

Kakistocracy and the new president: enhancing the democratic base

by Chibli Mallat

No one will quarrel, at least on paper, with the need to do away with corruption. How to do that is a different matter. I had concluded yesterday that the immediate fight of the new president should be directed against corruption and that Spartan behaviour by the person in charge, together with the slow build-up of the judiciary with a view to bolstering the rule of law, will be necessary to bring the country out of the quagmire. There are other areas where Lebanon needs specific institutional reforms.

The list is long and includes such important areas as the enhancement of the electoral process, whether municipal, parliamentary or corporate; the enlargement of the constitutional writ ascribed to our courts; and the serious implementation of the separation of powers, meaning that the same person should not be allowed to be at the same time deputy, minister and mayor or any combination thereof.

Each of these topics requires an in-depth discussion but I wish to dwell in the present article on a more far-reaching reform, which requires a return to democratic basics the need for the head of our executive to be directly chosen by the people.

The legitimacy of the president is strong in direct proportion to the quality and freedom of the vote cast for his or her choice. No vote, lack of legitimacy: this is the bottom of the ladder, level zero. No direct and competitive vote, weak legitimacy for the president: this is somewhere in the middle of the presidential strength quotient at level one, where Lebanon presently stands. Level two, which is the highest in a binary arithmetic system, is where democracy matures. This will happen when, and only when, our president will have been voted in directly by the people.

While the spectre of level zero is steadily receding, the fight goes on to avoid the hijacking of the elections by some form of constitutional amendment in favour of extending the mandate. That basic battle will be won when parliament convenes to carry out the presidential elections in less than two weeks, and it is useful to remind the speaker on his historic responsibility in this regard.

Let us suspend our disbelief for a moment, consider the elections are taking place and proceed with the principles of basic democracy. Lebanon stands, as we said, somewhere in the middle at level one. How, then, in a further suspension of disbelief, can a new president move the country to a higher level? Such constitutional exercises are as difficult as they are theoretical. They are difficult because the thorniest intellectual and political mobilisation is needed when an improvement of the constitution is sought.

After all, constitutional amendments should be the hardest to bring about in a

democratic system. Such an exercise is more often than not theoretical, because nothing is easier for a jurist than to put together a few clauses and entitle them the “ideal” constitution, whereas man-made law is one which must first and foremost take into account the weaknesses of human beings in order to be real.

Finally, constitutional changes can be dangerous. When radical amendment happens too fast, the risk to the social fabric is high, as dramatically witnessed in a plethora of countries including, in the past decade, Yugoslavia and Algeria.

With all these caveats, the leadership of a society which does not seek to improve on the status quo does not merit its label. If indeed, the greatest improvement for our democratic system would bring it up to the next degree of democratic maturation, when the people vote directly for the highest position of responsibility in the country, this improvement is best put on course by a new president.

The problem in Lebanon is compounded in two major ways. Because we have inherited the worst of the French constitutional system of 1875 that is a parliamentary system in which the president (rather than the prime minister of the Third Republic in France) is the most powerful figure our whole institutional set-up is topsy-turvy.

There is a weak legitimacy in a two-tier election of the president as should take place soon, and the prime minister is himself chosen by a president whose legitimacy is watered down in the process.

As a consequence, the legitimacy of the president becomes sometimes equal to that of the president of our constitutional council, surely an odd result considering the difference between high judicial office and the headship of the executive. The way out is for direct electoral choice of the head of executive power. But then we confront another, more intractable problem, which is the result of the country’s confessional set-up.

I mentioned yesterday that, contrary to received Western-style constitutional wisdom, the confessional system in our country sometimes operates as a bane rather than as a scourge. Here is the illustration of this conclusion with all the miseries occasioned by the deadlocks of our hallowed troika, the tug-of-war is surely preferable to one person deciding all matters without checks and balances.

When our president is blocked by our prime minister, or the prime minister undermined by the opposition of the speaker and variations thereof we tend to see the resulting tension as a tragedy for our institutions. We shouldn’t. This separation of powers is in essence no different from the separation-of-power struggle between the US congress and the president, or the French president and prime minister.

Eventually, the body politic will find its own compromise in a process which is, contrary to wide belief, a much better result than a forceful decision made by one, unchecked ruler.

It is true that there is a confessional dimension at work in Lebanon which has, as demonstrated yesterday, wreaked havoc on the economy. Part of the answer to that scourge is a more rigorous discipline, which all our leaders have failed to exercise, in

the separation between business interests and state affairs. Another way to keep the separation of powers without leading to a confessional deadlock is to improve on the electoral process itself. In the United States and in France, the president is more important than the speaker because he is elected directly by the people. In Germany and Britain, the party political system operates in such a way as to allow the people, when they vote for parliament, to effectively vote for the head of the executive, respectively the chancellor and the prime minister. In Iran, Khatami has become the most important personality because he was elected directly by universal suffrage. In all these cases, and whatever his name, the head of the executive is directly chosen by the people in a competitive manner. Many will argue that the confessional system in Lebanon is too delicate and cannot countenance such an arrangement. Others will see the impossibility of carrying a full popular consultation over the presidency, without a similar operation being exercised on prime ministership and the head of the legislative branch.

This may be so, but unless the issue over the choice of the head of executive power in the country is discussed openly and thoroughly, with the departing premise that no advanced democratic system can accept that its leader is not chosen by direct universal suffrage, Lebanon will remain for a long time stuck in the early 20th century.

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Next Monday in the presidential series he will address the regional agenda