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Nizar Saghieh – No society disappears through bankruptcy: Its vitality alone can ensure accountability

→ Nizar Saghieh & Jamil Mouawad.



A protester holds a placard reading in Arabic 'we want justice, hang gallows' during a protest in the aftermath of explosion, in Beirut, Lebanon, 08 August 2020. People gathered for the so-called 'the Saturday of the hanging ropes' to protest against the political leaders and calling on those responsible over the explosion to be held accountable. Lebanese Health Ministry on 07 August said at least 154 people were killed, and more than 5,000 injured in the Beirut blast that devastated the port area on 04 August and believed to have been caused by an estimated 2,750 tons of ammonium nitrate stored in a warehouse. © EPA-EFE/NABIL MOUNZER



Two months since the explosion in Port of Beirut on 4 August 2020, and more than one year after the uprising of 17 October 2019, the Lebanese are still waiting for accountability for corruption, misuse of public money, and losses in their savings. They are still waiting for those responsible for the Beirut explosion to be held accountable.

This interview with lawyer and Executive Director of “The Legal Agenda” Nizar Saghieh addresses the most important dimensions of accountability following the economic and financial crisis that Lebanon is suffering. It expands the notions of justice, lack of trust in the judiciary, and widespread corruption, while attempting to create hope by emphasizing the vitality of a civil society brought once more to the fore by the “17 October Uprising.” Rather than a mere uprising against power, this is now known as the revolution that revived and rebuilt society.

Calls for an independent judiciary were among the most important and fundamental demands during the uprising of 17 October 2019. After the Beirut explosion on 4 August 2020, gallows were hung in the Lebanese capital. How do you explain this transition from an institutional and reformative demand to one that is popular and resembles private justice?

The “17 October 2020” movement and the Beirut explosion must be put within



a general framework of wide-spread corruption and economic crisis in Lebanon. Citizens gradually started to feel the effect of these on their daily lives when the cost of living started to rise and the Lebanese Pound lost its value, a series of events which culminated in the destruction of Beirut following the massive explosion in its port.

Before this, citizens saw corruption as affecting a country which did not belong to anyone and thought they would suffer no direct consequences, except for small manageable grievances or events truly out of the norm. It was as if there were an unspoken equation where the ruling class could use the country's money and resources however it wished with the delusion that the rights of average citizens would still be preserved, and that citizens could continue to improve these,



sometimes through illegal means, for example. These rights included in particular individual rights, such as private ownership, earning money, and keeping savings.

However, with the financial crisis and the Beirut explosion, citizens learnt they had lost their private ownership, with their savings turning into deposits at Banque du Liban (BDL). This meant that these savings had gone from being private money to public funds to be used without benefit to the citizen. Privately owned houses were also destroyed in the explosion. These had represented for many the last remaining safe haven in the context of the enormous crises rocking the country.

As such, the combination of the financial crisis and the explosion caused many to increasingly and tangibly feel that they had been robbed of their possessions in the most flagrant way. In practical



terms: their houses were destroyed, their money was gone, and their savings were a constant source of worry because there was no guarantee for them given the failed, absent, and corrupt State. Two schools of thought – although they contradict each other – emerged and reflect the centrality of the State. . The first was calling for emigration, with people searching for any other country (and state) to move to. The second was integration into public affairs and fighting for what remained of the Lebanese state through participation in the numerous initiatives, a token the vitality of the Lebanese society is currently on the mend.

Indeed, these rapid and dramatic shifts did succeed in toppling the dominant post-war mentality of nonchalance towards public affairs. It turns out that you can't protect anything individual or



private without public oversight, and the State is the only body capable of ensuring the protection of individual rights.

To come back to your question about accountability and the gallows, the answer flows naturally from what I've mentioned. The dream of "17 October 2019" especially affected people's sense of ability to act to restore and reform of institutions. The revolution was, therefore, the expression of an unbridled desire to establish a country and its institutions, first among these the realization of an independent judiciary. While the hope for revolution and the ability to change inspired chants with institutional dimensions, the Beirut explosion gave birth to a mix of anger and impotence that took a more revolutionary tone. When it is challenging to restore institutions and



use them to hold others accountable, people turn to accountability of a different kind. That's why the chants to “raise the [politicians'] gallows,” as well as the calls for international justice, are of outstanding symbolic importance. The takeaway is that these revolutionary stances reflect a passing mood that was inspired by crises, accumulating losses, and the darkening of the horizon.

In the end, despite the difference between these two moods, they both reflect a clear desire for freedom from the *zu'ama* (leaders) system.

This desire is manifest in the insults directed towards the *zu'ama* in public spaces in the first weeks following the 17 October uprising and culminated in the raising of gallows on 8 August 2020. This conduct is important as it establishes the removal of the *zu'ama* from the State



structure and destroys their legitimacy.

Alongside the gallows, however, some are asking for an international investigation. What's your take on this demand?

The explosion happened on 4 August, only four days before 8 August, when the Special Tribunal for Lebanon was expected to issue its ruling on the assassination of former Prime Minister Rafiq Hariri. The ruling was requested to be deferred until 28. Why should we be drawing a link between the explosion and the Hariri case?

When Hariri was assassinated in what was then called an earth-shattering event (though from a legal perspective a crime with much less gravity than the explosion of the port), voices were calling for an international investigation. Those who were then the first to call for an international investigation, under the pretext that the Lebanese judiciary was incompetent and unable to conduct an impartial and independent investigation, were also the first to reject any criticism of this same judiciary. This reached such a point that they were suggesting laws to punish any insult of this judiciary.

Apart from the international judicial mechanism for the Hariri case, these voices failed in one of their main goals: to provide leverage for the Lebanese judiciary. This was the goal announced by Kofi Annan, the late UN Secretary-General. So while it may have been an excellent judicial mechanism in the case of Hariri's assassination (and this qualification falls outside the scope of our discussion here), it developed separately from the Lebanese judicial system and had no positive impact on the latter. As such, it seems only natural that many called for an international investigation following the explosion in Beirut. This time, however, the demand was not met with as much global enthusiasm.

I don't think it's a good idea to jump to demand an international investigation and tribunal after every major crime. It would be better to turn this momentum towards our national judicial system, solidifying its reform and evolution. This starts with ensuring legal momentum in relation to a given case or with what we call "the institutionalization of pain," namely, fixing the identity of the victim in the face of politicization and sectarianization of the explosion. Here we must



be wary of the hopes of certain political actors to use the victim for sectarian gains. This is what we saw, for example, when MP Nicholas Sehnaoui claimed that the Beirut port explosion led to the deaths of Christians, exactly as Hiroshima and Nagasaki did. This is a clear attempt from someone with the political authority to rid themselves of the responsibility for this crime, while at the same time using sectarian ideology to position themselves as a victim. Either directly or indirectly, he said: We Christians are all victims.

Practically speaking, the ideal mix would be “a committee of the parents of kidnapped or missing people in Lebanon,” considered the “original resistance” due to their being killed by the ugliness of the zu’ama system, be this during the civil war or in the period of peace that followed it. We urge and encourage the victims to create their own cross-sectarian group that would aim to establish judicial impartiality in this affair. A court should aim not only for equity for those suffering damages but also – and especially in a country with a lax justice system like Lebanon – to hold those responsible accountable and increase confidence in institutions, creating solid foundations for the future to protect the rights of any victim.

But people don’t necessarily trust the Lebanese judiciary.

First of all, the judiciary is complex and diverse. Second, it’s not accurate to say that the entire judiciary is corrupt. The question is not one of absolute confidence or the lack thereof. You can say that some judges are corrupt. For example, “The Lebanese Judges Association” has a big role to play when refuting the claim that the judiciary is corrupt. It was one of the first supporters of the “17 October Revolution” and at the time published an official document calling for the “preemptive freezing of the bank accounts of all politicians, senior staff, judges, and anyone involved in public affairs”. After the explosion in Beirut, they similarly called for the independence of the Supreme Judicial Council. All of this is clear proof that the judiciary isn’t a single homogenous body.

There are significant attempts towards this end in the Arab world. Following the fall of the regime in Tunisia, for example, many Tunisians realized that the majority of judges were not corrupt as widely stated before and that they can answer the people's demands for democracy.

We must therefore deconstruct the judiciary when setting up comparisons. There are indeed judges who are inextricably involved with the



regime; they are the ones who most often reach the highest positions with the greatest influence. And then there are judges who have remained independent and are generally distant from decision-making centres, with little ability to counter-balance or influence these processes. The third category, however, which is also the largest, is comprised of those who drew close to circles of power without becoming involved in them as a way of advancing their careers. Called-for reforms focus on holding the first party accountable with a view to removing them from the judiciary, creating an equal playing field for the second, and, most importantly, reintegrating the third into the democratic process. What encourages this approach is the evolution of the October 17 Revolution to include a rights discourse and to prioritize the independence of the judiciary.

What about political accountability?

The most important thing we discovered from the explosion was what happened before it – meaning that many officials and institutions (the army, the security forces, the judiciary, ministers, etc.) knew about the dangerous presence of the ammonium nitrate in Beirut port and didn't do anything about it. What does this mean?

The explosion wasn't only a reflection or the result of lax public administration, it was first and foremost a political failure. Therefore, political responsibility may even be more important than criminal responsibility (which could lead to some of the workers being held directly accountable). Second, any ardent believer in confessional apportionment (which led to the sectarian portioning of the country among the zu'ama and hampered political decision-making) is responsible in one way or another for how things turned out. That is what's happening now with the financial situation. Everyone knew the State was going bankrupt and no one did anything about it.

This situation is a reflection of an ingrained culture of “banalization of risk”, a term in the style of Hannah Arendt's “Banality of Evil,” in that an evildoer is any average person known to us who could do something to hurt others. And this is what Lebanon came to be built on, with this overarching idea of “banalization of risk” coming both to dominate and be hidden by other priorities (such as apportionment) and the interests of the zu'ama. Lebanon became a de facto area of death, and



at the Legal Agenda we have a special issue of our magazine dedicated to shining light on these issues (the Litani river, quarry crushing, toxic waste, cement and electricity production facilities, etc.). The danger of the resources in the port was hidden from public opinion but not from politicians.

Political accountability and judicial accountability are not the same thing. Each has its own dynamics, and we should be careful not to confuse them. Political accountability is what creates a foundation for the desired political regime, and therein lies its importance. We used to say that corruption kills, but today we say that the political regime destroys, kills, and bankrupts its people.

On 17 October 2019, the demands to “fight corruption” and call for accountability were cornerstones of the popular movement. What happened to the fight against corruption?

It’s clear that the streets have focused on the issue of corruption. I mean, we heard the chant “all of them means all of them (kellon ya’ane kellon)”, and before that, in the 2015 garbage crisis, “you stink (tol’et reHetkom)”. Before this, it was normal for the political class to put forward the idea that they had answered the streets’ demands by prioritizing anti-corruption policies. For example, Hariri’s October 2019 reform paper and the discourse of successive presidents both included projects and steps to this effect. As such, the call to fight corruption became a promise shared across all sides of the political class. Practically, this class sought to turn the discourse of the streets to the discourse of the ruling class in an attempt to regain people’s confidence. For example, some of them called for the recovery of stolen money as if they had nothing to do with it. The more decent among them talked about the “return of stolen money” and not its “recovery”, whether or not they truly intended to do so.

However, none of these attempts were sincere or serious. If you analyze the strategy of the ruling class from its incipience to this discourse, you can see that its goal is two-fold: placating, maybe even deceiving, public opinion in its sincerity to fight corruption and placating donor countries which have come to condition aid to Lebanon on reforms. Without judging their intentions, the overall steps taken by those in power under this pretence were exemplified by widespread marketing without real practical



steps. This is what allows us to classify these steps as being part of a communications and media strategy deployed by the ruling class to convince people of their commitment to fighting corruption and consequently to the rest of the ideas they present in their discourse. There is more effort put into this than into any real attempt to actually combat corruption. This is not only the result of flowery legislation they pride themselves on without any political will for it to be implemented; it is also the outcome of the legislative process itself, much of which is often hollowed out by flashy titles.

The most remarkable example of this is the proposal of a bill on banking secrecy. The political class prided itself on presenting a law to lift banking secrecy from trustees of public services. These suggestions formed a large part of the statements by those higher-ups in power, much as they were the reason for much boasting in parliament, especially in the first few weeks following the 17 October Revolution. What we can say, though, is that the most notable thing all this left behind was the noise that never turned into actual results.

At the beginning of the discussion for the final hearing of the legislative proposal in the plenary committee, MP Bilal Abdallah asked about the appropriateness of allowing the judiciary to lift banking secrecy from trustees of public services, especially given the subordination of the judiciary to the executive, and the delay in putting forward a legislative proposal for the independence of the judiciary. This was tantamount to an invitation for the rest of the MPs to intervene, leading to a disparaging of the judiciary as a prelude to denying it any powers to lift banking secrecy from their accounts. Indeed, this is what happened at the end of the final hearing, with members deciding that the lifting of banking secrecy was viable only for the National Anti-Corruption Commission (as yet unestablished) and the special investigations committee of the central bank, which is currently a body with the right to lift banking secrecy exclusively in matters of suspicion of money-laundering. This is a right which it has mainly refused to use on payments abroad after 17 October, thereby refusing to respond to the central bank's demand for proof of the lack of evidence of money-laundering in outbound transactions. What's more, most of the members of both committees are appointed by the government.

In fact, what happened was the indirect entrenchment of banking secrecy under the guise of lifting it, while the main justification for banking secrecy (the pull of capital from abroad) just isn't there at all.



They therefore preserve this secrecy in service of corruption. Citing banking secrecy is what has recently allowed the central bank to refuse to provide much detailed information on the auditing company designated by the Cabinet.

If a new government isn't formed and there is a relief plan instead, "we are headed to hell", to use the words of President Aoun. Given widespread despair, how can society stand up to power?

Yes, despair is here and is shrouding the horizon. But in exchange for this despair, there is still 17 October and everything we have seen as a result of this widespread revolution. This revolution almost overthrew the ruling class, a reminder that change is possible. Of course, the challenges we face are difficult. One of these is regional and international distancing, which also naturally complicate things. But there is no way forward other than a project to build our nation and free it from the oppression of the zu'ama. Anything we demand must be in service to this country, and any anger we feel must be directed towards this goal. This is broadly what the October Revolution produced. And even if the revolution can't change the regime, it does have a massive liberationist character and has changed how society and citizens relate to the idea of the za'im and the zu'ama system. It has also destroyed the legitimacy of the regime in its entirety. Naturally, the balance of power still hasn't flipped, but it has irrevocably changed with the reformist spirit of the October Revolution and the decrease in the popularity of the zu'ama. The result? The regime is illegitimate and in crisis, although it still has its hold over its tools, the vital state instruments and institutions.

Our hope is twofold: First, that the popularity of the zu'ama keeps decreasing given the evidence of their failure and incompetence. Second, that society continues to restore its own freedom and strength, rebuilding its institutions and cementing new structures that ~~it is its own decision as a condition of its self-defense~~ one of these is the communal solidarity displayed after the explosion, where we saw thousands of young people cooperate with the residents who were victims of the explosion and professionals such as lawyers, engineers, and doctors. All of them put their expertise to use in a reflection of the renewed vitality of Lebanese society. This hope is also clear in the founding of many democratic parties and the return of the long-absent student movement, especially at the Lebanese University.



These are all practical strengths at the heart of our society. These new communal structures currently being developed and differentiated from each other form a locus around which citizens can unite. The more space for citizens to engage in politics without a za'im develops, the greater the space for change becomes.

On the flip side of this hope is the fear that, despite its diminishing popularity, this embattled regime will resort to violence to prove that it still holds the reins of power. This can be seen in the shift from a regime based on soft power to one that does not hesitate to use violence to ensure its continuity. The clearest example of this is the security forces' use of excessive violence to disperse protesters on 8 August when demonstrations were calling for the gallows to be hung. This had also been confirmed in a previous [Human Rights Watch report](#). Many on that day talked about the "Parliament militia guards" using violence to oppress protesters. Similarly, the announcement of a state of emergency in Beirut, its extension until the end of 2020, and the limiting of humanitarian and aid efforts to the army are reminiscent of Arab dictatorships that render "emergency" and "military rule" the norm rather than the exception.



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