

# LEBANON-in-CONFLICT

Alerts, Background, and Reviews from and about Lebanon

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## AMNESTY IMPOSSIBLE! LEBANON: AUTO REPAIR DOESN'T WORK...



The two contrasting "Muslim" faces of the pledged amnesty law: a group of (Sunn) women from Tripoli demonstrating with their kids in favor of the release of their relatives, and the machismo looking (Shia) Nouh Zeiter, the most famous and unchallenged drug baron of Lebanon's Bekaa Valley.

It is as easy to illustrate the "Muslim" beneficiaries of the amnesty law as it is difficult and problematic to do the same regarding the potential "Christian" ones... The two overwhelming visual projections of the "Christian" portion in the amnesty were the Bell Boeing V-22 Osprey lifting up former Israel collaborator Amer Fakhoury from the US embassy north of Beirut (March 19, 2020), and the curled up body of his assistant, Antoine el-Hayek, who was acquitted by the Lebanese judiciary due to statute of limitations, but who was murdered a couple days after the rescue of Fakhoury (March 22) in what seemed to be a choreographed assassination intended to contain the angry "vox populi!"

Behind each of these pictures one may read a section of Lebanon's unsorted history and find a possible forewarning of what's to come.

Whether we like it or not, each time Lebanon promulgated an amnesty law it meant that somehow the Lebanese operating system was working out its problems. The outcome of such actions ranged from finding a compromise to reestablishing a balance of

power, at least in appearance, and, more prosaically, to successfully brushing unsorted issues under the rug. Needless to say, this rough taxonomy of amnesties does not encompass all their significances especially since each amnesty is in fact a mix of all these features with one of them taking precedence over the others.

In Lebanon, amnesty is not relegated simply to law and official parliamentary decisions; rather, at times, amnesty is applied through a circumvention of the country's legal organs. Political elites and

power brokers agree to prevent an issue from formally entering into the judicial system, closing the file themselves away from public debate and discussion. The pervasive culture of amnesty manifests itself in backroom meetings and private dealings that cause problems to escape justice by way of simply slipping from the spotlight and public awareness. When taking stock of past issues—such as security abuses, construction violations, or capital flight—one notices how vocal pledges to conduct investigations and hold guilty parties accountable seem to bear no results, dissipating in short order. Amnesty laws have not been passed, however, amnesty has been applied.

While the post-Taif Agreement amnesty of 1991 is understandably the most referenced in the debates since it is one of the building blocks of the Lebanese “Second Republic,” one would be condemned to political shortsightedness should it not be remembered that throughout its history as an independent state, amnesty has been part of the *exit strategies and consensus accessories* of the various crises the country has cycled through. In other words, amnesty, be it general or private, whether it pardons blood crimes or other types of transgressions, is part of the country’s political culture as well as a device serving to repair the system, but also as an instrument to measure how well this system is functioning.

Evidence of amnesty abounds when conducting an overview of Lebanon’s history since the country received its independence in 1943 mainly thanks to French and British competition in the Levant

amidst the turmoil of World War II. A couple months after gaining independence, an essentially blank amnesty was granted to pave the way for this new chapter in Lebanese history. In the years that followed, amnesty decrees would become something of a regularity: on Christmas Eve 1958, in the aftermath of the mini-civil war that rocked the country earlier that year, a similar amnesty law was created;<sup>(1)</sup> almost ten years later, at a moment of rising social tensions coupled with the first military contentions between armed Palestinian refugees on one side and the Lebanese army and Christian paramilitary organizations on the other, in February 1969, a general amnesty law was declared;<sup>(2)</sup> in 1991, a general amnesty allegedly contributed to ending the war but actually whitewashed the perpetrators of the “Civil War” and paved the way for a reshuffling of the Lebanese domestic landscape through another law aimed at integrating former militiamen into the administration and security sector;<sup>(3)</sup> in July 2005, a couple months after the assassination of former prime minister Rafic Hariri, parliament passed two amnesty laws, one concerning former warlord Samir Geagea<sup>(4),(5)</sup> and the other the (Sunni) Islamists involved in the terrorist affairs of the Dennyiye region and the village of Majdal Anjar.<sup>(6)</sup> These last two amnesties were voted into existence on the same day and illustrate the peculiar way in which the Lebanese resort to amnesty—either everyone gets something or no one gets anything.<sup>(7)</sup>

One must remember that the most popular slogan following the assassination of Rafic Hariri was “The Truth,” truth in the

<sup>(1)</sup> <https://www.memoryatwork.org/Uploads/files/amnestiesgeneral-doc-og-19581224-701,702,703.pdf>

<sup>(2)</sup> <https://www.memoryatwork.org/Uploads/files/amnestiesgeneral-doc-og-19690217-10,11.pdf>

<sup>(3)</sup> <https://www.memoryatwork.org/Uploads/files/amnestiesgeneral-doc-og-19910827-1,2,3.pdf>

<sup>(4)</sup> Samir Geagea, head of the (Christian) Lebanese Forces militia (which is now a political party) was held accountable for his war crimes due to a clause in the 1991 amnesty law that states any criminal acts committed after the period covered by the amnesty would abrogate the law’s protection and open the accused up to prosecution for acts committed during the civil war. After a church bombing killed ten people on February 27, 1994, Geagea was accused of orchestrating the attack. Although he was ultimately acquitted for this bombing, he was no longer protected by the 1991 amnesty law and thus locked up for previous atrocities.

<sup>(5)</sup> <https://www.memoryatwork.org/Uploads/files/amnestiesgeneral-doc-og-20050720-1.pdf>

<sup>(6)</sup> <https://www.memoryatwork.org/Uploads/files/amnestiesgeneral-doc-og-20050720-1.pdf>

<sup>(7)</sup> For an exhaustive account of general and individual amnesties during the last decades of Lebanon’s history, see the section dedicated to amnesties and apologies on [www.memoryatwork.org](http://www.memoryatwork.org)

sense that there was a desire to expose those who masterminded and executed the crime. This drive for truth supported by the “international community” led to the adoption by the United Nations Security Council of Resolution 1595 to send an investigative team to look into Hariri’s assassination, and two years later to Resolution 1757, which established the Special Tribunal for Lebanon. Meanwhile, the domestic way forward, partly under the tutelage of that same community, was to close the ranks of the emerging March 14 coalition by granting amnesty to Geagea and to those “Islamists” considered to objectively be part and parcel of the Sunni constituency of Saad Hariri instead of taking a more radical approach and either judging those who were still waiting to be judged or re-judging those who were believed to be victims of politicized judicial processes.

Lebanese commentators did not need to remind the Lebanese people about all this while discussing the failure of parliament on May 28, 2020 to pass an amnesty law that had been more than two years in the making...

Drawing on different perspectives and premises, seemingly all commentators agreed that the failure goes far beyond being an unintentional legislative standoff that could be sorted out through bargaining behind closed doors. There appeared to be a consensus that this failure touched at the core of the often shaky and precarious balance between Lebanon’s “Muslims” and “Christians.”

The amnesty law in question would essentially pardon three types of wrongdoings, each mostly connected to a specific sect: the “Shia” drug-related offenders, the “Sunni” terrorist-related criminals and, and the “Christian” alleged collaborators with Israel during the years of Israeli occupation (1978-2000). While this law—endlessly revisited and refined—seemed balanced on paper, giving each community equal consideration, irrespective of the actual number of those receiving amnesty within each sect, the issue is that this law comes against the backdrop of an extraordinary state of metastasizing political divides, even between allies, and an unprecedented economic breakdown.

As mentioned above, this amnesty law has been more than two years in the making. The debate surrounding it reached a climax on the eve of the 2018 parliamentary elections, which took place after three successive extensions of the mandate of a parliament elected in 2009 and whose mandate theoretically expired in 2013. In line with the general approach of “indulging” the various sectors of Lebanese public opinion, a strategy illustrated by the salary increase law for public employees (passed on July 18, 2017), that, as experts agree, sped up the deterioration of the Lebanese economy, the amnesty law was openly waved around. Specifically, Sunni Saad Hariri, head of the Future Movement, and the two Shia leaders, speaker of parliament and head of the AMAL Movement Nabih Berri, and Hezbollah Secretary General Hassan Nasrallah, publicly promised to vote the law through after the elections. Their staunch support

of the law represented a desire to please segments of their traditional support bases—for Hariri he hoped to indulge the Sunni public and bolster his own image, while Berri and Nasrallah sought to curry favor with the Shia community, mainly those in the Beqaa who, to a large extent, rely on drug related activities to earn a living.

On April 17, 2018, three weeks before the parliamentary elections, Salim Jrayssati, minister of justice and close aid of the president, paid a visit to Speaker Berri and announced that the amnesty law would not be addressed before the elections: “Amnesty is not a good to be traded in the electoral market... it’s a great political decision which requires a political consensus...”<sup>(8)</sup> Tasked after the 2018 parliamentary elections to form a new government, it took Saad Hariri until January 2019 to succeed in this endeavor. This new cabinet included in its ministerial statement a paragraph about amnesty: “the government will prepare a draft amnesty law.”<sup>(9)</sup> Two months later a ministerial committee was formed to draft this.<sup>(10)</sup>

Throughout this time, the “Christian camp,” irrespective of its various components, has stood to gain very little from this amnesty law. The Christian community that would benefit the most from this amnesty is mainly the group represented by the “collaborators” under the Israeli occupation and their relatives. In fact, there was little return for the Christian parties from the current amnesty law since a law was already voted on by parliament in 2011 titled, “Addressing the Situation of the Lebanese Citizens who Sought Refuge in Israel.”<sup>(11)</sup> This law was the legislative

<sup>(8)</sup> An-Nahar, April 17, 2018.

<sup>(9)</sup> <http://www.pcm.gov.lb/Library/Images/test/Hok75Ministers/w75.pdf>

<sup>(10)</sup> An-Nahar, March 8, 2019.

<sup>(11)</sup> <http://www.legallaw.ul.edu.lb/Law.aspx?lawId=230032>

embodiment of item number six of the Memorandum of Understanding signed on February 6, 2006, by General Michel Aoun and Hassan Nasrallah on behalf of the Free Patriotic Movement and Hezbollah, respectively.

Though the 2011 law was never granted the executive decrees it needed to be enacted, it represented the fulfillment of a promise that the FPM had made to its constituency and a proof of sorts that there was parity in its relationship with Hezbollah. Hence, the FPM, as well as other Christian parties, felt less of a need to promote amnesty than their Muslim counterparts did. Simply put, the outcomes of an amnesty law for the Muslim leaderships were practical and quantifiable while for the Christian parties these outcomes were almost symbolic and virtual as most of the Lebanese who fled in 2000 have built lives for themselves elsewhere, including Israel, and would likely not return to Lebanon.

The life of the amnesty law in the works, between shallow promises that it would be soon be voted on and popular protests from the Sunni Islamists and Beqaa Shia, was dragged on following the vicissitudes of Lebanese politics until the fall of 2019.

A couple days after the outbreak of the protests, Saad Hariri suggested a reform package that included a reiteration of his government's promise to work out an amnesty draft law with a deadline set for the end of the year.

Less than one month after the October 17 uprising, as the ruling establishment started coming out of its outbreak-induced paralysis, Speaker Nabih Berri made an

attempt to contain the growing popular discontent within the Muslim “streets” and called upon parliament to meet on November 12 and vote on the amnesty law, amongst other items. Still young and vigorous, the “revolution” created what became some of its most memorable moments through the success of its efforts to impede parliament from meeting on November 12. One week later, on November 19, Berri tried to push through legislation but once again parliament was prevented from assembling. Protestors not only focused on clogging parliament’s wheels, but they also scorned Berri and the way in which he has used security forces, both state and non-state, from the beginning of the uprising to forcefully push back against protestors in Beirut and southern Lebanon.

However, the overarching goal of the amnesty that failed to pass in November 2019 was to create fractures within the protest movement as some people would surely oppose the amnesty while others, specifically the families of those who would benefit from it, would support it. Ultimately, the amnesty law did not pass and hence failed to serve as a tool the way the ruling class intended, and more than that, it indicated that perhaps some of the traditional political elites were becoming less powerful.

When the coronavirus reached Lebanon and exasperated the country’s numerous crises, including the sharp financial and economic collapse, Nabih Berri felt the time was ripe for another attempt at political bribery by way of an amnesty law. With Covid-19 poised to potentially wreak havoc





*On Friday, May 29, a group of demonstrators in cars passed by the fortified residence of Speaker Nabih Berri in Ain Tinneh. As previously happened, the guards, a mix of policemen and militiamen, assaulted the demonstrators, beating them up and breaking their windshields. For the first time ever, however, Nabih Berri, an almost holy figure in the eyes of his constituency, publicly justified the behavior of his guards due to the "provocations" shown by the demonstrators and the "stress [the guards are under] because of coronavirus," concluding, "may God forgive everyone!"; (Al-Joumhouriyya, June 2, 2020).*

*This comment by Berri might seem like a petty detail in comparison to the dramatic developments the country is experiencing but in fact it is quite significant. It says a lot about the symbolic and political demotion Lebanon's demigod Zaims are going through.*

*Born officially in 1938, although some armchair biographers put it a couple years earlier, Nabih Berri is not only the speaker of parliament, without interruption since October 20, 1992 and the head of the AMAL Movement since April 4, 1980, but the keeper of the system that emerged from Taef—a system that needs him as much as he needs the system.*

*However, as is evident by the posters of Berri trampled on the ground, something that used to never been seen, perhaps time is up for the speaker and his system.*

inside Lebanon's vastly overcrowded prisons, parliament deliberated an amnesty bill that would release non-violent offenders in large numbers and drop charges. At the same time, it would help Sunni and Shia political leaders gain favor with their support bases. In spite of the fact that many agreed with such early release measures—after all, other regional governments cleared out some of their cells amidst the threat of coronavirus—Lebanese saw the amnesty law for what it was: an attempt, yet again, to help the ruling class maintain its power without implementing any meaningful reforms or substantive legislation.

Thus, when the law failed again to pass on April 21, and was sent back to a parliamentary commission for further refinement, the government's critics rejoiced, and the image of Berri, plastered around Lebanon like a champion of the people, was stained yet again.

While April turned to May, the financial and economic grip on Lebanon tightened, bringing protestors back to the streets amidst the slow easing of Covid-19 restrictions. As the saying goes, "the third time's a charm." Nabih Berri, with all that he represents, hoped to finally push through the amnesty law on May 28. Still intended to serve as a bribe, a way of containing protestors and diverging attention away from the decrepit political situation, the stakes for the speaker of parliament were higher. To fail twice is significant, but three times?

The amnesty law is not the only legislative text that the parliament failed to pass

and perhaps not the most urgent one in the context of the reforms that Lebanon is required by the international community to undertake. Given the deplorable state of Lebanese justice—its lack of uniformity, fairness, and consistency—perhaps it is good news that parliament failed to pass this law, which would have significantly contributed towards concealing this state of justice.

Amnesty, however is not the core of the issue. A couple days after the amnesty episode, religious dignitary Grand (Shia) Mufti Sheikh Ahmad Kabalan caused a mini uproar by saying from the pulpit of his mosque that the foundations of the Lebanese system, as laid out by Bechara el-Khoury and Riad as-Solh,<sup>(12)</sup> are no longer tenable.<sup>(13)</sup> Of course, the ideas he expressed are not new to the Lebanese public as scholarly analysis and street demonstrations have been saying the same thing for a while. But it did help take the pulse of the country and forecast what may lay ahead.

From a normative point of view, the failure of the parliament after all these attempts to vote on an amnesty law speaks volumes about the overall health of the Lebanese system. One can confidently say that the establishment's failure to reach an agreement, even a mafia-like one, about this amnesty law is no less than a sign that the system is losing the ability to auto-repair itself...

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<sup>(12)</sup> Respectively the first Lebanese (Maronite) President of the Republic and (Sunni) Premier.

<sup>(13)</sup> <http://nna-leb.gov.lb/ar/show-news/480644/>