Principles of Partnership between Civil Society and the Government in Lebanon

General Overview

Dr. Jamil Mouawad

Introduction

From a classical-traditional perspective, public policies are defined as "every step taken or not taken by the government." Although the definition is useful, as it restricts the management of public and social affairs to the government, as a discipline, studying public policy is no longer limited to official actors (the state and its institutions). It grew to include unofficial parties, such as the private sector, the business community, and nonprofit organizations, etc. In this sense, the past few decades saw the growth of a discourse calling for establishing a "partnership" between various societal actors and the government to formulate public policies. The demand for "partnership", especially by the international community, has become an essential component of development discourse and policy-making processes and almost a condition for funding and achieving more participatory and representative policies for all segments of the society. From this perspective, this type of partnership, whether formal or real, aims to broaden the scope of dialogue (to include community dialogue) in order to express an opinion - any opinion - on pertinent issues prior to formulating related public policies.

In fact, the question of reform (political, judicial, economic...) is no longer solely confined to political elites. It transformed into an output of a comprehensive societal process co-developed, along with the official authorities, by political parties, trade unions, CSOs, and the media, etc.

Hence, "partnership" between public institutions and civil society has become an essential component of public policies, development strategies, and so on. The United Nations Millennium Declaration of 2000, included a demand for "strong partnerships with the private sector and with civil society organizations in pursuit of development and poverty eradication." Indeed, development and poverty eradication have become a shared responsibility, away from unilateralism.

Of course, this discourse is reflected in the Lebanese situation and the many attempts to involve civil society in public policy tracks since at least the post-war years, whether directly (e.g., the Ministry of Environment, committees, tracks...) or indirectly (consultations, expert opinions on specific topics, etc...).

Of course, this reading carries a certain utopian and value-based content, which infuse the desired principles of partnership with a positive dimension. In reality, however, the situation is different, as the technical nature of the concept of partnership conceals behind it many political bumps.

Thus, the question must be asked: How can a partnership be real, so it is not exploited by official authorities claiming to democratize public policy (in front of funders, society in general...), but with results that are far from meeting the needs of society in favor of the interests of a particular minority (political, financial, religious ...)?

In Lebanon, this leads to a more complex question: What is the meaning of public policies in a country that is said to be "weak" and whose laws on certain fundamental rights are controlled by religious sects (personal status law...)?

Finally, while some people tend to celebrate the freedoms accorded to CSOs in Lebanon (Law of 1909) compared to other Arab countries, how effective have these associations been? What is the nature of their work? And are they aware of their work's impact? How do we reconcile the principle of freedom with the requirement that certain conditions be provided to conduct their work (in order to be organized

according to the principle of transparency and accountability)? Will these associations develop their work to include their contribution to the debate on public policies (participation in decision-making)?

These questions, of course, are not intended to undermine the concept of "partnership" in general. In fact, they are an attempt to deconstruct this concept in order to develop meaningful criteria for real partnership and standards adhered to by both "civil society" and "official institutions" (ministries). All parties must adhere to such standards, when they exist and must not be used by state institutions against civil society (usually leading to tensions and distrust) or by civil society against official institutions (which in some cases translate into lack of communication with political authorities perceived as illegitimate).

This background paper aims to start the discussion on how best to adopt standards to enhance participation in policy-making at all stages, from drafting and developing proposals to implementation and follow-up through evaluation. Although this paper presents some case studies of the experiences of partnerships in Lebanon, it is necessary to delve further into these cases through in-depth research, drawing lessons about each of their positive and negative consequences.

This paper is divided into four sections: The first on the history of civil society's development in terms of the changes that have taken place but without isolating it from the nature of the state and the social contract that links it with society. The second section deals with the meaning of public policies in Lebanon and the role of both the government and civil society in their development. The third section deals, through a critical perspective, with the institutional frameworks - existing or under development - that institutionalize the relationship between civil society and the state with specific case studies (Fouad Boutros Committee, Partnership Contracts with the Ministry of Social Affairs [MoSA], Economic and Social Council [ECOSC]). Finally, it offers some general principles, which are not binding or comprehensive, but sufficient to open a real debate on how to achieve the best possible partnership.

First: From the Welfare State to the "Rentier" State and from "Intermediary" to "Partner" Associations

The work of non-governmental and non-profit associations in Lebanon dates back to the late nineteenth century, as non-official frameworks that contribute to the provision of welfare, cultural, and educational services to society. This role began, as is well known, with the increasing impact of foreign missionaries arriving in Lebanon to provide various aid, in addition to religious associations (one example is the Makassed Islamic Association). In 1909, the law of associations adopted the principle of notification for associations, allowing them to function and achieve their objectives. The law, which still operates "in theory" until today, is considered to be advanced compared to other laws governing the work of associations in the Arab region. In Jordan, for example, prior approval (license) is required from the authorities before the association can operate.[1] The legal environment and social norms, on the other hand, allowed an active and increasingly growing role for an estimated 11,000 Civil Society Organizations (CSOs) operating in Lebanon.

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[1] Makary, Marc. "Notification or Registration: Guarantees of Freedom of Association in Non-Democratic Environments: Case Studies of Lebanon and Jordan." Int'l J. Not-for-Profit L. 10 (2007): 77.

Partnerships between the state and society would inevitably lead to addressing the question of the state in Lebanon. This does not mean, however, the easy classification of the state as "absent", "failed", or "weak", where NGOs take on the mantle of meeting the needs of society. Relations are thornier and cannot be approached exclusively through the concepts of weakness or strength. What is meant here is the nature of the state in Lebanon and the social contract on which the state's relationship with society is organized. The fact remains the state provides various services to society through contracts between ministries and associations.

Under Fouad Chehab, a type of welfare state emerged in Lebanon and in the Arab Region in general. These reforms led to a transformation in the concept of associative work in Lebanon, going beyond the traditional work of charitable and educational organizations and towards a focus on projects related to social justice, citizen participation, and development, especially in rural areas. These associations were considered "intermediaries" between society and the state, with a development dimension.[2]

During the civil war, although public utilities continued to function, other types of services began to appear. They were provided by associations who either belonged to the militias and their civil administrations or to the religious sects. Another type of associations developed outside political parties, which took on some demands, such as the movement to uncover the fate of the disappeared during the war and the campaign to end the civil war, considered to be a "resurgence", which later became defined as "civil society".[3] After the Syrian army withdrew from Lebanon in 2005, associative work and the application of the "notification" principle was facilitated, having been obstructed by political powers between 1990 and 2005 (for example, "No Corruption" Association). Some types of partnerships emerged, most notably the Fouad Boutros Committee.

The above description is, of course, well known and available in various literature on Lebanon's civil society. However, the field where these associations operate is still unknown and requires extraordinary effort to count them and identify the nature of their work.

Some associations are controlled by religious sects (free private schools). There are also local organizations in specific areas and they have a regional character. Others, which appeared after the civil war, are focused on advocacy on rights and issues. Alongside associations, there are experts, trainers, and research centers that produce knowledge on public policies.

In parallel, MoSA continues to conclude work contracts with some associations.

It is also necessary to emphasize the wave of external funding that has swept Lebanon, greatly affecting the work of civic associations and leading them to seek funding, which had a direct impact on their relationship with the state and lack of confidence. But it should also be noted that a large number of associations are seeking funding from the state (contracts).

From the position of state and public institutions, new approaches to the state appeared - in a neoliberal direction. It was based on the withdrawal of the public sector from critical questions and each ministry began to create a network of programs connected to the UN and the World Bank, through annual contracts. In a sense, this structure led to curtailing the public sector, the absence of incentives for public

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[2] Karam, Karam. Le mouvement civil au Liban: revendications, protestations et mobilisations associatives dans l'après-guerre. KARTHALA Editions, 2006.

[3] Ahmed Baidoun, *The Disconnected Republic* [al-Jumhuriya al-Mutaqatti'a], Annahar Press, 1998.

servants, and allowing these mechanisms to take over public utilities. State services continued to shrink, replaced by the private sector and charitable associations. Based on the numbers, "in a quarter of a century, that is, in the post-Taif period, only about 8% of the total Lebanese state expenditure, which amounted to more than $225 billion, has been spent on public capital investment."[4]

Corruption has also strained public administration through indiscriminate employment in the interests of the political class. The state's administration became part of the system of reproducing the ruling class, which molds official institutions. However, independent elements in the administration and the judiciary must be taken into account and partnered with, as a key input to restore the concepts of public service and public interest.

This opens the door to the key issue of public policy in Lebanon: Are there public policies? What is so public about them? What are the main challenges?

Second: What Public Policies and Who is Involved?

First, what do public policies mean in a country based on a sectarian system (i.e., the sharing of authority and positions according to confessional quotas and criteria), sectarian politics (i.e., the feeling that the criteria for political action are contingent on sectarian protection and the sect's gains), and, finally, the civil status code that gives religious authorities discretions related to inheritance, marriage, education, etc.?

Second, what do public policies mean in a country with increasing inequalities and where wealth and interests are concentrated in the hands of a very small segment, as poverty expands and exacerbates, leading Lebanon to become one of the most unequal countries in the world?[5]

Third, what is the meaning of public policies in a liberal economic system controlled by the market economy, as well as the private sector?

Thus, the meaning of public policies must be understood, as there is a type of laziness in Lebanon founded on the idea of absence of public policies in the country. The act of denying politics is an idea that must be reconsidered. Policies have always existed in Lebanon, but they were not necessarily public as they did not serve the interests of citizens equally. They are either factional (on the level of the sect, for example) or based on private profit (such as population policies, where policies exist, but they produce local clientelism, wealth accumulation, and a sectarian system).[6]

Hence, the task - and biggest challenge - is how to enhance public policies to include all citizens equally (as stipulated in the Lebanese Constitution), i.e., different social groups (or genders), and not to serve

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[4] Interview with Kamal Hamdan, "The Breadcrumbs System Reproduces Ruling Class in Lebanon," Legal Agenda, 28 August 2019, https://www.legal-agenda.com/en/article.php?id=5986.
[5] Assouad, Lydia. "Rethinking the Lebanese economic miracle: The extreme concentration of income and wealth in Lebanon 2005-2014." WID. world Working Paper 13 (2017).
[6] Jamil Mouawad, "The Plight of Housing Policies in Lebanon," Legal Agenda, 27 June 2019, http://www.legal-agenda.com/en/article.php?id=5845.

narrow economic interests at the expense of citizens and vulnerable groups, adding to their fragility. Partnership becomes important so that civil society becomes a partner in formulating fair public policies.

On the other hand, society's interests and management of its affairs revolves around the state. Partnership must, first and foremost, enhance the state's position in society and avoid its marginalization, as it is often the case. Partnership, in its public dimension (i.e., achieving the public good) comes at the expense of private interest.

Partnership must also be defined in light of the first problem in terms of its partners, which leads us to civil society. Although the definition of civil society is beyond the scope of this paper, it is crucial to proceed from the idea that civil society is not a homogeneous body facing the state.

Thus, it is not the definitions of civil society or the classification of associations that must be dissected as much as there is a need to understand strategies. Several factions exist in this regard. One says it is necessary to work directly with state institutions, for example to pass laws on the basis that change comes "step by step". This is known as incremental change. The other says that it is necessary to work with the regime and its components, the political authority, and with the official institutions where laws and decisions are theoretically made. But dialogue with the state should not come at the expense of the civil society's independence. A third part of society is reluctant to work with the state, considering it illegitimate and that the regime must be overthrown. The problem becomes the regime itself and not particular laws.

These positions open up other dimensions centered on the dialectical relationship between the technical and the political.

In reality, many associations approach their issues from a technical perspective, thus reforms become a technical matter requiring the introduction of normative steps by which to enact laws. The political, on the other hand, becomes a world entangled in other interests and for which they have no use or need. By extension, another approach requires that civil society is free from politics and has nothing to do with it. Nonetheless, a political lever is needed to defend issues and create a public opinion.

This calls for the most important question: What is partnership without a supportive public opinion? Sects have their supporters (sectarian society and civil marriage, for example). Who are the advocates of civil society? How to create a public opinion that carries the issues and acts as their political lever?

Third: Partnership and its Frameworks: Illusions and Challenges

In light of the many questions raised above, it seems necessary to highlight the experiences of partnership in Lebanon and they are many. Research is required to deconstruct those efforts, in order to approach them from different angles. To name a few, here are three examples which might respond to the above: (1) Reform, Advocacy, and Community Dialogue (Boutros Law Committee); (2) Partnership Contracts between the MoSA and Associations; (3) ECOSC.

Before addressing the need to establish the rules of partnership, the fundamental issue of institutional frameworks for partnership between the public sector and civil society must first be considered. The trend towards partnership does exist and is mentioned in all public policy tracks in Lebanon (strategies of the Office of the Minister of State for Administrative Reform, Ministerial Statements…). However, these

principles remain without an effective and sustainable institutional framework. For example, reviewing the rules of procedure of the Council of Representatives and the working mechanisms of the Council of Ministers, the absence of judgments or amendments that take into account the role of CSOs seems absent, as well as the manner in which they can participate and how the relationship with the legislator is organized.[7] There are multiple frames in fact, but they are ineffective or tend to create new frameworks that could weaken dialogue. Thus, the institutional element is the most important in this context.

Three experiments must be considered:

1- National Consultative Commission on the Parliamentary Electoral Law" (Boutros Commission)

Following the withdrawal of the Syrian army from Lebanon in 2005, fundamental transformations took place in the relationship between authorities and CSOs. One of these changes was the decision of the then Minister of Interior and Municipalities, Ahmed Fatfat, who issued circular No. 10 / AM / 2006, which requires the departments of the Ministry of Interior to abide by the mechanism provided for in the law of 1909.[8]

In practice, however, the most important of these transformations was the formation of the National Commission for the Parliamentary Electoral Law (better known as the Boutros Commission), through a Council of Ministers decree (on 8/8/2005). The committee included civil society representatives and experts. It was considered an achievement of the principle of partnership and a victory for civil society, which had worked hard to raise the slogan of electoral reform and had set a precedent in 1996, when it challenged the decision to postpone municipal elections. In a lengthy critical reading of this partnership, some scholars consider it to have been far from a genuine partnership and even paved the way for the "backward path of the civic project for electoral reform." In other words, this partnership - coming at a time when Lebanon had witnessed an unprecedented interest in external financing of CSOs, harmed the choices and attitudes of civil society, which contributed to the weakness of its positions, through "enticement, containment, and patronage."[9] This retreat from this point can be compared with an earlier period when civil society was "independent" of, or even opposed to, the tightening political power (especially under former Interior Minister Michel Murr). Lebanon then witnessed official cooperation, through submitting challenges in 1996, which were then raised to the Lebanese Constitutional Council.

From this perspective, it seems that civil society had contributed to the regime's game of compromise, by assisting or at least witnessing the development of a "consociational compromise project," which was contradictory, calling for reform and tradition and echoing the Lebanese Formula, ministerial statements, the [President's] swearing in, and most major projects. Additionally, the researcher also shows that civil society representatives had weakened the chances of defending fundamental reforms in the electoral system.

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[7] Nayla Geagea, Sara Wansa, Nirmin Sibai, "Following on the civil commissions of the Parliament", Lebanese Parliament 2009-2017, between extension and discharge. Supervision of Sami Atallah and Nayla Geagea, 2018 p.179.

[8] Which allowed Hizb al-Tahrir al-Islami, calling for regime change in Lebanon, for example.

[9] Karam Karam, "Electoral Reform [*al-Islah al-Intikhabi*]," al-Akhbar Newspaper, 15 July 2008, available at https://al-akhbar.com/Archive_Articles/157036,

The 2018 elections, which led to the reelection of the regime's main personalities opposed by civil society lists, was held according to an electoral law echoing the spirit of the Boutros Law, "a hybrid between proportional and majority representation."

Whatever the validity of this critical reading, the following question must be asked: How can civil society be immune to the temptations of authorities, which only recognize it as a technical expert providing opinions, and not as a full partner for legitimate reform? Should it confine itself to the technical? And what about the political (i.e., a policy incubator that forms a lever for reform projects).

2- Economic and Social Council

The Economic and Social Council was established to "play an advisory role to the legislative and executive authorities concerned with policy-making" and "play a dialogue role among civil society bodies and between them and constitutional authorities with respect to the content of policies and decisions that concern society, which fall within the Council's attention." However, it is clear that there is no real interest to involve civil society due to its absent role, despite its reactivation in the last two years. According to a study on the Council, "it was only asked for an 'opinion' once, on the draft bill to amend some articles of the NSSF Law," by the request of the Council of Ministers on 3 November 2001. The Council responded to the request, but the government's use of this "opinion" cannot be discerned.[10]

3- Partnership Contracts (MoSA)

Several forms of cooperation and partnership between the public sector and CSOs exist in Lebanon. It is represented by the financial support provided by a number of ministries to NGOs, including the ministries of education, higher education, health, social affairs, and the environment. This relationship is often characterized by a lack of transparency and specific selection mechanisms for partner associations. Those associations, on the other hand, do not always follow the principles of transparency in their work.

In the case of social affairs, partnerships between MoSA and the associations is of great relevance, including for example to improve national capacities in the field of social work and development and provide a comprehensive and integrated response to marginalized groups by strengthening their coordination mechanisms.

Government spending on associations comes in the form of contributions or joint contracts between them and MoSA, through which the association carries out a specific activity (dispensary, nursery for children...). In theory, the expenses are distributed between the ministry and the association, but the basic expenditure is the responsibility of the ministry. However, most beneficiaries do not know that the state is the financier of the association. Their loyalty is thus to the association (and the sect or entity behind it) and not to the state. As an International Information study indicates, "most of these contracts are fake, with projects that do not actually exist and do not provide the services mentioned."

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[10] Consultation and Research Institution, "Background Study Towards the Reactivation of the ECOSC [Waraqa Khalfiya Hawla I'adat al-Nohoud bil Majlis al-Iqtisadi al-Ijtima'i fi Lubnan]," Common Space Initiative, December 2014, available at http://www.commonspaceinitiative.org/uploads/9/5/2/1/9521202/background_study_towards_the_reactivation_of_the_ecosc.pdf.

However, this overview conceals positive attempts and successful experiences that should be considered if there is an intention to reform these contracts.[11] Not all associations are corrupt - part of them provide significant services that lead to social cohesion. But there is an absence of standards: Who has the right to contracts and on what basis?

Other types of partnerships also exist, especially on the decision-making level, as in the case of the National Authority for the Elderly, the National Authority for the Welfare of People with Disabilities, and so on.

Finally, it is worth mentioning other partnerships that have contributed significantly to the development of civil society processes and mechanisms, such as the outcome of the national plans for human rights, food, and anti-corruption. However, they are not yet implemented.

An important point to consider is that the existing state is being emptied of its content, while alternative institutions are being created, which always follow the dictates of funding and donor conditions. For example, these are not reflected necessarily in texts and laws governing legislative and executive constitutional institutions. On the other hand, new frameworks are being built, as part of a reform package, for combating corruption, instead of activating existing institutions, such as the Audit Bureau. There will be more institutions, but those that exist will be weak.

Fourth: Partnership: General Principles

Transparency in the contractual relationship and dialogue processes between civil society and ministries:

The discourse of 'partnership' between civil society and public institutions will not actually become relevant without full commitment to transparency and mutual accountability, such as the adoption of transparent and uniform standards for the determination of contracts and partnerships (specialization, seniority, novelty, training, etc.).

Rise to the level of public policies:

Associations of all kinds and in their various fields (environmental, agricultural, health…) should constantly improve their work to contribute to the debate on public policies. This upgrade - away from awareness and services - will contribute without a doubt to imposing themselves as key players in public policy dialogue or debates.

Participation in setting the public budget:

The state's annual budget is one of the most important public policies in Lebanon. It determines the state's relationship with society through funds for security, social affairs, the environment, etc. Studies

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[11] It is worth mentioning that there are several attempts to fix this situation, including MoSA's adoption under Minister Salim Sayegh the "standards of quality assurance and institutional accreditation," which aimed to set standards to ensure the quality of contractual relations between the ministry and associations. But controversy and ambiguity still remain.

show that civil society in Lebanon does not necessarily contribute to the overall formulation of the budget.[12]

Securing a common ground for dialogue and partnership:

A successful partnership begins with the will and confidence in cooperation between civil society and official institutions. This cooperation is carried out through joint capacity building programs, information exchange etc. Partnership has many factors, for example, working on the principle of accumulation, that is, working to build on past experiences, and continuity, meaning to ensure continuity to achieve demands regardless of the obstacles, challenges, and difficulties that the issue and paths might face.

Naturally, the presence of these conditions reinforces the institutionalization of the relationship between all parties through closer dialogue and the creation of institutional memory. This institutionalization ensures the continuation of partnership on an institutional basis regardless of persons.

Conditions for dialogue:

Dialogue has several conditions, including recognition of the independent personality of the interlocutors, especially civil society representatives; maintaining communication between the interlocutors, the groups they represent, and society at large; basing the dialogue on knowledge and research coupled with evidence; conducting the dialogue properly; and finally, respecting civil society's specificities and diversity.

Knowledge production and evidence-based dialogue

This is done through the activation of participation mechanisms and access to information, i.e., access to and circulation of official decisions, allowing citizens to express their opinions on draft laws before their enforcement.

Funding as a means, not a goal:

In light of the heavy reliance on external funding, both by state institutions or by associations, this enables the parties to negotiate with financiers without them dictating their own agenda.

Maintaining independence, to maintain principles

Specialization

Standardized database

Building confidence

Reducing competition through partnerships

Experts and legitimacy (international and local)

Political leverage

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[12] Ghida Frangieh, "The Role of Civil Society is Essential to Strengthen Accountability in the Budget," Policy Brief, LCPS, Issue 8, December 2013, available at https://www.lcps-lebanon.org/publications/1395303956-pb8.pdf.

Adherence to the state and public interest:

Do not create new institutions at the expense of existing ones.

Alliances, networks and platforms:

Alliances, networks, and platforms create incentives to enhance the effectiveness of issues and processes, both at the individual level through contact with peers, or at the institutional level through the exchange of information and resources and the creation of advocates. Networks require flexible management, trust between members, and seamless channels for information exchange and sharing. Proper functioning, confidence, and focus on an issue also contribute to network immunity, protecting them from exploitation by third parties and are adapted to serve their interests. These frameworks aim to broaden the circle of homogeneity between contributors and unify demands among stakeholders, in order to avoid expanding contradictory interests among members.

Evidence-based research:

Evidence-based research is an integral part of securing the case's legitimacy and credibility. The debate on the issue is transformed from a debate of opinion, in which personal views and attitudes usually emerge, to a substantive debate, based on evidence and figures.

Specialization and Transparency:

In line with the principle of evidence-based proof, specialization is essential for a successful dialogue and applies both to the public sector and civil society representatives. The work of policy-makers requires them to take note of the different aspects of the issue, enabling them to be an essential reference for decision-makers, thereby legitimizing their work. Transparency in work and project management establishes a relationship of trust between different stakeholders.

Community dialogue:

Community dialogue needs to be activated as a basis for broadening participation and allowing multiple voices to express their opinion on the course of public policies. Community dialogue should consider gender disparities and create spaces for people to make demands.

The role of specialized media and creating morally binding public opinion:

There is a need to create specialized media that cares about demands and be a leverage for reform, by contributing to highlighting the issues and preparing a supportive public opinion to morally pressure decision makers.

Innovative measures to translate knowledge:

Innovative measures that translate academic studies and make them easily accessible to people working on particular issues will help bridge the gap between policy makers and academic researchers.

Relying on international laws and treaties:

In order to give international legitimacy to the envisaged national campaign or demands, they must be linked to international treaties and laws, which are a key authority providing supportive legal leverage.