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Lebanon and Syria

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*The Vicious Cycle
of Corruption*

The Lebanon Fallers

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Firstly,

Lebanon is currently experiencing one of the most difficult times in history as the country is wrestling with a dire economic situation, a global pandemic and political instability.

The Lebanon Papers series therefore aims to offer an overview on the current situation in Lebanon and provide possible solutions for a better future.

Its purpose is to prevent disinformation by ensuring sound reporting while explaining the challenges as simple as possible for the information to be accessible to as many people as possible. The paper series consist of well-founded reports on different topics using political, economic and judicial perspectives in order to achieve a comprehensive coverage. The fifth issue of the series addresses the systemic corruption in Lebanon. With a worldwide rank of 149 out of 180 countries and a regression of 11 ranks to the previous year, Lebanon's results in Corruption Perception Index 2020 are an indicator for the widespread corruption in the country. In addition, the dire socio-economic circumstances, the COVID19 pandemic and the Beirut Port Explosion on August 4th 2020 have left the Lebanese population more vulnerable to risks and forms of corruption. While it is undeniable that the 2019 protests reflected an awakening of citizens to the importance of combatting corruption and demanding accountability, little progress was achieved on the ground. This paper will explore the reasons for the systemic corruption in the country and try to propose some solutions.

We hope that you will enjoy reading our paper series and are looking forward to any feedback that you might have.



Kristof Kleemann

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Meet the Author

I am a graduate lawyer specialised in International, European law and Human Rights. After completing my legal studies at the Ludwig-Maximilian-Universität in Munich I moved to Beirut in order to gain work experience in the region. Currently I am doing my LL.M. in public international law remotely at Utrecht University. During my studies in Munich I gained work experiences, both in law firms such as Freshfields or Beiten Burkhardt, as well as through an internship in a foundation in Bogotá. Cultural exchange, languages and the interaction of traditions and history of each country in the respective legal system, have always fascinated me. I am particularly interested in the question of how best to consolidate the principles of the rule of law. However, it is not only legal aspects that need to be considered, but also the interplay between politics, religion and society,

The Primary Task of the State: The Protection of its Citizens

The primary task of a state is the sufficient protection of the citizen through its executive, judicial, and legislative powers. The state ensures that individuals can rely on the courts to enforce their rights when these are restricted or violated by the state itself or by other citizens.

What happens if the state cannot comply with this task? What if the state is not able to provide its citizens the necessary protection?

The citizen then starts looking for a different authority that is capable to offer protection. It is human to seek out a role model, someone to guide one’s path, shaped by certain moral and ethical principles. During childhood, the family, the parents, the grandparents, the big sister, the big brother offer the necessary guidance and protection. At the age of seven, children of all cultures throughout the world, start to show their responsibility towards the community by taking over tasks such as: going to school, looking after cattle, or earning money for the family. Between the age of 14 to 21, teenagers of all cultures throughout the world, go through a ritual defining them as adults.¹ From this point on they fully become members of the community and are justiciable in the eyes of the law. Although there are general principles to follow, such as the rule of law, each state defines what is allowed and what is not, providing protection against injustice by holding those responsible to be accountable.

As soon as the state can no longer fulfil this function, the door is opened for corruption.



Lebanon has faced a challenging year, marked not only by the Covid-19 crisis and an economic collapse, but an explosion that resulted in the devastation of half of the city of Beirut. The main demand during these tumultuous times, is the urgent desire for change. But how can change be achieved when all attempts, whether from the outside or the inside, keep bouncing off a political wall that seems incapable of implementing reforms?

The greatest difficulty at the moment seems to be to restore the trust in the state. The problems are deeply rooted, and the challenge lies rather within the structure of the state, than in the people remaining in power.

How could this vicious circle be broken? In order to get remotely close to finding an answer, one needs take a look at corruption itself, what the main obstacles are to sustainably overcome it, and what further attempts could be taken to achieve that goal.

¹ Tomasello Michael, *Becoming Human: A Theory of Ontogeny*, Suhrkamp (2018)

I. The Starting Point of Corruption



In order to prevent corruption from taking over one needs to understand the importance of the rule of law within a country. So how – or why does corruption start? It begins when one fundamental criterion is missing: trust. Trust of the citizens towards the state. Trust in the implementation of the legal framework. Trust in the work of various public institutions. This trust is fundamentally based on the constitution and its thorough implementation. The constitution regulates the relationship between the citizen and the state, following the purpose to gain some balance between the ruler and the ruled. The rule of law, or better the implementation of the principles of the rule of law, is based on that constitution. It is thus considered to be a sustainable system composed of laws, institutions, norms, and social commitment, which can be divided into four different components: Accountability, legal framework, open government, and an accessible judiciary². The principle is premised on the idea that **everyone can be held accountable**, regardless of whether they are employees of the state. Furthermore, it should lead to the **law being clearly understood by everyone and applied equally** while protecting fundamental rights. Open government means that the legislative procedure, **its administration, and enforcement are freely accessible, fair, and efficient**. Lastly, the **judiciary becomes accessible to everyone** once the laws are implemented and **applied by independent representatives**, the courts dispose over **necessary resources** and reflect the composition of the respective community.

Once the state fails to comply with these essential tasks, it cannot provide the citizen the necessary protection, thus the citizen loses trust towards the state itself and its institutions and that is when patronage and clientelism take over. Patronage can be defined as the relationship between a powerless citizen and a powerful citizen with greater influence. This relationship commences when the respective political institutions of a country are weak. Due to the inability of the government to provide the citizen with the necessary public goods, the citizen shifts its faith towards a patron, as he is able to provide protection and justice.³ Therefore, “the best way of protecting themselves from this uncertainty is often to create a special relationship with a person who has knowledge of, and access to, the state and its resources – a person whose patronage will create through informal means the security that is lacking in the formal system.”⁴ Clientelism can be defined as “perhaps the principal informal mechanism to integrate or co-opt otherwise marginalized sectors of the population”.⁵ It includes “a long-term relationship of unequal power in which identifiable actors exchange goods and services that often involve political allegiance [...] it operates to a logic of exchange, whereas the ideal of democracy is based on the ethos of citizenships rights”⁶ and participation. Some forms of clientelism possess a patron, while others do not. However, those with one, have most of the times access to benefits such as social mobility, social integration, and access to resources, as the patron is able to provide marginalized groups with such.⁷ Whereas within a democratic state, all citizens are granted the same rights and have access to the same resources.

² World Justice Project, What is the Rule of Law? (2018) at <https://worldjusticeproject.org/about-us/overview/what-rule-law> (viewed: 30.12.2020)

⁴ Tina Hilgers, *Democratic Processes, Clientelistic Relationships and the Material Goods Problem*, In: *Clientelism in Everyday Latin American Politics*, Palgrave Macmillan (2012), p. 6

⁶ Ibid 4

³ Kassab H.S., Rosen J.D., *Latin America and Lebanon: A comparative Study of Fragility*, In: *Corruption, Institutions, and Fragile States*, Palgrave Macmillan (2018), p. 48

⁵ Tina Hilgers, *Democratic Processes, Clientelistic Relationships and the Material Goods Problem*, In: *Clientelism in Everyday Latin American Politics*, Palgrave Macmillan (2012), p. 7

⁷ Kassab H.S., Rosen J.D., *Latin America and Lebanon: A comparative Study of Fragility*, In: *Corruption, Institutions, and Fragile States*, Palgrave Macmillan (2018), p. 49



II. Corruption in Lebanon



Lebanon has a mixed system, which possesses the characteristics of democracy on the one side, as well as clientelism and patronage on the other. In order to get a better understanding on why these features are deeply rooted in the Lebanese state structure one needs to take a look at Lebanon’s history.

Lebanon has been subject to imperialism throughout its history, starting with the Ottoman rule over the country. The Ottoman Empire was the first to install clientelism and patronage through governing religious minorities. Lebanon is until now characterised by 18 different religious denominations, none of them

being represented by a majority. That in turn causes a difficulty ensuring stability and enforces clientelism and patronage. Although various forms of confessionalism existed in Lebanon since the 13th century, the National Pact in 1943 – an unwritten agreement – laid the foundation of Lebanon as a confessional state. This was the first conciliatory power sharing breakthrough between Christians and Muslims, with the purpose of allocating the highest offices of the state between the country’s major religious groups depending on their demographic representation within the country. This peaceful coexistence was interrupted by the outbreak of the civil war in 1975. The war came to an end with



the signing of the Taef Accord in 1989 mediated through Saudi Arabia and Syria. In order to understand the political ruling class of today, it needs to be mentioned that most of the parliament members were involved in the adoption of the Taef agreement, as well as in the amendments of the constitution, and even some of them in the implementation of the National Pact. Originally the aim of the Taef agreement was among others to abolish “political confessionalism”⁸ . This objective is reflected in Art. 95 in the sixth part: Final and temporary provisions of the Lebanese Constitution, which was amended first in 1943 and again in 1990.⁹ However, the Taef Accord was too fragile to restore

lasting peace and ultimately led to political unrest, which resulted in the assassination of President Hariri in 2005. Political upheaval followed once again, which lasted 18 months and ended with the conclusion of the Doha Accord the 21st of May in 2008. The naming of the armistice agreement reflects the polarisation of Lebanese politics. While Shiite parties such as Hezbollah and Amal Movement name the accord “March 8” after a pro-Syrian demonstration, Sunni, Christian and Druze call it “March 14” because of an anti-Syrian rally. This dichotomy characterises Lebanese politics to this day.

The confessional power-sharing agreement left its mark and still characterises all levels of government and society in Lebanon. It leads to a rigid political system based on the search for compromise between the political elite. However, named elite repeatedly falls back on their old familiar network, which leads to consociational¹⁰ structures, that solely helps to promote the interests of each respective party. As a result, the individual parties and their religious communities are not dependent on finding a compromise, as they receive sufficient support from the party and religious community. This in turn leads to the fact that no stability can be achieved within Lebanese politics and corruption is being promoted instead.¹¹

At the same time this instability leads to an underdevelopment of the Lebanese economy, as the political parties prioritise their respective agendas over the common good. The confessional structures result in a backlog when it comes to the implementation of reforms, rather than promoting cohabitation.

Corruption takes several forms within society. In Lebanon, these can be summarised into three categories: political corruption, bureaucratic corruption and grand corruption.

Political corruption is currently one of the most prevalent problems in the country. Within society, political parties are considered to be corrupt and not exactly trustworthy. Due to the form of government described above, which combines politics with religion, an independent, transparent representation of society is difficult to achieve. Thus, according to Lebanese custom the president has to be Maronite, the prime minister Sunni and the speaker of parliament Shiite. The root causes of political corruption in the country are based primarily on the lack of regulations regarding the financing of political parties and secondly on insufficient legal accountability.

8 Article 95, first Paragraph, first sentence

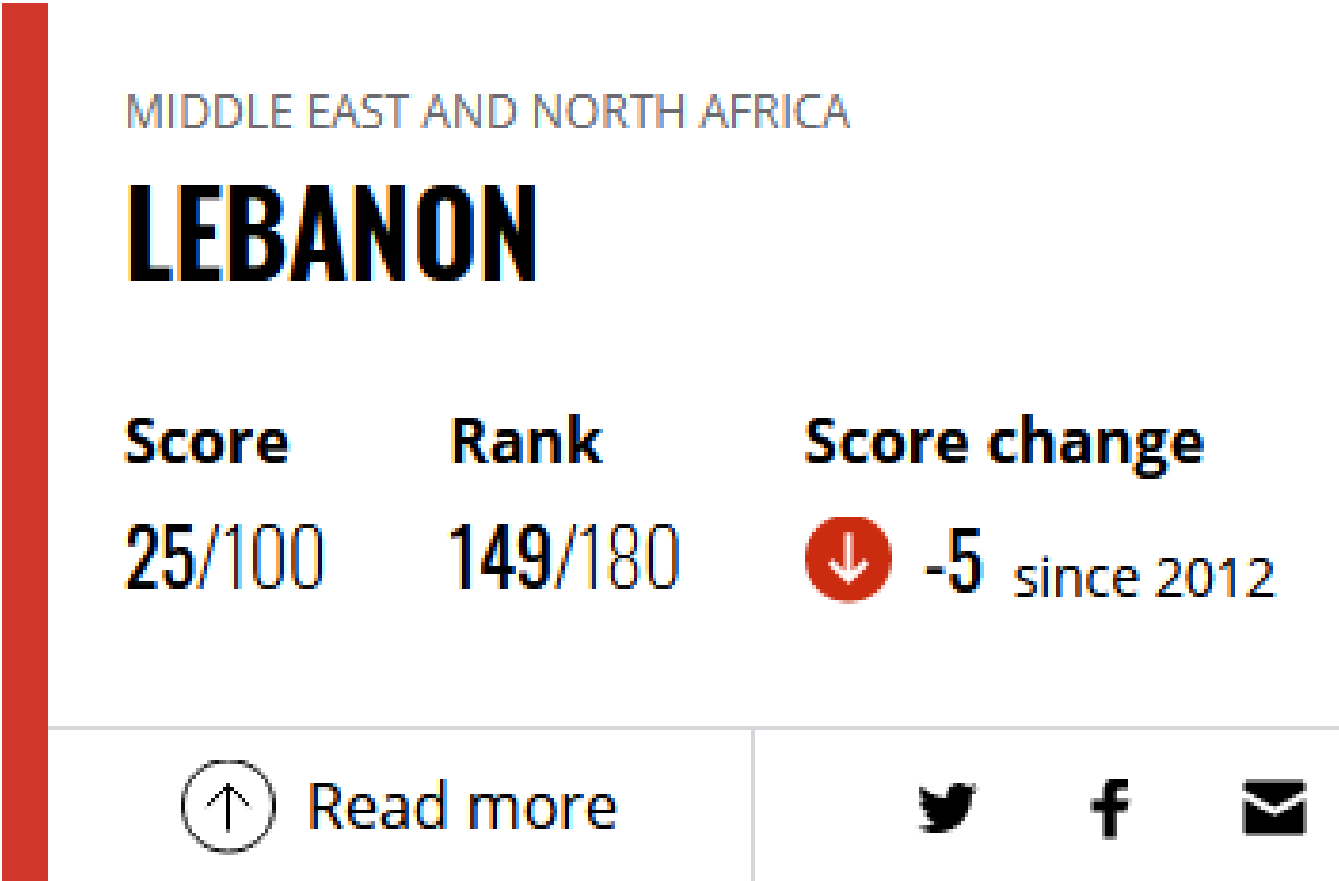
9 For further information Issue 1 of the Lebanon Papers: The economic collapse and its impact upon confessionalism

Bureaucratic corruption is based on an inefficient, overburdened administration that is unable to perform its duties properly due to the lack of resources. Therefore, the Lebanese administration is drowning in a bureaucratic nightmare¹². It is further an obstacle for entrepreneurs, big companies and investors who want to build up a sustainable business in the country. This in turn opens the door to nepotism and encourages bribery attempts within the authorities to speed up administrative processes. According to a survey, conducted in 2010 by the Lebanese Transparency Association, 65% of the companies polled, felt compelled to pay bribes in order to facilitate and speed up government procedures. While 47.8% of these companies paid 1 to 5% of their annual revenue as unofficial bribes to public officials. That complicates the conditions of establishing and running a business in Lebanon and is unaffordable for those who do not have the necessary contacts to high-level officials or politicians. Additionally, it slows down the development of the economy immensely and increases the diaspora.

One can detect a similar outline within the category of **grand corruption**, which is equally characterised by bribery. Here too several companies are forced to pay bribes to secure a public contract with the government. Due to an inadequate legal framework, which hardly contains any regulations regarding fair procurement rules, the awarding of such contracts is opaque. Political parties often tend to interfere in the awarding process in order to promote their interests, resulting in a failure to ensure fair competition. Moreover, there are no control mechanisms to track the decision-making processes of the respective official that led to the contract. It is therefore impossible for unsuccessful bidders to enforce their rights if the contract was not concluded legally.¹³

10 A consociational democracy is characterised by four main political tenets: a grand coalition, a mutual veto, proportional representation, and segmental autonomy. Confessionalism is a regime of consociational government which distributes political and institutional power proportionally among religious subcommunities. See Issue 1 Lebanon Papers: The economic collapse and its impact upon confessionalism

Lebanon ranks 149/180 in corruption according to Transparency International's Annual Corruption Index (2020)



11 U4 Anti-Corruption Resource Centre, Transparency Association, Overview of corruption and anti-corruption in Lebanon (2012) at <https://www.u4.no/publications/overview-of-corruption-and-anti-corruption-in-lebanon.pdf> (viewed 31.12.2020, 14: 10)

12 See Issue 2 Lebanon Papers: Decentralising Lebanon – Utopia or feasible next step?

13 U4 Anti-Corruption Resource Centre, Transparency Association, Overview of corruption and anti-corruption in Lebanon (2012) at <https://www.u4.no/publications/overview-of-corruption-and-anti-corruption-in-lebanon.pdf> (viewed 31.12.2020, 14: 10) p. 3

III. How to Overcome Corruption?

So how can the vicious circle of corruption be broken? How can corruption in Lebanon be overcome in a sustainable manner? Rabih El Chaer, lawyer and former president of Sakker el Dekkene, explained that a long-term strategy would be to change the culture of the society. Corruption can be traced back to different acts that indirectly, have a negative impact on the education of future generations. The main issue is, he continued, that a big part of the population, due to their education and traditions, identify themselves with a religious sect that is attributable to a political party. This identification is rather forceful than driven by beliefs. Therefore, the society is led by fear instead of enlightenment and this fear can easily be manipulated, Mr. Chaer pointed out. As the current legal framework and its implementation do not provide the citizen with a sufficient remedy to defend themselves against any injustice, the citizen is forced to identify themselves with a sect in order to seek the necessary protection. From birth, religious affiliation plays a major role. It determines the form of registration and the corresponding ceremony, the type of wedding – as there is no civil marriage in Lebanon – up to death and its respective type of interment. This leads to religious denominations further providing hospitals, schools, universities, social welfare, while dominating and controlling them. Therefore, religious communities take over the duties of the state, as the state fails to comply with its tasks, Mr. Chaer elaborated further. The vicious circle starts, and religion becomes of greater importance than mere faith. Religion offers a social security, which leads to the dependency of the citizen towards it. Breaking free of religious constraints is currently almost impossible. As the political system through the distribution of the seats in parliament, the judiciary and public institutions is linked to it. At the same time, the link between religious denomination and politics results in political processes become opaque and it is impossible to hold people of the establishment in power accountable. The politician is backed up not only by his political party, but by his religious denomination. Hence, the actions of the person are blurred with the respective religious affiliation, Dr. Mosbah Majzoub, vice president of the Lebanese Transparency Association, explained. In order to improve accountability on the political level, it must be shown to the society that, by holding a politician accountable it is not at the same time an attack on their respective religious affiliation, Dr. Majzoub continued. The actions of the person must be in the foreground and not his religion. Therefore, it is essential to dismantle the actions of the establishment in power. A small step in this direction was the summoning of former Prime Minister Hassan Diab to court for actions leading to the explosion on the 4th of

August. Although rather quickly this became a setback, when the Minister of Interior stated, that he would not push the security forces to execute the judge's decision.

“The citizen is tied up in this system and not free to decide and what is democracy without freedom?” Rabih el Chaer stated. That is why this issue needs to be tackled from within the society, so the citizen would be able to break free. Through education and the media, it would be possible to educate the new generation to be more critical, Mr. El Chaer continued. Through travels and studying abroad the new generation witnessed how other countries function, with a stable rule of law and a thorough separation of powers.

Within the universities a change can be witnessed already. Each university has its own student elections, imitating the one happening on a state level. This year in several universities – private and public – the secular club won. Rather than identifying themselves with religious denominations, the new generation starts identifying themselves with their respective human rights. However, the society will not change itself without guidance. In order to achieve this change, society needs to be guided through the amendments of the legal framework. Currently the law is tailored upon the interest of the political class, that makes it more challenging for outsiders to come and take over the parliament, Mr. El Chaer pointed out. At the same time, it hinders accountability. The current constitution grants, apart from very few exceptions, immunity to all members of the parliament, the prime minister, and the president. This contradicts the principle of the rule of law that, latter is premised on the idea that everyone can be held accountable, regardless of whether they are employees of the state. The constitution needs to be amended concerning its protection of the political leadership. At the moment, the political ruling class thinks of itself as untouchable, hence it does not fear any consequences following its behaviour. Apart from the constitution, laws concerning the bank secrecy are to be voted on. The current legal framework is allowing political parties to receive money from outside, following the objective of fulfilling foreign purposes instead of Lebanese interest, Mr. El Chaer explained. In addition, it impedes the identification of bank transfers and facilitates money laundry. Therefore, the law concerning bank secrecy is in desperate need to be amended, which could be achieved with additional pressure from the international community. Further, amendments of the laws concerning the independence of the judiciary, illicit enrichment, public procurement should follow, Rabih El Chaer continued.



Lastly,

New elections are crucial in order to achieve fresh wind within the political ranks. Dr. Mosbah Majzoub pointed out that at this stage the opposition could reach more than 50 percent of the seats in parliament. This would already be a big step forward. Although it would not be sufficient to replace half of the political leadership in power, reforms of the structure of the state must be tackled at different levels. In order to sustainably break the vicious cycle of corruption, the intersection of two forces is needed: the internal force, coming from the society – the new generation – and the external force, through new political leadership and pressure from the international community, Mr. El Chaer explained.

Therefore, it would be helpful if the international community would assist Lebanon in becoming a neutral country, disassociated from regional problems and constraints. This way Lebanon could tackle its issues independently. To achieve that, both forces – the internal and external need to work together. “If we would reach that goal, then I could tell you that there is hope”, Mr. El Chaer concluded.

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