Each community elects its representatives at a Caza (or district) level
- 2 Each community elects its representatives at a national level
- 3 Single-member constituency
- 4 Current system based on Caza (districts)
- 5 Current system of Mouhafazah (governates)
- 6 Political anti-denominationalism
- 7 Single constituency

#### Weak representativity

Contrary to what is extolled by a certain political class, there is no contradiction between the objective of fair representation and that of a unifying impact of the electoral system. The more representative the electoral system is, the more the groups will enter into dialogue and understand each other. The less representative and transparent the electoral system is, the greater the discord, suspicion and defiance which will take root within the different communities. Therefore, to seek the greatest representativity amounts to aiming for the greatest chance for dialogue and national unity.

The electoral systems implemented since Taef have been based on large districts. The result of this was disastrous in more than one way: the quality of the congressional representatives, their level of representativity, the legislation and reforms implemented, the evolution of the law and the extension of the field of freedoms, as well as economic growth. In 15 years of parliamentary government based on the model number 5 above, the country is poorer, uglier, more polluted, more corrupt, more dictatorial, more unequal than ever. A tree really is recognizable by its fruits.

Let us take a step backwards to try to evaluate the systems implemented before the war. To be convinced of their mediocrity, one just needs to remember that war only starts once dialogue stops. The electoral systems put in place since 1943 have not allowed dialogue between communities to start, which led to armed conflict. This observation is enough on its own to disqualify all the models concerned, unless we refuse to learn from our mistakes. Admittedly the representatives dialogued, but the communities themselves did not anymore, and this was for the simple reason that the representatives did not represent the population (the populations). Another strong argument which is enough to sweep aside all the systems formerly in place, is the comparison in terms of growth indices. The figures are damning for the representatives and for the system which allowed them to run for their seat. Let us think about where the Lebanon is in terms of democracy, literacy rates, human rights, growth rates, wealth, GDP, distribution of wealth, hospital beds per inhabitant, doctors per inhabitant, compared to countries like Spain, Portugal or Greece. These countries were still dictatorships in the 1980s. Where are they today? We don't even dare to make the comparison; it would be too humiliating for us.

Only people who were insane or reckless could propose political systems again, which have failed and had a huge human cost (number of dead and injured), social cost (poverty levels) and economic cost (destruction of wealth and debt levels) from the diagram above and in particular: the current system based on Mohafaza and Casa. The effects of these systems in terms of impoverishment (see the following section on growth and political systems) will be hugely increased and the speed of decay of the State accentuated exponentially if we adopt electoral systems which increase the gap between the people and their representatives, and in particular: a single constituency and political Desegrationalisation (systems 6 and 7 in red in the diagram above).

The only other political system that the Lebanon has known (after the end of the feudal system and the destitution of the princes of blood) was that of the Moutasarria between 1861 and 1913. We are too far from this period, which is why we are proposing rethinking, practically from the ground up, a viable and just political system.

We do not refer to the pseudo-democratic models proposed or implemented to accommodate the desire for domination of this community, or to deal with the sensibilities of that community, or worse still to accommodate the other sensibility of such and such politician. The only thing that can come out of that is more misery, more poverty, and another civil war in 15 years' time.

## Appendix B – “Cut an Arm” Strategy - Another Path to Economic Recovery

### Cut an Arm” Strategy - Another Path to Economic Recovery

(Comments, Questions, and Critic around the Lebanese Government Reform Program, Issued on or about April 6, 2020)

The “Lebanese Government Reform Program” (Draft for Discussion) released on or about April 6, 2020 (referred to herein as the “Document” or the “Program”) is a good first attempt to describe the reality as it is. For this, the government did a good job.

However

The document is stuck between an unconvincing attempts to blend a short-term rescue plan with a long-term structural reform vision.

Taken as a rescue plan, the document seems overly ambitious. It will most likely fall short of the expected numbers by several billion. This would be easier to stomach if a path was designed and disclosed to the public. Going off track without a direction is a social disaster and a recipe for social unrest. But, going short of budgeted numbers yet marching steadily in an upward direction goes a long way in appeasing people and cementing them to double their efforts and consent to sacrifices.

- The document avoids saying what Lebanon is. What it should be. What its place is in the new global order. How it should be reorganized.
- No mention is made of Hezbollah.
- No mention is made of the c.2m Palestinians and Syrians who are *de facto* present on Lebanese soil.
- No mention of subsidiarity, decentralization, or multi-order fiscal structure.

A friend just reminded me of a couple useful words of wisdom which quite eloquently sum up the shortfall of this government and of the “Program”:

**« Qui n’a pas de stratégie fait la stratégie des autres »  
« If one does not know to which port one is sailing, no wind is favorable” — Seneca**

***Lebanon has changed. It is no longer the same country it was in 1920 or even 1943. The centralized, top-down, monolithical governance system inherited therefrom (and made worse by Taef) works no more. To reform and succeed, we have to change the governance system to espouse the current reality of the multi-cultural, decentralized, localistic aspirations of all Lebanese.***

***The present paper intends to show a clear path out of the present degraded situation the country is in. The plan is to initiate two parallel tracks. The first track is called “Cut an Arm” strategy and is a series of action (an action plan) summarized in the schematic and explanations below (in Cut an Arm section). The second track is an immediate initiation of a structural reform of the social construct revolving around federalism. The entirety of arguments, comments, and explanations highlighted herein are all arguments in favor of “Cut an Arm” and “federalism.”***

**Key Takeaways and Diversion Points**

| <b>Topic</b>                        | <b>Government position</b>   | <b>Author position</b>   |
|-------------------------------------|--|--|
| <b>Government structure</b>         | <b>No change in Centralized government, top-down. Appoint good civil servant to limit corruption and improve performance</b> | <b>Reform = decentralize, localize, bottom-up decision-making, local taxes, etc. Hiring the best civil servants into a flawed governance system (centralized, top-down, and fragmented) will only result in further disappointments. Conversely, upgrading the governance (localism, bottom-up, and decentralized) with average civil servants will deliver great results.</b> |
| <b>Tax</b>                          | <b>Improve collection and increase taxes. Centralized system remains in place</b>  | <b>Fiscal federalism. Build a multi-order tax system with local, regional, and federal taxes to fund local, regional, and national projects</b>  |
| <b>Balance sheet/Debt</b>           | <b>Restructure partially, lost decade, Take on IMF debt, CEDRE</b>   | <b>Cut an Arm strategy,<sup>2</sup> deflate balance sheet, don't take on any more debt from anyone</b>   |
| <b>Timeline/Priorities</b>          | <b>IMF first and then restructuring</b>  | <b>Restructure/Cut an Arm, then sell gold, then eventually some IMF funding</b>  |
| <b>Electricity EDL</b>              | <b>Proceed with current plan</b>   | <b>Adopt LFRE plan (based on energy mix optimality with renewable as core)</b>   |
| <b>Global Free Trade Agreements</b> | <b>Keep as is</b>  | <b>Moratorium on all free trade agreements to prioritize local production</b>  |
| <b>Confidence rebuilding</b>        | <b>Will come from IFI/IMF involvement</b>  | <b>Comes from federalism, decentralization, and "Cut an Arm" strategy</b>  |
| <b>Growth and GDP</b>               | <b>GDP will grow because this is what we put on the Excel model</b>  | <b>GDP can only grow if the structure of governance is in symbiosis with the reality of its constituents i.e., a system that is based on "ethos" and "trust" is in place (for more on this, see paper published by your truly)</b>   |
| <b>Public Transportation</b>        | <b>Not mentioned</b>   | <b>Crucial. Train, Metro and/or Tramway are key. The argument advanced by some IFIs that it is not lucrative</b>   |

<sup>2</sup> Cut an Arm strategy is a restructuring strategy that is swift, comprehensive, and brutal but salutary. It is based on the least cost path (when comparing this to the cost of a lost decade with its toll of poverty and unemployment) and equitable allocation of losses. This strategy is detailed in P.10.

|  |  |   |
|--|--|---|
|  |  | <i>is incorrect. It was feasible and lucrative in the 1890s and 1930s although with a lesser density of population.</i>   |
| <i>Deficit to GDP</i>                            | <i>7.2% in 2020</i>  | <i>15% in 2020</i>  |
| <i>Debt to GDP</i>                               | <i>91.9% in 2020</i>   | <i>Impossible under the presented scenario, numbers don't add up except if they go for Cut an Arm strategy which is not what is presented herein</i>  |
| <i>Export of financial services</i>              | <i>Will diminish because banks' balance sheets will shrink</i>                                     | <i>Will increase because banks' off-balance sheets "advisory" and money management can be developed</i>   |
| <i>Government Debt</i>                           | <i>Not willing to write off Eurobond. Limit possible principal discount to "Domestic Debt"</i>     | <i>Totally unclear and unrealistic strategy. I recommend "Cut an Arm"</i>   |
| <i>Banks restructuring</i>                       | <i>Undisclosed strategy</i>  | <i>Cut an Arm strategy</i>  |
| <i>BdL restructuring</i>                         | <i>From deposits</i>   | <i>From tax collection. Taxpayers should pay for BdL losses not depositors</i>  |
| <i>Depositors « Retour a meilleure fortune »</i> | <i>Depositors might be made whole from a Special Fund capitalised with reclaimed stolen moneys</i> | <i>The make whole will be needed to rebalance FX exposure. For credit risk, depositors are ready to make a reasonable haircut (as detailed in Cut an Arm strategy below on page 10), and ultimately better to go for a highly capitalized banking sector. As for FX risks, royalty interests in the oil and gas fields seem like the best way forward.</i>                                |
| <i>Deposit counterparty</i>                      | <i>Possible to sell state assets</i>   | <i>You don't want to know what I think of this idea! All current state (companies) assets are worth a mere fraction of the losses.</i>  |
| <i>Capital Markets</i>                           | <i>Enact operating laws, decrees, etc.</i>   | <i>It will not change a thing. The flaw is in the lack of understanding of what markets are and how they function. Markets are industries with Information as input and Prices as output. To have a good market, you need good information. Most of what is needed is in the registry of commerce. Reform this, put it online, and all will flow. Otherwise, garbage in, garbage out.</i> |

*Land registry*

*Reorganize and improve*

*Don't touch it. World Bank wet dream to meddle with the most complete legislation in Lebanon. Focus on registry of commerce. The EU was built on the IV and the XIII directives which focused on the importance of the free flow of information a key growth booster*

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### **Point by Point Analysis**

| Page Paragraph | Excerpts from “The Lebanese Government’s Reform Program” (Draft for Discussion)  | Questions, Comments, and Critics   |
|----------------|--|--|
| P.1 Para. 1    | <p><b><i>“The government is also committed to strongly improve the Lebanese system of governance, change its harmful practices, hold everybody in the public sphere accountable, and recover people’s money from wrongdoers”</i></b></p> | <p>Ambitious statement. If ever these were not just good words and if ever the government understood the far-reaching magnitude of these words, the government would have allocated a page or even a paragraph in this Document to explain how it planned to achieve these goals. We couldn’t find in this Program a single paragraph which details how these would be achieved. The reason behind this shortfall is well known and is dual: a) Under the current centralized Lebanon, real power lies in the hands of the community leaders. Hence, Government is <b>unable</b> to take actionable steps to challenge their authority and b) Government is <b>unwilling</b> to propose a vision of a federal country to solve the above conundrum. Unable for the past and unwilling for the future!</p> <p>These aspirations seem more like “demagogic statements” and “virtue signaling” statements void of any substantial actionable plan. Probably because the government knows that in the current centralized system, nothing of the sort can happen. And it seems the government is not willing to move away from the dogma of centralized systems.</p> |
| P.1 Para. 3    | <p><b><i>“The current severe economic and financial crisis has its roots in a long history of excessive reliance on large foreign currency inflows and failed attempts to execute credible economic policies.”</i></b></p>               | <p>The government’s key statement and diagnosis of the reason that led to this crisis are flawed. The economic policies put in place the past 30 years could have worked. It is easy to criticize in hindsight. At the same time, had alternative policies been in place over the past 30 years, they would have equally failed. Which means the ailment is not in this or that economic policy. The ailment is much deeper, and we all know it.</p> <p>Reality is that Lebanon after Taef is not the Lebanon of 1920 or of 1943. The model of a centralized, secular, top-down government that worked and delivered growth. It was relatively well-suited for a monoculture environment and a single-community dominated society (massively Christian).</p>   |

The reality of Lebanon today is all too different. It is massively multi-cultural and *de facto* decentralized. And the prevailing governance system is both a) at odds with the reality of the country (centralized, top-down, fragmented, etc.) and b) designed precisely for nepotism, cronyism, patronage, and clientelism.

As such, no economic policy whatsoever could have succeeded over the past 30 years because the system of centralized government imposed on a federation of multi-cultural communities is grossly sub-optimal and leads to sub-optimal decisions at all levels.

When one doesn't diagnose the ailment correctly, the likelihood is that the proposed cure won't work.

**P.2 Para. 5** *“However, this crisis cannot and should not be tackled by Lebanon alone. No reform agenda, as ambitious as it could be, can be implemented when the economy is in free fall. Stabilizing the economy is an immediate priority that requires substantial foreign financial assistance.”*

Dogmatic statement without any scientific substantiation. I was not able to find in this Document any valid logical and scientific argument explaining why the IMF and other lenders are needed. At some point, a mention is made about the need for IMF to “ensure hard currency for the purchase of necessity items over the short term.” But it would be helpful to explain how and why this is needed and why there are no other possibilities. Why would a debt from the IMF be better than the debt from other sources? It is “smart money”? Does it come with some sort of a performance guarantee?

I have seen and computed alternative plans that do not need any IFI/IMF involvement. The matter has nothing to do with the IMF. What we are contesting here is the take-up of additional debt at a time we need to deleverage our balance sheet, NOT further leverage it.

A credible reform plan is applying a “Cut an Arm” strategy (detailed in another document issued by yours truly) and decentralized system (also detailed in another paper). The needed resources could well come from monetizing the \$15bn worth of gold.

**P.3 Para. 1** *“...hence external support was crucial for any program's success before even thinking about restructuring the debt.”*

Does this mean that the government insists on getting IMF funding before debt restructuring? If so, this is extremely dangerous and the government would be shooting itself in the foot (or more

importantly shooting the depositors in the head). The reason for this is that once the IMF lines are in place, the main creditors of the government (i.e., banks and BdL) would be in a position to push even more for a “lost decade” strategy, arguing all will be fine if given time.

This is the heart of the *quid pro quo* around this “IMF/IFIs support.” The Houlihan letter dated April 9, 2020 clearly indicated it is backing up the call for IMF involvement. For a reason. It would be naïve for the government to think its main creditor (i.e., Banks) is supporting such a move in the best interest of government or depositors. In reality, once IMF is involved, the bargaining power of the parties change dramatically . . . in disfavor of the government!

For more details on the conflict between the parties, see paper issued by Iyad Boustany called “Prospect Theory, Governing Elite Delaying Reforms” January 2019.

**P.3 Para. 2  
Bullet#1** *“A comprehensive debt restructuring strategy that decisively addresses the debt overhang”*

I personally failed to find this comprehensive debt restructuring strategy in this Document.

**P.3 Para. 2  
Bullet#3** *“• A strong phased fiscal adjustment, focused on improving tax compliance,*

A real reform of the existing fiscal order would be to set a policy in a strategic direction and initiate actionable steps in the indicated direction. Globally, it is admitted that the optimal systems revolve around what is called Fiscal Federalism, as detailed by World Bank specialists Robin Boadway and Anwar Shah (Fiscal Federalism, Cambridge University Press, 2011).

*• Moving to a more flexible exchange rate policy beyond the near term to lessen the strains on the balance of payments and improve competitiveness*

We are informed of a 30% to 60% expected official currency repricing (devaluation of LBP to USD) before July 2021.

*• Growth-enhancing reforms that include measures and laws that would increase productivity and reduce costs, which would enhance the*

The list indicated is a good starting point, but most reforms are simply not achievable in a centralized system as indicated previously. The government is either naïve or being demagogic about this. They are

***competitiveness of the Lebanese economy***

***• An ambitious national anti-corruption strategy, addressing the roots of a major impediment to growth and social justice***

***• International financial assistance at favorable terms to close the large external financing gap and finance the development of new infrastructures”***

in for a big disappointment! Can we still afford amateurs in command?

Since the root-cause analysis is flawed, it is likely that the proposed measures will fail miserably (and officially “be delayed”). In Lebanon, one cannot treat corruption as in Europe or as defined by the World Bank or the IMF. The major corruption in Lebanon is driven by communities’ leaders — a cast that is stronger than central government. They benefit from popular support because they surf on groups’ self-preservation instincts. Failing to address this reality is the single main flaw in the government’s analysis. To deal with corruption, one has to go local. Empower local authorities, develop bottom-up decision making, enable local tax-rising. Each community can deal with its own thieves, but none can touch a thief from the other community!

Piling up more debt is not a good idea. Under a real reform path, based on decentralization, subsidiarity, and fiscal and political federalism, it is much wiser to monetize Lebanon’s gold for the following uses:

- a) safety net for the most vulnerable Lebanese citizens hit by the crisis,
- b) economy transformation into production, ICT, etc., and
- c) social rehabilitation and skills rebuilding for the unemployed (mainly those driven out of the public sector)

**P.3 Para. 3** ***Also to be noted, we have decided to prepare this “Made in Lebanon” program to minimize the hardship on our population, and we will have to show the highest levels of national unity around it if we want to succeed in convincing our bilateral and multilateral counterparts not to impose harsher measures against critical external funding***

I failed to understand this sentence. Is it some form of preemptive apology or excuse for not being the “idiot of the global village” anymore? It is not clear.

What is clear though is that the “free trade agreements” signed with EU and Arabs at a time when we were destroying our local output was a complete disaster. But do we need to say “sorry” for that? And what does this have to do with the IFIs?

- P.4 Para. 1** *“...the assumptions that (1) Lebanon will benefit promptly from the required external financial support to serve as a backstop to the recession”* Needs some explaining. Usually when one thinks that throwing money at a problem will solve it, he ends up requesting more money.
- P.4 Para. 2** *“Following a preliminary projection of real output contractions of -12.0% in 2020 and -7.0% in 2021, the economy will then gradually recover and reach 2.0% real growth by 2024 before stabilizing at an estimated 3% growth potential in the longer run.”* Why 2% and 3% and not 5% or 6%? It seems the growth numbers are set without any real scientific backing. Countries with flawed governance structures have had negative growth rates for decades. They are the “endlessly” “emerging” countries. Try to emerge for decades and never actually making it. The assumptions that Lebanon will “naturally” take a growth path is totally flawed and dogmatic. Remember that Lebanon was a DEVELOPED country for most of the XIX and XX centuries by all standards. It is now a “poor country.” It actually destroyed wealth, i.e., had negative GDPs. And this has nothing to do with the war. Therefore, assuming that GDP will grow by 3% because we put it on an Excel sheet is pure lunacy.
- To understand where growth comes from, one has to read, Peyrefitte, Sen, Arrow, Centesimus Annus, Lucas, Shumpeter, Weber, Von Hayeck . . . to conclude that economic growth results from a “*tiers facteur immateriel*” an “ethos” derived from -and directly linked to- governance and ultimately how government is organized.
- P.4 Para 2** *“The recovery will be driven by external support to limit the contraction in imports and domestic consumption, a public investment push in the context of the unlocking of the CEDRE committed financing and the implementation of a well prioritized investment plan.....”* More debt is a bad idea. IMF debt to reboot consumption is super bad idea.
- CEDRE is about infrastructure. This is no longer a priority before decentralization. Except for national projects, the Central government must be discharged on this for the benefit of local/regional authorities. Akkar best knows what are Akkar’s waste management needs and how/where to implement it. Not Beirut. Spending on infrastructure top-down is a recipe for another disaster.
- P.4 Para. 4** *“Overall government deficit is projected to narrow from 11.3% of GDP in 2019 to 7.2%”* We need to see the model behind this, but on the face of it, it is grossly overambitious. Deficit \$2.5bn (7.2% of GDP in 2020) seems unrealistic. Given

|  |  |
|--|--|
| <p><b><i>in 2020 and further to 1.3% by 2024,....”</i></b></p>   | <p>government has around \$13bn of uncompressible fixed costs. This deficit number means government will be collecting \$10bn to \$11bn in 2020. Not realistic. I think deficit to GDP is more likely to be 15% in 2020!</p>   |
| <p><b>P.4 Para. 5</b> <b><i>“While exports of financial and other business services are expected to be severely affected by developments in the banking sector, political stability and improvement in infrastructure could boost tourism receipts beyond 2020”</i></b></p>                                      | <p>Flawed analysis. This results from a total lack of understanding of the real nature of Lebanese financial sector potential. The banks (and the previous government) have opted to collect deposits “on balance sheet,” killing the entire “advisory” banking services “a la Suisse.” In a totally restructured banking sector, banks could still attract 3 or 4 times GDP but not “on balance sheet” as did in the past but rather in “advisory,” i.e., in Fiduciary. Which means total income from exported financial services can literally sky-rocket in the future.</p>   |
| <p><b>P. 5 Table</b> <b><i>Table</i></b></p>   | <p>The numbers don’t add up.</p> <p>Given Real GDP assumptions. Given additional debt of \$25bn (\$15bn IMF and \$10bn CEDRE) over 5 years. How can Debt/GDP ratio be attained?</p> <p>D/GDP 2020 91.9% which means the government expects Debt 2020 to be at \$31.3bn. Even assuming no IMF debt and No CEDRE debt, we fail to see how the government will be able to slash c.\$60bn of its debt. Especially in light of subsequent statements in this document whereby the Eurobond will be rescheduled (i.e., remain as a debt), the Multi-lateral debt will be repaid (preferred creditors status upheld) and only “domestic debt” might have some capital discount!</p> |
| <p><b>P. 6 Para. 2</b> <b><i>“...it is difficult to imagine Lebanon coming out of such a deep crisis without the support of the international community at large.”</i></b></p> <p><b><i>“A severe contraction of imports that would be limited to basic goods would have a devastating impact on the</i></b></p> | <p>Nowhere is this dogmatic statement explained scientifically.</p> <p>Beautifully worded sentence. But what does this really mean?</p>  |

***economic output leading to a severe deterioration of social indicators and the risk of a protracted recession. It is urgent to break this vicious circle with the announcement of a massive external financial support to backstop the economy, made conditional upon the implementation of a comprehensive recovery plan able to restore confidence and reverse the current trends.”***

**P.7 Para. 1** ***“...gradual return to international capital markets in 3 years’ time”***

To do what? Raise new debt! Overly optimistic and sub-optimal. Better to have decentralized entities shape up to raise debt via local issuances.

In an optimal model, government spending would be limited as the main effort of CAPEX is at the regional or local level.

**P.7 Para. 2** ***“External support in the form of a program supported by international multilateral institutions is expected in such situation and constitutes a realistic and efficient way of restoring confidence.”***

Dogmatic statement. Confidence is a by-product of a) an efficient bottom-up governance system and b) strong banks’ balance sheets. It has nothing to do with “external support” signals.

**P.7 Para. 3** ***“Investors and observers are reminding the government that.....***

Suddenly the government is naïve enough to take advice from the very investors that threaten to sue it.

***The donor and lender community is unanimously telling us that a multilateral intervention in Lebanon would catalyze additional external financial support.....”***

How can your creditor give you an advice that is in your best interest, NOT in his? It is naïve to think this is the case.

**P.7 Para 3** ***“Investors will be far more willing to accept a facial reduction of their debt if they***

Totally erroneous statement. Naïve thinking.

***see credible recovery value in what they are left with.”***

**P.8 Para. 1** ***“This is mainly due to the unwillingness of the international community to commit the extensive support needed, while at the same time the very large accumulated losses in the Lebanese financial system would not be restructured and while no international framework would be put in place to monitor reform implementation over the medium term (foreign donors are well aware that previous experiences have shown a lack of capacity from Lebanese governments to conduct reforms as planned in the context of international support packages).”***

Why is the government so linking two matters which are not related — i.e., a) the need to reform with b) the IFI/IMF involvement? Suspicious.

**P.8 Para. 2** ***“Total contractual debt payments to Eurobond holders were projected at c. US\$19-20 billion over the next five years before the default. Regardless of the nominal discount, the negotiation of a 5-year grace period on principal and the reduction of coupon to a minimum level during that same period would fill an additional US\$15-18 billion of the projected US\$25 billion to US\$30 billion BoP financing requirements.”***

Language indicating that the Eurobonds will be rescheduled, not written off —i.e., the debt stock with respect to these would not change! This puts an even bigger question mark on the 2020 Debt-to-GDP ratio!

**P.9 Para. 1** ***“The fiscal component of the reform package should aim at reaching a primary budget surplus of between 3% and 4% by 2024, without taking into consideration the impact of***

Total absence of reform vision. The indicated measures are more a wish list of “to dos” which are difficult to implement in the reality of a multi-cultural environment managed in a top-down, centralized system. Consent to tax is an act of faith in

|   |   |  |
|---|---|--|
|   | <p><b><i>externally financed capital expenditure achieved through CEDRE.”</i></b></p> | <p>government and this is lacking more than ever before.</p>   |
| <p><b>P.9 Para. 1</b></p> <p><b><i>“This requires, in addition to reducing the electricity transfers,</i></b></p> <p><b><i>rationalizing the wage bill and</i></b></p> <p><b><i>cutting all inefficient current spending,</i></b></p> <p><b><i>increasing budgetary revenues by curbing tax fraud and evasion</i></b></p> <p><b><i>fighting smuggling across all points of entry, increasing the compliance rate,</i></b></p> <p><b><i>and revamping the entire tax system to make it fairer”</i></b></p> |   | <p>All of these measures are mere wishful thinking. They will crash on the wall of the real power holders in the Lebanese context, which are communities and political parties representative thereof.</p> <p>Only a decentralized model could enable a gradual achievement of such goals. Nowhere in this document do we find any reference to implementing a decentralized, bottom-up, subsidiarity-based, political and fiscal Lebanon.</p>   |
| <p><b>P. 14 Para 2. (ii)</b></p> <p><b><i>“A principal discount on the domestic debt will be required to restore the overall stock of public debt to a sustainable level”</i></b></p>   |   | <p>The only reference to write off of government debt is found in this paragraph. It only concerns “domestic debt” which is not elsewhere defined in the document. (Is it LBP denominated debt? Is it LBP and USD held by local agents?).</p> <p>In the rest of the document, it is clear that the Eurobonds will be honored at some point in time.</p> <p>All these conflict with the Debt-to-GDP ratio target for 2020 given by the government which, to be achieved, requires a write-off in the amount of c. \$60bn.</p> |
| <p><b>P.16 Para.2</b></p> <p><b><i>“No government would take the responsibility to ask future generations to cover such heavy losses from the past.</i></b></p> <p><b><i>Moreover, accumulated losses represent large amounts of debt transferred to future generations that will put an</i></b></p>  |   | <p>Demagogic ethical posture. Why is it not ethical to burden future generation but it would be to do so for the current ones when both generations are not responsible for the debt and the theft!</p>  |

**unbearable burden on Lebanon's future capacity to grow."**

**P.16 Para. 3 "The government has elaborated a multi-pronged strategy aiming at fully restoring financial sector stability over the medium term. The program focuses on (i) a phased restructuring of the banks' balance sheets,...."**

A Cut an Arm strategy would solve the government debt and the banking system balance sheet almost instantly. We don't see the reason to mention phased restructuring and "medium term" except if the government was keeping the door open for a "lost decade" strategy and ultimately a settlement with bank owners at the expense of depositors.

**P.17 Para. 1 "Based on the conclusions of the review, and depending on the remaining BdL net capital position, the government will evaluate options for the restructuring of BdL's liabilities, including a contribution from banks' deposits"**

BdL has two different issues: a) a credit issue resulting from its impaired assets and its credit losses from its exposure to government, and b) an FX mismatch. Detailed in schematic on page 10.

The BdL losses culminate at \$65bn as detailed on page 10. These net down to c. \$55bn to \$58bn. These cannot be passed through to Banks and have to be paid over time by special taxes on state assets.

As for FX mismatch, BDL can pass it through to Commercial Banks which passes it through to its USD depositors by some form of a forced conversion at a determined rate. The losses stemming therefrom could be compensated for by giving depositors a royalty interest in the oil & gas fields as this is the main source of hard currency revenues for Lebanon.

**P. 19 and Charts P19**

Would like to see \$ contribution to losses and legal channel by which such losses are conveyed from one "box" to the other. This would go a long way to explaining the situation

**P. 20 Para. 3 "The government will establish a special fund to compensate depositors' losses that result from the restructuring"**

This is really not convincing. We all know this. Especially that no mention is made of any legal step taken by government to initiate proceedings to claim stolen moneys.

**P. 20 Square "Another option would be, instead of an outright loss on deposits, the transfer of private sector deposits targeted for bail-in to a**

This is utter nonsense, and I am being polite.

It is a backdoor left open from which Houlihan/ABL will enter to strike a deal with the government on the back of depositors.

**dedicated deposit recovery fund. “**

**P.25 Para. Laws to be enacted  
2**

Not up to the required sweeping reform that is needed and that is triggered by this financial collapse.

This collapse is an opportunity to build a new Lebanon.

What is presented here is a continuation of an old model with some good improvement here and there.

**P.25 Para. “With regard to combating  
3 corruption, the government will take credible and visible immediate measures to fight corrupt practices, recoup stolen assets and strengthen the anti-corruption legal infrastructure.”**

First, it would have been to file a lawsuit, open an investigation, and request a forensic audit and appoint an international audit firm (Kroll or similar). The government did not do that. So why should these statements would be taken seriously?

For the future, optimal governance is only achieved via changing the governance model from top-down centralized to bottom-up decentralized. The government has not mentioned its willingness to go in this direction.

For the past, the government seems unable to go after stolen money. For the future, the government seems unwilling to propose a federal model for Lebanon. In both instances the promise of reform and performance lack credibility.

**P.26 Para. “First, we will clean the  
1 government body from individuals who have been engaged in embezzlement of public funds or other forms of corruption. This will reduce our over-sized and inefficient public sector, while promoting honest hard-working public employees. This in its turn should increase productivity and facilitate any reforms that will be set in motion at a later stage. Second, it sends a strong message that there is accountability which will act as**

How the government intends to achieve this ambitious target remains unclear. The government’s plan goes only as far as declaring good intentions. No actionable plan of reform is put forward. Not even policy principles that would set a course of action.

No mention of localism, no mention of reform of the state to achieve bottom-up decision-making, no mention of decentralization, no mention of subsidiarity, no mention of empowering local constituencies, no mention of decentralized fiscal structure.

KEY PRINCIPLE: MEDIOCRE STAFF + GOOD SYSTEM  
OUTPERFORM BRILLIANT STAFF + POOR SYSTEM.

***a deterrent for any potential corruption in the future and increase the credibility of the current administration. Third and most importantly, the government will be seen as working towards the same goals of fairness, transparency, and equality, which matter to the people. And finally, it will contribute in quickly funding the deposit recovery mechanism mentioned here above. Overall, this approach is a win-win situation, leading to a positive economic outcome but also satisfying the primary-and very legitimate-demands of the population.”***

Don't go after changing civil servants. Change the system.

**P.26 Para. 3** ***“Parliament is expected to adopt a legislation for the establishment of a National Anti-Corruption Commission.”***

This must be a joke.

**P.26 Para. 4** ***“The Ministry of Finance has prepared the modernization of the land administration system”***

This must be joke as well. Any serious lawyer in Lebanon would tell you the land registry is probably the only complete legislation in Lebanon. And It was designed as an improved model over the very well codified French system. DON'T TOUCH IT!

World Bank “experts” think they are walking in a sub-Saharan Africa and will “reform”!

Your efforts should rather focus on the register of commerce. It has to be codified and put online. This is the corner stone of any modern economy and the source of most of the vital information that enables flow of goods and finance. This is a trade enabler. Remember that the EU was built on Directives and both the IV and the XIII directives (i.e., founding directives) are focused on making information available to the general public. These require reshuffling but it is too “technical” for the WB “experts”! and is a big NO GO for the governing elite because transparency exposes the common dealing,

|                      |  |
|----------------------|--|
|                      | joint ventures, and arrangements of leaders that for the masses are in confrontation.  |
| <b>P.26 Para. 6</b>  | <p><b><i>“Digital transformation of the Government”</i></b></p> <p>It will be resisted and will ultimately fail. This cannot be achieved under a centralized government in a multi-cultural society. I take bets. \$100.</p>   |
| <b>P.27 Para. 1</b>  | <p><b><i>“The judiciary system’s governance will be modernized, in particular through amending the law to ensure that judges are elected by judges to key positions, and that a firewall is installed between judges and political and administrative positions. The required texts will be amended to allow any high-level politician involved in the misuse of public funds to be prosecuted and indicted by the relevant control bodies and courts. Only political accusations will be judged by the parliamentary court for presidents and ministers. The draft law is currently at Parliament.”</i></b></p> <p>It will be resisted and will ultimately fail. This cannot be achieved under a centralized government in a multi-cultural society. I take bets. \$100.</p> <p>Can a leader of a community which is corrupt be tried! We all know it is impossible. Stop trying to fit a circle in a square. We are smart enough to know we should not imitate/ape (<i>singer</i>) the system prevailing in monoculture homogeneous secular societies. We need to design our own system based on our own reality of a multi-cultural society.</p> <p>It is time we go beyond social justice warrior wet dreams and acknowledge that singing Kumbaya around the fire is not enough to build a nation.</p> |
| <b>P.27 Para. 3</b>  | <p><b><i>“Electricity”</i></b></p> <p>For this, see the much more efficient model proposed by LFRE.</p> <p>Even fuel for electricity production can be severely cut under the LFRE plan for Energy Sector going massively solar. Instead, the government is sticking to an outdated, costly, and inefficient gas-based energy mix. (For more on this, see <a href="http://www.lfre.com">www.lfre.com</a> )</p>   |
| <b>P. 28 Para. 3</b> | <p><b><i>“Capital market reforms. The Capital Market Authority is currently implementing a market development plan with support from the World Bank. It aims at: (i) transforming the Beirut Stock Exchange into a joint stock company, as a first</i></b></p> <p>Pathetic.</p> <p>Like any industry, the stock market industry has input and outputs. Like any industry, if you put trash in, it will generate trash on the way out.</p> <p>The output of the markets is “price.” The input of the markets is “information.” In an opaque economy like</p>  |

**step prior to privatization (a Government decree was issued for this purpose in August 2017); (ii) launching of an electronic trading platform, which would also include SMEs and startups, and provide for access to trading by the Lebanese Diaspora.”**

Lebanon, the output will be trash because the input is trash. Since all know the output is trash, no one will use the markets and hence it will not develop and will slowly die. This is the root cause of why it has failed for the past 30 years.

Now, why is the input trash? The input is trash because the governing elite made sure information remained concealed from the general public. It all starts with Commercial Register.

For more on Fiscal Federalism, see *Multi-Order Tax Regimes*

For more on Political Federalism, see paper “*Democratie Differentiee*” Iyad Boustany, September 2005

For more on Governance and Conflict, see “*Prospect Theory....*” Iyad Boustany, January 2019

### **Description of “Cut an Arm Strategy”**

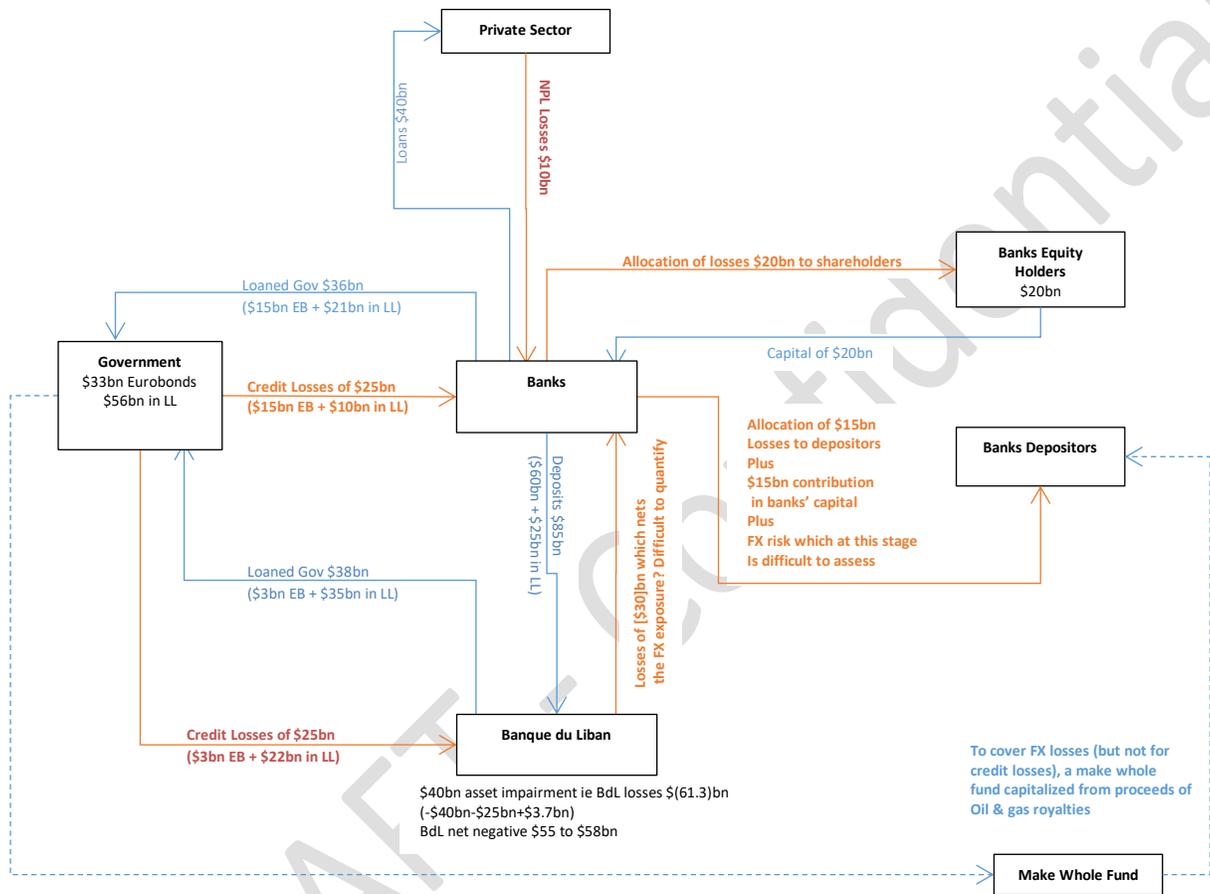
This scenario assumes the numbers are as they were on Nov 2019. The numbers might differ slightly, but the approach remains valid. It revolves around swift and brutal recognitions, an affectation of the losses, and an immediate recapitalization.

1. Government defaults on \$50bn (with target to get D/GDP close to 1) of its debt in both hard currencies and local currency.
  - a. Of which \$25bn held by local banks
    - i. \$15bn of \$15bn of Eurobonds held by commercial banks
    - ii. \$10bn of \$21bn in LBP
  - b. Of which \$25bn held by BdL
    - i. \$3bn of \$3bn of Eurobonds held by BdL
    - ii. \$22bn of \$35bn in LBP
2. BdL is likely to redeem the \$60bn hard currencies debt to commercial banks in LBP at the official rate or at a “market” rate. BdL has \$40bn of imbedded losses and is hit by a \$25bn credit loss from government default. BdL losses position resulting therefrom is c. \$61.3bn negative (its equity minus its imbedded losses and its credit losses). (\$3.7bn - \$40bn - \$25bn). BdL has solved its FX mismatch.
3. Commercial Banks are also expected to be hit by a \$10bn NPL losses on their private loan portfolio. Furthermore, Commercial Banks have inherited FX mismatch from BDL of \$60bn.
4. Commercial banks are in de facto liquidation with losses of c.35bn (\$25bn + \$10bn) and an undetermined FX mismatch loss. Credit losses are allocated as follows
  - a. Current shareholders \$20bn
  - b. Depositors \$15bn

Depositors are also expected to inject an additional \$10bn to \$15bn to recapitalize banks.

Under the above scenario, the FX mismatch is massive and would migrate from BDL to Commercial Banks and therefrom to depositors. Of all the government’s asset pool, only oil & gas proceeds/royalties could deliver something of the needed magnitude to rebalance the \$60bn mismatch. Royalty interests in the Oil & Gas business seem the best way to make the whole scheme honor depositors’ FX position.

--In Bleu the exposure --In Red the loss transferred Numbers are indicative and must be refreshed/updated



The “Government” plan is a paper theory. In reality, the government is *de facto* implementing a totally different path to recovery called “Lost decade” (also called “Kick the can”). Both “Cut an Arm strategy” and “Lost decade” have been abundantly discussed over Twitter and numerous papers have been published. The reality remains that unlike what is being publicized, the government is effectively following a Kick the Can strategy.

The main deviations from the Government plan (noting that the Government announced something and is effectively doing the opposite) and the *de facto* approach are: a) the swiftness of the treatment, b) the magnitude (since the government numbers don’t add up so far), and c) the loss allocation. Cut an Arm recommends primarily a default in hard currencies and subsequently in local currencies. Printing LBP is reserved to paying down BdL \$60bn liabilities to Commercial Banks.

The above strategy solves both the credit risk and the currency mismatch in the system and enables an immediate “re-opening” of the banking activity with cleansed banks free from mismatches and free from credit risk. The credit can flow again. Trust is back.

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## Appendix C – Prospect Theory – A System impossible to reform

*(This analysis was initially published in January 2019 more than 10 months before the collapse of the Lebanese economy and banking system)*

Lebanon is a consensual confessional democracy with an open (but opaquely monopolistic) capitalistic economic regime currently facing economic challenges in a “degraded” macro-fiscal environment. The Lebanese system is in dire need for reform. These reforms have been delayed for decades. Herein is an attempt to use the concepts detailed in the Prospect Theory to try to explain why the Lebanese political elite is constantly delaying structural reforms. This framework could also help us understand how a) the fundamentally diverging interests between the economic elite and the general public/taxpayers and b) the substantial conflict of interest between the political elite and general public/taxpayers have far reaching consequences on the country’s development (or in this case outright regression).

### **The players and their interests**

This framework identifies three players: The economic elite, the general public and the political elite. In the Lebanese context, but more generally in any capitalist economy, we can consider the economic elite as the “equity owners” of the economy (owners of banks, companies, conglomerates, etc.). This class (the economic elite) benefits fully from the upside of a prosperous economic environment and would (should) have the most to lose in a downside situation. The general public/taxpayers have a dual hat: they are the suppliers of labor in the system but also funders thereof. Their risk profile is more akin to “Lenders/depositors” with limited upside (some additional income in the form of bonuses in good times) but a more protected downside (a reduced salary in difficult times). The political elite is the “regulator” of the system, theoretically ensuring fairness and transparency as well as optimal wealth distribution and proper peaceful governance. As in any capitalistic economy, the equity owners (economic elite) have diverging interests and conflicting views from the lenders (the general public). In the Lebanese context, the economic elite, is in collusion with the political elite to ensure monopolistic situations and extract super-profit out of the economy. The common objective of this class is to modify the wealth distribution equation in its favor. Because of this profound (and unlawful) alignment of interest, one could consider that the economic elite and the political elite are one and the same class, sometimes referred to herein as the governing elite.

### **Decision making and reforms**

It is a prerogative and the responsibility of the political elite to lead a country and make decision especially in times of duress and through difficult socio-economic times. Leadership is needed to decide on important matters that touch the lives of the general public including devaluation, soft or hard landing, crisis management process, tax increase, fiscal reforms, economic reforms, haircut on deposit, government debt restructuring, etc..... It is in this context that we are applying Prospect Theory concepts to predict or analyze governing elite decision-making. Under the Prospect Theory approach, the political elite will have to choose the pattern of risk attitude (the safer route or the riskier route). Needless to remind ourselves that the implied assumption is that the political elite is supposed to act for and on behalf of the general public. It has a fiduciary duty towards the general public by whom it has been mandated. Given that the political elite is itself the economic elite, raises the dilemma facing crucial macro-fiscal decisions: will the political elite decide as per their mandate i.e. as per the requirement of the general public or will the governing elite decide as per its vested interest i.e. like the economic elite?

### **Prospect Theory**

Prospect Theory describes the way people choose between alternatives that involve uncertainty and/or risk. The theory states that people make decisions based on the potential value of losses and gains. To illustrate and

frame our approach let us consider the two situations: First a winning dilemma and Second a loss dilemma. In first case, an economic agent has to choose between a) winning \$950 for sure (i.e. 100% probability of winning \$950 and 0% probability of winning \$0, this is referred to as Certainty Effect) versus b) 95% chance of winning \$1,000 (and hence 5% chance of winning \$0. Referred to as Possibility Effect)! Mathematically both options have the same expected outcome. In reality, economic agents usually choose Certainty Effect i.e. to take the sure win (\$950) over the Possibility Effect -is the riskier option- which is to go after the potential higher win (possibility to win \$1,000). In a profit making environment, choosing option a) Certainty Effect over option b) Possibility Effect reflects the risk-averse behavior of economic agents. Now consider the losing bet or a bet in a loss making environment. The economic agent has to choose between a) losing \$950 for sure (i.e. 100% probability of losing \$950 and 0% probability of losing \$0, Certainty Effect) versus b) 95% chance of losing \$1,000 and 5% losing \$0 (Possibility Effect). In a loss facing situation economic agent usually choose second option i.e. Possibility Effect taking the risk to lose more just to avoid the certainty of the loss. In a loss making environment, the economic agent goes for the riskier bet. He becomes risk-seeking and is no longer risk-averse.

### **The political elite dilemma**

In a loss making economic environment, with tough macro-fiscal choices to be made, which decisions the political elite is likely to make and in whose best interest will they be made. The political elite dilemma could be spelled out as follows a) reform i.e. take a loss -Certainty Effect- (bank's equity wiped out, loss of income for politicians and political parties from waste management and fuel import, loss of ministerial power over the economy due to reforms and introduction of governance bodies, loss of overall influence due to localism and municipal and local government empowerment, etc...) but at the same time ensure sound revival of the economy and brighter future for the next generations. This would be the "safer" bet as described by the Prospect Theory with a certainty of loss for the governing elite but better future for the general public. The alternative prospect being b) delay reforms which means hugely degrading public accounts and economic situation even further but avoiding to crystallize the losses of the "equity owners" while hoping that some exogenous event (Syria economy, oil and gas findings, etc...) will save the situation (Possibility Effect). The choice to avoid and/or delay reform is akin to taking the riskier bet as described by the Prospect Theory pattern of risk attitudes. What will the political elite decide? Take the safest bet as per the general public best interest (cut an arm and build a better future) or consider its personal interest as an economic elite and double down on the risk in a "*fuite en avant*" kicking the can down the road for another year or two or ten to avoid crystallizing their personal losses while degrading the economy and exposing the general public to harder future environment? Applying the above Prospect Theory, and its universe of patterns of risk attitudes, one can conclude that the political elite (as an economical elite) will be driven into a risk-seeking prospect to try and save their interests at the expense of the best interest of the general public. The political elite is naturally driven towards taking the riskier bet (at the expense of the general public) just in order to avoid crystallizing its losses. While the general public would naturally want to take on the safest bet which is to reform and take a limited hit for a brighter future.

### **Comfortably numb**

The current environment/dilemma is about decisions to minimize losses, we are in the "loss" leg of the Prospect Theory, with the political elite making decisions in uncertain environment. Conceptually, the "equity owners" (economic elite) would be the biggest losers of any "reforms" decision. This statement must be considered in conjunction with the following two important caveats a) due to its collusion with the political elite, the economic elite managed over the past 40 years, to accumulate abnormal wealth mainly via the establishment of business silos and *de facto* monopolies across virtually all the industry sectors. Such wealth is presumably outside of the country and would not be theoretically captured by the "reform" decision; and b) the governing elite enjoys disruptive powers to distort the economics rules and the judicial system to fraudulently reallocate the

foreseeable losses to be borne by the various economic actors, minimizing losses on the ruling elite and overburdening the general public. These two features further alter the risk profile of the governing elite to exacerbate its risk-seeking attitude. Having no real skin in the game makes the political elite becomes virtually careless of the losses. With their savings out of reach of the reforms-induced losses and being able to re-allocate any losses to its advantage, the governing elite becomes disconcerted with additional risk in the system. Ballooning sovereign debt, stagnating growth, soaring unemployment are of marginal impact on the governing elite. Further Delaying reforms comes at the expense of further degradation of the economy and promises even more painful adjustments for the general public. The conflicted nature of the political elite and the fact that it is at the same time the economic elite makes it totally inapt to decide in the best interest of its constituencies. The general public, has a totally different risk profile. The general public is inherently driven towards the safer bet (reforms today -albeit painful- and a more sound economy going forward). The best interest of the general public is to see “reforms” (referred to as “collapse” which the political elite -controlling the narrative and the semantics- so as to instill fear). General public favors a painful but limited loss (say 20 or 30% of assets and income from a devaluation and cut on deposits) for a healthier economy and medium term growth and a better environment for future generations.

### **The banking sector example**

Let us take the banking sector. With economic elite as “bank equity owners” and general public as “depositors”. The economic/political elite has had the opportunity to gather and shelter wealth away from the reach of the “reforms” outside of the country. It is likely that dividend distributions of several billions of dollars are now parked in offshore safe havens. The governing elite’s only exposure is the “surplus” or “residual” wealth. This elite would favor delaying reforms to avoid the certainty of the loss (Possibility Effect) even if this means worsening the overall economic metrics and degrading the situation. The governing elite is in a risk-seeking mode hoping to avoid losses and hence constantly rejecting favorable outcomes or settlements. The general public, on the other hand, are better off with reforms now even if this entails taking an economic hit today of say 30% and a few years of pain. The general public is fully exposed to the magnitude of the reform. The general public has not had the chance to shelter previously earned gains away from the “reform” impact. As such general public is fearful of larger loss and hence accepts unfavorable -but capped- losses (Certainty Effect) today in exchange of a brighter future.

## Appendix D – Process to Change

The various communities need to acknowledge that the system is not working and is flawed. Each community, after internal consultation, will need to come up with 2 credible individuals to handle negotiations on its behalf.

1. Each community will pick 2 negotiators (we have 4 cultural blocks: Sunni, Shia, Druse and Christians. So a total of 8 persons)
2. They will meet around a document (like this one for instance) over several weeks/months. They will discuss the details of the document.
3. Once they reach an agreement, the final document will be set out for referendum within each community ie 4 referendums.
4. What would happen if one or more of the four Groups rejects such proposed new constitution, is unclear.

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## Appendix E – Maps of legislative circumscriptions in accordance with the present Basic Law

Below are the maps of constructed in accordance with the present Basic Law for the election of the Members of each cantonal Parliaments and hence the federal parliament.

As indicated above, The Cantonal Electoral College, tasked with electing members of parliament, is comprised of all the men and women belonging to the relevant Group irrespective of their residency. Voters vote based on their “hometown” of birth. The system retained herein is **single-seat, two-round** “uninominal” i.e. an electoral system that elects one Member of Parliament from each district (as redefined herein see maps attached). The voting system is designed to elect a single winner where a second round of voting is used if no candidate wins an absolute majority in the first round (“*scrutin uninominal majoritaire à deux tours*”). For avoidance of doubt, all voters have to belong to one same Group (with possible accommodation within the Christian Group for positive discrimination to ensure representation of sub-Group sensibilities like Armenians, Orthodox, etc....).

Four parliaments will be elected. They convene separately but jointly in the Federal Parliament.

[Maps to be added]

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## Appendix F – Maps of Cantons in accordance with the present Basic Law

The attached maps are interpretation of the basic law and constitutional pact. They are based on a sample of the population using a count of c.3.5 individual (c. 70% of population).

I tried to the fullest extent to identify and correct errors in the data. No due diligence work was done on the data source nor on the data itself. Errors remain they have not been located nor identified and hence have been conveyed into –and polluted- the analysis. I don't believe these to be material or to have a material impact on outcome.

I have color-coded each canton for ease of identification: Blue for Christian, Green for Sunni, Red for Chias and Yellow for Druse. I have retained the Grey for municipalities which I could not assign to a cantons. Some municipalities have been correctly identified and colored "grey" i.e. unassigned to a canton

Demographic changes (mainly deriving from war, displacement, forced exile, and to a lesser extent natural population birth rates and dynamics) were not reflected in the original sample database. This results in municipalities showing a different ethno-cultural image than what reality would indicate. As such, some municipalities were assigned to canton to which they cannot ultimately belong. Effective population is from a total different community. Such a municipality needs to be in the "grey".

Out of the c. 1450, town and city, 1237 have been so far analyzed, with 1,167 assigned as follows: 614 blue (Christian), 269 red (Chias), 196 to green (Sunni) and 88 yellow (Druse). The balance (i.e. 70) are left grey meaning no ability to assign to a Canton because of the absence of a clear majority.

Assignment criteria were the following: Any municipality with more than [67%] of it registered population belonging to one of the four Groups get allocated to the Canton of the Group. Alternatively, any municipality with more than [51%] of it registered population belonging to one of the four Groups and its second largest Group represents less than [30%] get allocated to the Canton of the Group. In all other instances, the municipality is given a Grey color. It will be handle by the administrative body in charge of settling Canton borders.