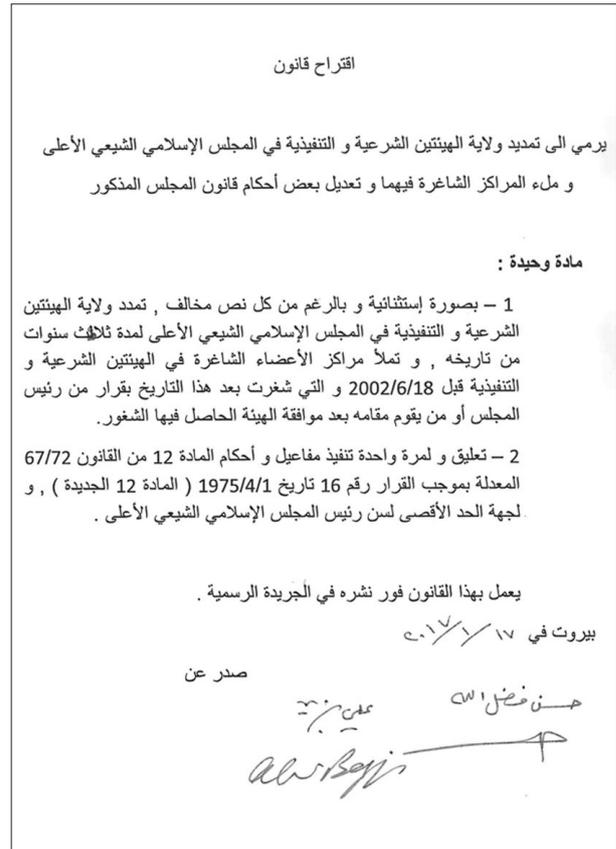


Yet Another Step Toward Shutting Down the Lebanese Political/Sectarian System No Elections for Lebanese Shia!

To date, some highly touted efforts aimed at *normalizing* the situation in Lebanon, enhancing its *stability* and accommodating a host of new regional realities have been made. Thus far, those efforts have included filling the office of the president of the republic—after a vacancy of 2.5 years—by electing General Michel Aoun, appointing Saad Hariri as the new prime minister and forming the new “Recovering Confidence” coalition government. As President Aoun began to address the legislative backlog that had accumulated during the most recent period of political stalemate, he exhorted the members of parliament on January 7 to conduct an extraordinary parliamentary cycle.¹ All of the important details were set: the parliament secretariat met January 11 to establish the agenda for the draft laws that were to be voted on, and the first round of legislation

⁽¹⁾ For further information about that normalization process, please see our previous ShiaWatch Alert, *Lebanon: Iran's Collateral Bonus*, January 2017, available at <http://www.shiawatch.com/article/648>



The draft law submitted by the two MPs affiliated with the AMAL Movement and Hezbollah, respectively. Interestingly, it is not accompanied by a preamble that describes the rationale and justification for its submission, which may prompt questions about its constitutionality. The two most recently postponed parliamentary elections (focused on extending the parliament's mandate) were justified by “exceptional circumstances.” This draft law should not be considered part of that game!

⁽²⁾ "Lebanon's Parliament to convene next week with 46-items on agenda." *The Daily Star*. January 12, 2017.

<http://www.dailystar.com.lb/News/Lebanon-News/2017/Jan-12/389044-berri-chairs-meeting-to-set-parliament-session-agenda.ashx>

Notably, while drafting a new electoral law and voting on a budget topped the list of items for which President Aoun sought parliamentary debate, they did not appear on the agreed-upon agenda mentioned above.

Unsurprisingly, these two items were considered too sensitive for public debate and were instead negotiated behind closed doors!

within this special cycle took place January 18 and 19, 2017.² But before the first morning session concluded on January 19, a draft law that did not appear on the secretariat's agenda was submitted for a general vote by Speaker Nabih Berri, who heads the AMAL Movement (and its militia). Interestingly, that draft law was passed within seconds, and other drafts, which also were not on the agenda but received similar "VIP treatment," were put to a vote as well.

The draft law that was fast-tracked by Speaker Berri, which consisted of fewer than 12 lines, bore the signatures of an MP from Hezbollah's parliamentarian bloc and another from Berri's own retinue. Incontestably, the draft law that had been blessed by the "Shia duo" (Lebanese political parlance that refers to AMAL/Hezbollah) fundamentally extends the mandate of the clerical and executive (secular) boards of Lebanon's High Shia Council and permits vacancies within these two bodies to be filled by appointment rather than vote.

At this point, it seems prudent to highlight a few facts that may help shed some light on this seemingly inconsequential legislative development by placing it in a far broader political context.

Created by law in 1967, Lebanon's High Shia Council (HSC) provided requisite credentials to the then-recently evolved and extremely tenuous Lebanese Shia community. This enabled that fledgling demographic to gain equal footing with Lebanon's "other" communities, specifically the Sunni community, which then was considered the primary "Muslim" representative versus the

⁽³⁾ The Lebanese parliament passed the law that created the High Shia Council on November 21, 1967. Elections for that council first took place on May 18, 1969.

⁽⁴⁾ As a "Sayyed," a descendent of Prophet Muhammad through his daughter Fatima and her husband (Ali ibn Abi Taleb), Sadr was entitled to wear the honorific black turban that distinguished him from his common, mortal counterparts (who wear white headdresses).

The mid-1960s establishment of the High Shia Council, the jewel in the black turban of the enigmatic Sayyed Moussa Sadr, essentially granted the Shia community full membership in the Lebanese "community club."

⁽⁵⁾ According to the Twelver Shia, the twelfth and final Imam is believed to be alive and in hiding, where he will remain until he returns to bring justice to the world.

⁽⁶⁾ "The Vanished Imam" by Fouad Ajami remains the preeminent reference on Moussa Sadr, his career and Shia community under his aegis.

country's Maronite community, then the chief Christian community in Lebanon.³

The emergence of the HSC is closely linked to the obscure and multifaceted persona of Moussa Sadr, an Iranian-born (1928) cleric of "Lebanese" origin, who arrived in south Lebanon in late 1959 and began a career that ultimately saw him emerge as the most charismatic religious and political leader within Lebanon's Shia milieu. Thus, establishment of the HSC in Lebanon became the jewel in his black turban.⁴ Somewhat less clear, however, is the ambiguous end that befell Sadr's career. While the details of its "termination" remain vague, we do know that he and two companions disappeared in August

1978 during a trip to Libya, an event that supplemented and perpetuated a longstanding Shia tradition.⁵

Sadr's disappearance occurred at a particularly

cataclysmic period brought on by regional factors as well as local developments in the Lebanese civil war, to include the progress being made by the Egyptian/Israeli peace process, the Israeli invasion of south Lebanon (Operation Litani, March 1978) and the emergence of a new "situation" in Lebanon, particularly in the south, the population of which is predominantly Shia.⁶

In addition to many other factors, the disappearance of Moussa Sadr, the Israeli invasion and the ensuing struggle for the minds and hearts of Lebanese Shia (in which the Shia community was asked either

⁽⁷⁾ In Arabic, "AMAL" literally means "hope," but it is also the original acronym used for *Afwaj al-Moukawama al-Loubnaniyya*, which translates to the "Squads of Lebanese Resistance."

to stand against the Israeli occupation or embrace it, as it might rid them of the PLO and return peace to the area) indeed marginalized the HSC. Moreover, the situation cast doubt on the Council's default leadership, as attitudes shifted toward what Sadr foresaw as the military wing of its movement, AMAL, and still later toward the ad hoc groups fielded by revolutionary Iran, which were eventually subsumed within what has since become Hezbollah.⁷

Despite that marginalization, however, the HSC has essentially remained an independent and non-aligned moral authority within the country. The Council endured largely because of the leadership exerted by its vice president, Sheikh Mohammad Mahdy Shamseddin, a first-rate, self-made cleric who espoused moderate religious positions and visionary attitudes on issues such as the expansion of cross-border sectarian identity versus a nation-based, citizen-oriented affiliation. Unfortunately, the discourse offered by Sheikh Shamseddin neither appealed to mainstream attitudes nor could it withstand the ideological and political competition being waged by AMAL and Hezbollah.

In the midst of this discussion about the HSC, an aside must be interposed to account for the period between 1969 and 1975. During that time, the HSC (the general assembly of which is composed of all authorized Shia clerics and Shia members of the country's political, professional and social elite) experienced two elections that determined the members of its clerical and secular boards.⁸ The first election, held in 1969, positioned the HSC as a legitimate representative (among others) of a segment of the Shia community's clerical and secular

⁽⁸⁾ According to the bylaws of the High Shia Council, secular members of its assembly general include, among others, current and former MPs and ministers, judges, university professors, lawyers, doctors, pharmacists, engineers, heads of municipalities, bankers, traders and newspaper owners....

elite. In that sense, staffing of the HSC, which was accomplished via the 1969 election, was a momentous victory against the traditional leadership of the community and its clerical network. The second election, held in May 1975 (just weeks after the outbreak of the civil war on April 13 of that year), reflected a decisive split within the anti-traditional camp, which involved a “conservative” wing and a more radically oriented leftist opposition. While it may seem an anachronism today, a group of declared left-leaning Shia gained admission to the executive (secular) board of the HSC in 1975! That shift helps remind us that our contemporary dealings with sectarian entrenchment, especially from the Lebanese Shia or the Lebanese Sunni side, are not altogether atavistic. Rather, they stem from modification of the political culture.

Disappointingly, elections have not been held to renew the clerical and executive boards of the HSC since 1975. In March 1994, however, in the wake of Lebanon's post-Taif *normalization*, an amendment was made to its bylaws. At that time, since it was extremely unlikely that Sayyed Moussa

اليسار كان الراجح في انتخابات
الهيئة التنفيذية للمجلس الاسلامي
الشيعي الاعلى . فقد فاز من لائحة
«التضامن» اليسارية غير المكتملة
5 اعضاء هم السادة:

وتبين بعد الفرز ان نسبة
التشبيب في اللوائح المكتملة
كانت مرتفعة، في حين حازت لائحة
التضامن اليسارية اكبر عدد من
اصوات المقترعين في الصناديق
المخصصة لاساتذة الجامعات
والمحامين والمهندسين والاطباء،
وهي قلما عرفت التشبيب .

According to the *an-Nahar* report on the 1975 elections, “the Left was the big winner in the election of the Executive (secular) board of the High Shia Council. In fact, five members [from...] the leftist ‘Solidarity’ ticket won seats in that board [and...] the greatest number of votes cast for those on that list came from the polling cabinets of the lawyers, engineers and doctors...” (May 12, 1975).

Sadr would ever return to Lebanon, he was appointed ad vitam president of the HSC. Sheikh Mohammad Mahdy Shamseddin was elected its president, and Sheikh Abdul-Ameer Kabalan as the Council's vice president.

On June 29, 2012, three members of the HSC's electoral college, Sheikh Mohammad Ali al-Hajj, Rashed Hamade (the son of former parliament speaker Sabri Hamade and an engineer who has been a parliamentary candidate on several occasions) and Lokman Slim addressed the High Administrative Court.

Utilizing the format reserved for judicial cases, the group requested that the court stop the wrongdoings of the HSC president, whose official mandate is indeed questionable.

The decision to resort to administrative justice came after the individuals had

addressed the prime minister, who exerts guardianship authority over the institutions that represent the four Muslim sects (Sunni, Shia, Druze and Alawi).

Notably, while the Christian institutions are completely independent from the state, its Muslim counterparts are essentially state institutions, both technically and fiscally.

The prime minister's guardianship authority is a remnant of the authority accorded to the Grand Vizier under the Ottoman Empire.

Unsurprisingly, the legal action taken by al-Hajj, Hamade and Slim was ultimately rejected following several petition exchanges with the HSC's legal advisors. Still, this judicial struggle became an opportunity to publicize the debate. The picture above features the cover of a booklet that contains the key document for this affair.



Upon the death of Sheikh Shamseddin in 2001, Sheikh Kabalan became the de facto head of the HSC. In the nearly 15 years since then (until the January 2017 vote mentioned above), Kabalan, who situated himself at the intersection of AMAL and Hezbollah, has presided over the mandate of both boards and filled board vacancies by appointment. During that time, no judicial or legal action was taken against the HSC, largely because AMAL and Hezbollah were jointly co-piloting the Council from behind.

Interestingly, Sheikh Kabalan is nearing his eighties, but in a country that is steadily becoming a gerontocracy, that fact

Despite monopolizing Shia political representation in Lebanon's parliament, its cabinet and in a variety of state institutions, the action taken by AMAL and Hezbollah to freeze the democratic process within the HSC questions the level of political confidence either organization has in (and among) the Shia clerical and secular elites.

is certainly not unique. But what could prompt the Shia duo to realize suddenly that the situation within the HSC is abnormal? What might provoke it to question the legitimacy of its boards and the actions being pursued by its president? That

decision might have been swayed by the real estate endowments that belong to the community, the appointment of individuals to prime positions or granting important tax exemptions, all of which seem... questionable.

Beyond the rather obvious "shortcomings" mentioned above, three main reasons might have prompted this sudden awakening. *First*, the corruption that exists within the HSC represents the weakest link in the apparatus used to control the Shia community. Indeed, the Council's

⁽⁹⁾ See reports filed in the Lebanese daily press on January 11, 2017.

increasingly poor reputation is encouraging more and more dissenting members of the Lebanese public to assail that organization by questioning the political and moral responsibility shared by the Shia duo, not to mention the increasing number of questions being asked regarding the apparent complicity of some protégés within AMAL and Hezbollah. The most recent source of “delicate” questions being directed toward the HSC (in this case an affair that coupled a degree of political revanche with real estate corruption) is former minister Ibrahim Shamseddin, the son of Sheikh Mohammad Mahdy Shamseddin.⁹ In this case, extending the mandate of the HSC is largely intended to provide some ex post facto protection to the institution—and those who man it.

The *second* reason relates to the unwillingness of the Shia duo to observe the bylaws of the HSC and test themselves by conducting elections for the two boards. Once elected, those members, along with the incumbent Shia MPs, represent the body responsible for electing the Council's president and its two (clerical and secular) vice presidents. Despite monopolizing Shia political representation in Lebanon's parliament, its cabinet and a variety of state institutions, AMAL and Hezbollah took liberal advantage of the general harmony that followed the election of General Michel Aoun to deftly, almost imperceptibly pass the HSC law in the parliament. Clearly, the Shia duo does not want intra-Council elections to take place. Yet, while such elections would probably cause a rather dramatic reversal of conditions within the Council by conspicuously adding “independent” Shia to its board, they would also have given



those who disagreed even moderately with the Shia duo an opportunity to demonstrate that declaring oneself a candidate or actually being elected is not the insurmountable hurdle claimed by AMAL and Hezbollah.

On January 25, just days after the law was passed, former minister Ibrahim Shamseddin (the son of the late Sheikh Mohammad Mahdy Shamseddin, who headed the HSC from 1994 to 2001) met with a group of 30 top clerical and secular figures within the Shia community at a Beirut hotel. The outcome of that meeting was the release of a document that condemned both the law and the manner in which it was passed. Beyond that, the group posted an official letter to President Michel Aoun, which summarized the legal and constitutional grievances against the law. Specifically, the letter requested that the president “fulfill the oath he pledged the day he was elected, use his prerogatives and request that the parliament review this law.”

Pictures from left to right: (1) former minister Ibrahim Shamseddin introducing the meeting. (2) Also at the meeting (from left to right) Rashed Hamadeh, attorney Mohammad Matar (holding the microphone) explaining the unconstitutional nature of the law, former ambassador Khalil al-Khalil, former Baalbeck municipality head Ghaleb Yaghi, editorialist Ali al-Ameen and former MP Salah Harake. (3) The scene during the meeting. (4) Lokman Slim presenting the draft statement that was agreed upon during the proceedings and released afterward.

This notion assumes even more importance with respect to determining the fairest parliamentary electoral law for Lebanon and the Lebanese, as the Shia duo advocates a system of full proportionality and asserts that Lebanon should be considered a single voting district. Indeed, that is the most progressive electoral choice, as it would permit Lebanese from the various sectarian affiliations to coalesce nationally around a shared political program. Nevertheless, it certainly seems bizarre that those who advocate the most progressive and inclusive approach to a

⁽¹⁰⁾ Caroline Akoum. "Hezbollah and Amal Extend Shi'ite Council Term, Opposition Figures Ask Aoun to Act." *Asharq Alawsat*, <http://english.aawsat.com/2017/01/article55366455/hezbollah-amal-extend-shiite-council-term-opposition-figures-ask-aoun-act> (The Arabic version of this article was published on January 28, 2017).

national electoral law are the same ones who reject democracy within their own community!

In comments about those within the Shia community who opposed the law, a former minister closely aligned with Nabih Berri stated that the three-year extension would provide sufficient time to amend the bylaws of the HSC before new elections are held.¹⁰ Notably, this may be the *third* and possibly most important reason behind the delay. Indeed, the salient feature of the proposed amendment is to decrease the size of the electoral college responsible for populating the Council's two boards in order to increase upstream and downstream control over the HSC. After all, that approach is not unprecedented.

While there will always be ways of "stabilizing" a country and keeping its most active components isolated from the political scene, that is not the same as saying that those approaches will produce a stable country!

As part of the effort being undertaken to gain full control of the Sunni community and its religious institutions (including its revered *Dar al-Fatwa*), the late former Prime Minister Rafic Hariri passed a law in the mid-1990s that

decreased the electoral college.

Despite the intensely Shia-centric nature of this legislation, it is relatively easy to note that passage of this law corresponds to the growing drive to hamstring the Lebanese political/sectarian system and pigeonhole the Lebanese as full-time members of their respective "parishes" (excluding any other cross-confessional political identities they may share). Moreover, the initiative reduces parish representation to one or two parties that will not only control their

respective communities, but will also share state resources (the sum of which is fading steadily) vis-à-vis their monopolization of the political representation for those communities.

If extending the mandate of the HSC seems a somewhat eccentric approach to handicapping Lebanon's political/sectarian system, then one need only review the ongoing Lebanese debate over a new electoral law. After all, it illustrates convincingly that inclusiveness is indeed giving way to sectarian nuances. The sad conclusion to this missive is that ways can always be found to "stabilize" a country at the expense (among other costs) of preventing its most active components from contributing to the running of its affairs and having a say in the country's present and future. Such a process, however, neither protects nor sustains that country. Ultimately, it will simply push Lebanon closer to joining the list of countries that are on "life support!"