

Number 4, W.

Roundtable discussion on the Presidency

Chibli Mallat, Michael Young, Oussama Safa, Nicholas Blanford

Following the election of Emile Lahoud, a prime consideration in political circles was the power of the presidency. Under Elias Hrawi, the role of the presidency was relatively marginalized. This was as much due to the influence of the prime minister, Rafiq al-Hariri, and speaker of parliament, Nabih Birri, as to the president's inability to consolidate his own power base, both within state institutions and his own community. Under Mr. Lahoud, things have evidently changed. To discuss the presidency, the *Lebanon Report's* Michael Young, Nicholas Blanford, and Oussama Safa, engaged in a roundtable discussion with Chibli Mallat on November 20. Mr. Mallat, a lawyer and a law professor at St. Joseph's University, is the author of a recent book on the presidency whose Arabic-language version, published by Dar al-Nahar, is entitled *The Lebanese Presidency Between Yesterday and Tomorrow*. The book is also available in English and French.

Michael Young: Emile Lahoud has just been elected, the 11th president since Independence: Chibli Mallat, is the presidency still important after Ta'if?

Chibli Mallat: There is a perceived notion that Ta'if cut down on the president's constitutional prerogatives. A closer look at the text suggests otherwise. The president still heads the council of ministers whenever he wishes, and puts forward the agenda whenever he wishes. Ta'if talks about majority voting in the council of ministers [which could curtail the president's influence over the cabinet]; so far as I can see, votes in the council of ministers are not counted. What seems to be the most important prerogative, and which remained unadulterated after Ta'if, is that the president appoints the prime minister.

Oussama Safa: I disagree. There were two realities after Ta'if: the strengthening of the powers of the prime minister and the strengthening of the powers of the speaker of parliament. Yes, the president does still appoint the prime minister, but he appoints a potentially strong prime minister, whose powers have been expanded constitutionally. The past nine years have shown a decline in the powers of the president both in practice as well as in the text. The president can no longer dissolve parliament, he can no longer veto laws, etc.

Mallat: It is true that the speaker's position has shifted since Ta'if, but the reason has less to do with his prerogatives than the length of the mandate. The only change is that instead of being elected for one year he is elected for four years. This provides the office with some constancy. The prerogatives of the speaker have not changed. If you look at speakers past, Kamal al-As'ad and Adil Usayran were firmly entrenched during the periods in which they ruled. In the past, the moment a speaker played a decisive role in choosing a president, he was maintained in place for the duration of the president's mandate. Paradoxically, the speaker today is politically weaker: whereas previously he was the key figure organizing presidential elections, today, because regional factors influence the presidency in a much stronger way, the role of the speaker has been substantially reduced. We saw this in 1995, when Nabih Birri was helpless in preventing an extension of President Hrawi's mandate.

Safa: I am not sure about the comparison. We now have the *troika* formula and Mr. Birri is member of this triadic relationship. No decisions are taken unless there is a consensus between the president, prime minister, and speaker.

Young: The presidency had a great deal of power under the First Republic but has seen a substantial amount of this power redistributed formally to the council of ministers as a collective body. Today the president is referred to in the constitution as the head of state and as a symbol of national unity,

but he no longer holds the executive power that he held during the First Republic. Surely this has weakened him substantially?

Mallat: Constitutionally there is no doubt that the council of ministers, which the president heads formally, has executive power. Still, the president can preside over the council of ministers whenever he wishes.

Young: Isn't this power just symbolic?

Mallat: I am not aware of one instance when the council of ministers has met without the president when it was addressing a fundamental issue.

Young: Yes, but so what. He presides over the council of ministers, but he does not have the same powers he had under the First Republic. He cannot set the agenda or dismiss ministers.

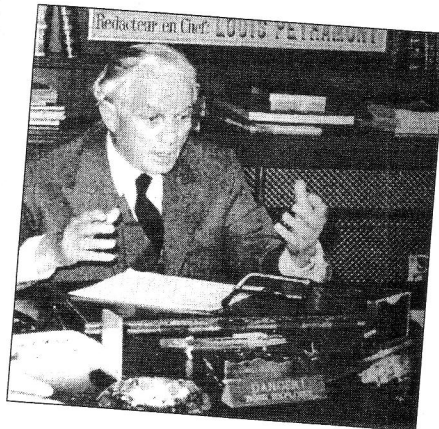
Mallat: He can introduce items into the agenda. That's crucial. The question of dismissing ministers is, I think, important. In the past, the president had greater sway over his ministers because he could dismiss any one of them. Now he cannot do so. However, it is not only the president who cannot dismiss ministers. The prime minister cannot either. Today we have an extraordinary situation in which the president and prime minister together cannot dismiss individual ministers. You could say that individual ministers are stronger than both. Once a minister is in office, that's it, you cannot get rid of him.

Young: What about Georges Frem, who was dismissed from the electricity ministry?

Mallat: I don't recall the episode well, however we must recall that, according to article 69 of the constitution, a minister can only be dismissed if two-thirds of the ministers approve it and if the president and prime minister countersign the decision. Alternatively, there are a number of instances in which the council of ministers must change. The constitution says that if one-third of the ministers resign then the government falls. And this is quite interesting, because if you look at the breakdown of the council of ministers generally you will see that half the ministers are Christians. If the president can convince one-third of the ministers – meaning less than all the Christian ministers – to resign, he can bring down the council of ministers. In that sense he has real power. There is also the question of the prime minister and his constitutional powers. What are the elements that suggest to us that the prime minister is stronger than he used to be? Constitutionally, I cannot see any. We can examine the decline in presidential powers. Three situations have been mentioned: the so-called binding consultations with parliament to appoint the prime minister; the impossibility of dissolving parliament; and the inability to veto laws. If you look at these, you will realize that, actually, the president almost never used these powers without the approval of the prime minister and speaker. The implementation of constitutional prerogatives is often quite different in practice than in theory. For example, technically parliament can initiate laws. We know, however, that in Lebanon it is the council of ministers that does so, and never without an agreement between the president, the prime minister, and the relevant ministers.

Safa: To take the discussion away from the constitution somewhat, we must recall that the system set up after Ta'if was the so-called *troika*. Governmental practice has considerably reduced the powers of the president. A consensual formula has taken over whereby a consensus between the three leading figures in the state is necessary for decisions to be taken. Hasn't this taken power away from the president?

Mallat: For the past 150 years, this country has been run on a foundation



Young: There was an argument before the presidential election that, under the current constitution, the president need not develop a political program as executive power is invested in the council of ministers. Given that power seems to perate in the nooks and crannies created by the ambiguities of the constitution, does the president have a role to play in the formulation of policy?

Mallat: If you want to draw the logical conclusion of this, then we are driven to the argument that the president, in order to consolidate his power, must play sectarian politics. If the condition for a president's being an imposing figure – which, incidentally, Mr. Hrawi has not been – is contingent on his playing sectarian politics, then I think, retrospectively, Mr. Hrawi was the

of confessionalism. The country was never able to function without a consensus between the prime minister and the president. Whenever, for example, Charles Helou was unable to appoint a prime minister, he was unable to govern. Similarly, when, during the civil war Suleiman Franjyyeh tried to appoint a cabinet, he could not do so without the support of the Sunni prime minister. I think that inter-communal relationships are similar today. The president is still obliged to appoint as prime minister someone acceptable to the Sunni community. This has nothing to do with consultations, it is inherent to the social structure of the country. It is true to say that the president is no longer necessarily in the driving seat as he was during the First Republic, but it is not clear to me that the powers of the prime minister and speaker are fundamentally greater than they originally were.

Nicholas Blanford: How relevant is the debate on the powers of the president given that Syria has the final say in most topics of importance in the country anyway?

Mallat: The answer in terms of politics is obvious: it isn't. While Lebanon has some room to maneuver, ultimately the important decisions are taken elsewhere.

Young: There was an argument before the presidential election that, under the current constitution, the president need not develop a political program as executive power is invested in the council of ministers. Given that power seems to operate in the nooks and crannies created by the ambiguities of the constitution, does the president have a role to play in the formulation of policy?

Safa: I would say yes. This leads to the question of personality and style. Mr. Lahoud is clearly different in style, experience, and leadership than Elias Hrawi.

Young: When we look at the presidency I think that we find two problems in the constitution of the Second Republic. First of all the *troika*, like any triumvirate, involves one member trying to ally himself with one of the others against the third. This has, to my mind, weakened the presidency substantially and made it very difficult for someone like Elias Hrawi to present a comprehensive plan, for example, on national reconciliation. The second problem is that, constitutionally, the president is not provided the powers needed to implement a political program. This doesn't mean that the president cannot prepare such a program, but rather that it is more easy for the council of ministers to dismiss it.

Mallat: My sense is that the post-Ta'if constitution does not prevent a president from developing a national program for the country. What transformed the president from a figure who used to lead the country to a figure who, under the Hrawi administration, stooped down to the level of base maneuvering, was primarily Syria's influence in Lebanon. Mr. Hrawi further undermined his position by appointing people of dubious merit to high posts, merely to achieve immediate benefits.

Safa: Still, under Mr. Hrawi we saw an absence of strong leadership, both within the Maronite community and in the leadership of the country. We didn't see the president playing his usual or expected role as a unifier and conciliator, someone who could advance post-war reintegration. I hope that this will be taken into consideration by the new president.

Mallat: We have indeed had the following problem with the presidency since independence: is the president considered first and foremost an arbitrator of great national issues or is he the committed head of a Maronite community whose interests he advances? We have always had this dilemma in Lebanese politics and presidents have often played both roles. Typically, at the beginning of their mandates past presidents have

been arbitrators and unifiers and, at the end, primarily heads of their community.

Safa: I believe that a president can, constitutionally, present a program. Mr. Hrawi, for example, was able to propose a civil marriage law. The president should be able to propose a national program, go on television and convince people of his aims, negotiate with deputies and ministers, and be active in forwarding new proposals and laws. Yes, he cannot make his proposals law, but he can at least try to convince people.



Young: Under the constitution of the Second Republic, does the president, to gain influence, have to resort to confessional politics more so than during the First Republic? Mr. Hrawi, I think, was a peculiar case. He did not emerge with the same level of Maronite support that President Lahoud seems to have today. Mr. Hrawi's first allegiance was to those who brought him to power and who extended his mandate. Still, under present conditions, does the president naturally gravitate towards his community, as it is his main source of strength in bargaining with the other communal representatives

in the *troika*?

Mallat: If you want to draw the logical conclusion of this, then we are driven to the argument that the president, in order to consolidate his power, must play sectarian politics. If the condition for a president's being an imposing figure – which, incidentally, Mr. Hrawi has not been – is contingent on his playing sectarian politics, then I think, retrospectively, Mr. Hrawi was the wisest president we've ever had in this country. He did not play Maronite politics and it is to his credit that he is fundamentally not sectarian.

Young: Yet was it really in his power to play Maronite politics?

Mallat: A president can always play sectarian politics in Lebanon. Unfortunately.

Young: Up to now, in assessing the powers of the presidency, we have been assuming a strong prime minister. Following the appointment of Salim al-Hoss, who perhaps does not have quite the vigor of Mr. Hariri, our assumptions must change. Under the constitution, is the prime minister necessarily strong? Is the presidency necessarily weak? We have already accepted that the presidency is a function of who the president is and I think that the same holds true for the prime minister. Does the constitution leave enough loopholes so that power under the Second Republic is constantly fluctuating?

Mallat: In answering this we have to take a historical perspective. This is a country that has always arrived at political deadlock when the president and prime minister were in disagreement. I do not think Ta'if changed this. As to Mr. Hariri, the former prime minister was someone who held an unusual position in Lebanese politics because of his wealth. In the mundane game of prime minister versus president versus speaker, I think the key issues were determined, again, by regional influences. In other words the closeness to Damascus had more of an impact on domestic Lebanese affairs than the operations on the local political scene.

Young: The Hrawi mandate is over after a three-year extension. On balance did Mr. Hrawi strengthen or weaken the presidency?

Mallat: On balance, Mr. Hrawi was good for the country given the regional constraints. Still, he was very poor in terms of leadership, in particular presidential leadership.

Safa: There is no simple answer. There was a lot of unhappiness with him and some people felt let down by Mr. Hrawi. On the other hand, the former president did not play much confessional politics. I would say the presidency has been strengthened in some ways and weakened in



others.

Blanford: But what could Mr. Hrawi have done given the situation in the country when he came to power, and later when he had to deal with an assertive prime minister?

Safa: What he could have done was to come out more actively with political programs, proposals, and policies, particularly those which could promote national reconciliation. He could have acted presidential.

Blanford: But wouldn't this have brought him into greater conflict with his *troika* partners?

Safa: Not necessarily. I believe that a president can always try to negotiate some type of an understanding with his *troika* partners that can avoid conflict.

Young: I see a contradiction in what you are saying. You are saying, on the one hand, that Mr. Hrawi should have proposed national policies. Then you're saying that, within the confines of the *troika*, he didn't negotiate as effectively as he could have. Negotiating within the context of the *troika* means, to my mind, playing communal politics. I agree with the second part of what you're saying that Mr. Hrawi did not negotiate the Maronite card well enough, which meant that he was always isolated, which meant in turn that he was always weak. Isn't this, in a nutshell, the dilemma of the presidency in Lebanon.

Safa: I think Mr. Hrawi was inherently weak, and that's what made him stay away from confessional politics.

Mallat: As I mentioned earlier, the president's national versus confessional role is a century-old dilemma in Lebanon. The real question, however, is how to transcend it? The way forward, in my view, is for the president to remain above the fray and to insure that his priorities have the support of his community and other communities. A powerful president is one with whom all of Lebanon's communities identify.

Young: Is Emile Lahoud capable of achieving this?

Mallat: There were both positive and negative aspects in the choice of Mr. Lahoud. On the negative side, his election was not the result of a normal constitutional process. To that extent, Mr. Lahoud's election was tarnished by a lack of competitiveness which weakened his credibility from a constitutional perspective. On the positive side, Mr. Lahoud, for the nine years of the Hrawi presidency, avoided projecting his political ambitions. In other words, he respected the fundamental aspect of how an army should behave in a constitutional democracy. Hopefully, as president, he will respect the constitutional prerogatives of his office in the same way he exercised his prerogatives as commander of the army.

Safa: I too have some reservations about the way he was elected. But let's be realistic, what other way was there? I don't think people will dwell on this as much as you suggest. I think the mode of election will be outweighed by several other factors: first, his rebuilding of the army along non-confessional lines. The fact that he apparently brings with him a new style of doing things, which people are yearning to see in their politicians. And a large cross-confessional following. He is also a potentially strong figure within his community. Politically, however, he is untested. What expectations should one have as to his capacities? There I would be more cautious. What he has done to the army may not necessarily apply to Lebanese politics. He should, however, be given the benefit of the doubt.

Young: In the end, is it good or bad for the presidency that the Lebanese should welcome in a president whom they knew nothing about, regardless of his qualities or faults?

Safa: Ideally, we should have had several candidates standing for election, each presenting a political program. On the other hand, people were so fed up that they naturally welcomed someone genuinely new.

Young: Let's look at the long term. Was the way in which Mr. Lahoud was chosen a further step in the erosion of the sanctity of the presidency as the quintessential national institution? Much in the same way, for example, as was the extension of Mr. Hrawi's mandate?

Safa: Since when has the presidency been a quintessential national institution? It has always depended on the personality of the president: who he is, what he does, and whether he is strong within his community. I really don't see it as quintessential national institution.

Young: Are expectations too high when it comes to Mr. Lahoud?

Mallat: Well, there are two issues here: That it in any country the person who comes to power benefits from a grace period, usually between 100 days and a year. And, that there is a very basic problem in Third World countries, namely that their political systems are often so disheartening that ordinary citizens tend to search for a savior on a white horse. This is not healthy in a country where the constitutional process has, in the past, been respected. More recently, however, the fact that the constitution has been repeatedly undermined by exceptional laws and distorted interpretations created a yearning for a savior. Alas, the higher expectations are, the more difficult it is to fulfill them and the harder the fall.

Young: Given the ambiguities of the presidency today, can the presidency continue as part of a *troika* system that threatens to erode the powers of the presidency in the long term? I am assuming, of course, that the *troika* system is a long-term constitutional reality, despite the fact that President Lahoud's influence appears to have, temporarily, made him the single most dominant triumvir.

Safa: It is hard to speculate whether it is sustainable or not. It depends on leadership style. If nothing were to change in the way the president has behaved in the past nine years then the powers of the presidency will certainly be eroded further. If the style changes then presidential power will change. As far as I am concerned, it is obvious that things have already changed under Mr. Lahoud.

Young: So, we can say that there is an inherent vulnerability in the presidency. In other words, because the powers of the presidency are so ambiguous, the presidency has become too dependent on the character of the individuals holding office.

Safa: For the past nine years, the presidency has indeed depended on the qualities of the individual holding office.

Mallat: I concur, and would add that, having reached the end of the 20th century, we must reconcile ourselves with the necessity of doing away with a two-tier election of the president, otherwise we have absolutely no chance of joining the third millennium as an advanced country. A basic notion in a democracy is that the people choose the most important person who rules them. The moment there are obstacles placed before this choice, the process becomes unnatural. If we really want the presidency to become effective then we must seriously consider a direct popular election of the president. Unless this happens, the power and credibility of the presidency will always be under threat. In Lebanon, presidential legitimacy only derives secondarily from the people. Do we want Lebanon to belong to those countries in the world in which the people are not trusted to choose their leaders directly? Or do we move away from this and bring into being, despite our confessional system, a genuinely legitimate presidency? Unless we consider this seriously we will not emerge from the present uncertainty surrounding our constitutional setup, and the presidency in particular. ❖

