

**كانون الثاني 2006**  
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### **37. Une ville debout: Making a stand in Beirut<sup>(40)</sup>**

A few days ago, a similar occasion - unfortunately minus the fundraising - was organised by prominent friends in Baabda, my native village. That day I promised my friends and colleagues of Baabda that our village deserved to be known the world over for what it is, an extraordinary town of combined poetical and governmental wisdom: surely an oxymoron of a combination. I promised them that the name Baabda will be carried to the world. That's a promise that you are allowing me to honour tonight, even before becoming president, and I can only be so very grateful. That surely must be acknowledged as a manifestation of poor politics. Politicians are best at promising what they cannot deliver.

Beyond the anecdote is a hallmark of a different type of campaign we have been carrying together: this is a campaign that delivers even before getting into office. Just imagine how much more we can deliver once in office. This is in great part why I am here with you tonight. Together in Beirut and in New York, we have already delivered, and we are called upon to deliver more.

New Yorkers might not have heard of Baabda, though it's likely Baabders might have heard of New York. No matter. New Yorkers know of Beirut, and they associate now Beirut with a city that has no longer to do with thirty years of an awful civil and regional war. New Yorkers

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(40) Speech in New York City, 25 January 2006.

now know of a different Beirut than that of civil war. My address tonight wishes to build on this novelty, by bringing together our two dear cities over one common historical mark, that of making a stand for history, for decency, for liberty, for our common humanity: Beirut, like New York, standing tall.

People of New York and Beirut have already delivered. The Lebanese have delivered on the acknowledgment that a country cannot live without democracy, without regular, free change in the person running our country at the top, regular, unconstrained change of the person in our presidency once every six years. And New York delivered, for there is no greater mark of success than what was accomplished in the unanimous presidential statement released by the Security Council on Monday. In it, the world reminds Lebanon from New York that while its sacrifices and the heroism of its people have achieved much, including the withdrawal of Syrian troops and the holding of parliamentary elections, much remains to be accomplished, 'particularly', I quote from the text, 'particularly the disbanding and disarming of Lebanese and non-Lebanese militias and the extension of government control over all Lebanese territory, and free and fair presidential elections conducted according to the Lebanese constitutional rules, without foreign interference and influence.'

These words do not come in a vacuum: surely the disarmament of the militias has been a constant litany, one indeed that precedes UNSCR 1559, and goes back at least to the request of the world since the late 1990s that Lebanese armed forces should be exclusively in charge of the country generally, and the South in particular. But the presidential clause, the democratic clause as it is also known through our efforts, through your efforts, has been hard work. It is the key to achieving the unfinished, democratic business of the Cedar Revolution.

So you see, a group of prominent Lebanese New Yorkers, many of whom are around Ray Debbane tonight, and a presidential candidate in Lebanon, were able, over a matter of a few weeks for the former, a bit longer for the latter, to bring in, probably for the first time of recorded UN history, the request for democratic alternation at the top into the agenda of the Security Council. This is not an insignificant achievement, we are

here together to celebrate it, and to offer it as a model to the world: US-Lebanese democrats in the world, Lebanese in Lebanon, can be proud for the inclusion of a democratic clause in a Security Council Resolution, probably for the first time in the world's recorded democratic history at such a level.

This is the hallmark of our presidency: action for democracy even before office, indeed achievements of an international scale as we can see culminating in NY this week.

Ladies and Gentlemen, Lebanese Americans are ahead of the time. I had dinner with colleagues at Yale law school in honour of Senator Jack Danforth, the previous US ambassador at the UN, who is a central architect, on the US side, of UNSCR 1559. He was surprised to be appraised of the immense resonance of the democratic clause. We are ahead of our times, ladies and gentlemen, and you deserve to be proud of your achievements for humanity.

Imagine then what a presidency in Lebanon could be like, for Lebanon and the Lebanese across the world, if this common work can be pursued with the same spirit of creative undertaking. More than once, you have been ahead of our times: I am here in large part because of joint work, achieved last year, over the right of Lebanese citizens to vote abroad. Professor Nada Anid was at the center of the work here, and the enhancement of Lebanese democracy on that level started with our electronic, serendipitous exchanges.

I can assure you that you will vote in the next national round of Lebanese elections. This battle has been all but won, and you will see how prominent it will appear in the recommendations of the Boutros Commission. Last weekend with leading lawyers from the Middle East and the United States, this featured as a profound question for all citizens of democratic countries on the planet: will they be able to participate even if they do not reside in the country at the time of elections? There are surely questions of a practical or theoretical nature, but again, this is enhancement of the democratic framework not only for Lebanon, but for the new world citizen. And you can imagine what a model a president will be to the Middle East who brings into

office the promise of Lebanese participation across the globe.

Together we have achieved a lot for the world even before getting to office. The Cedar Revolution brought onto the street of Beirut half of the active population; you would have had in comparative terms, over 100 million people in the streets of Washington. Imagine what that would have meant for this country as a landmark of history, as we still live in awe of those extraordinary days of equality around Martin Luther King's dream in the middle of the 1960s. The Lebanese dreamt on March 14, we now need to achieve the dream to the full, and there is no better achievement than a person like you or me at the helm in the country. There is no reason, indeed, to settle for anything less.

You have surely come to ask me for my program. In living memory, it is doubtful that a more elaborate program has been offered to one's people than what you can find on the site, and in this thick volume of *Presidential Papers*. In Lebanese living memory, there has never been a program for presidential candidates, even before the Israelis and the Syrians started dictating their candidates onto the presidency of our country. Our great constitutional colleague, the late Edmond Rabbath, lamented in his landmark commentary on the Lebanese constitution how no candidate to the presidency ever presented a program. Well this is no longer true. It is being remedied by my candidacy, through our dogged and principled campaign. We must not accept, we cannot accept a president of Lebanon who does not articulate a vision, and who does not put it to the people. On the occasion of the formidable presidential statement at the UN released on Monday, I have called again upon my compatriots who wish to be president to come forward with their achievements and their ideas. No more presidency by stealth. No candidacy, no presidency. No campaign, no presidency.

So you can read about my achievements and my program, achievements you know well with regard to the end of impunity, whether it is Ariel Sharon, Muammar Qaddafi, or Saddam Hussein. No one has done more in the world, I think, on that score, and this is indeed the hallmark of our battle over the past two years. Colleagues at the UN recall how I fought, in addition to keeping alive the presidential, democratic clause

of UNSCR 1559, for an international investigation into the murderous attempt on the life of Marwan Hamade on October 1, 2004. Rafic Hariri might have still been with us if the SC had shown more courage, and it may well be that Gebrane Tueni would be with us today had the SC established an international tribunal as we requested in the evening of February 14, 2006, when our Prime Minister, Basil Fleihane, and 21 other innocent souls fell to the vindictiveness of Emile Lahoud's Syrian and Lebanese defenders.

Unfinished business indeed, but so much closer to being accomplished: we have been working intensively, with you, on an international tribunal for all. From Marwan to Gebran, an international tribunal for all. Now. We will make sure, together, that this will happen, whether I am or not the president of Lebanon.

One essential thing may not happen, unless a person like you or me is at the helm: the restoration of democracy, and through democracy, of security in our country. Security in Lebanon is premised on change in the presidency: the sooner the change, the sooner a decent, united Lebanese government can work on ending the atmosphere of impunity that prevails in the country because there is either no one at the helm, or because there is no belief at the helm in democracy and security, and no action to end the murders.

Let me end, with a powerful, personal experiment, one that has surely made its mark on each one of us. It was in the immediate aftermath of 9/11, and the stand that the people of New York made that day, and the days that followed. Like you and the rest of the world, we were in awe before the courage of firefighters, of a worldwide mayor, of the solidarity of New Yorkers. Time and again was conjured up that passage from the French classic, *Voyage au bout de la Nuit*, when Céline's hero Bardamu arrives in New York. Recall, Bardamu arrives from derelict France on a derelict ship, the *Infanta Combitta*...

Waking next day, we realized on opening the portholes that we had reached our destination. And what a sight it was!

Talk of surprises. What we suddenly discovered through the fog was so amazing that at first we refused to believe it, but then, when

we were face to face with it, galley slaves or not, we couldn't help laughing, seeing it right there in front of us...

Just imagine, that city was standing absolutely erect. New York was a standing city. Of course we'd seen cities, fine ones too, and magnificent seaports. But in our part of the world cities lie along the seacoast or on rivers, they recline on the landscape, awaiting the traveler, while this American city had nothing languid about her, she stood there as stiff as a board, not seductive at all, terrifyingly stiff.

We laughed like fools. You can't help laughing at a city built straight up like that<sup>(41)</sup>.

*New York c'est une ville debout.* New York is a standing city, a city that makes a stand. Well, today, I am here with you to make a stand, as the people of Lebanon have, so bravely, over the past year. In the summer of 1982, Beirut stood to the Israeli invasion, in 2005 Beirut stood to Syrian brutality. We stood there, half of the active population, on March 14, saying enough. We made a stand, a huge collective stand for decency, for non-violence, for independence, for self-rule, for democracy.

We made a stand, on 14 March. We made a stand for Lebanon, for the Middle East, for the world. That stand honours civilisations, and it was a physical, palpable, material stand for non-violence and for the end of impunity.

We live again, in a city a thousand times killed, a thousand and one times relived. Through our stand, like New York, Beirut stands tall with a universal message of non-violence, a message of non-violence to

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(41) 'Pour une surprise, c'en fut une. À travers la brume, c'était tellement étonnant ce qu'on découvrait soudain que nous nous refusâmes d'abord à y croire et puis tout de même quand nous fûmes en plein devant les choses, tout galérien qu'on était on s'est mis à bien rigoler, en voyant ça, droit devant nous...

Figurez-vous qu'elle était debout leur ville, absolument droite. New-York c'est une ville debout. On en avait déjà vu nous des villes bien sûr, et des belles encore, et des ports et des fameux mêmes. Mais chez nous, n'est-ce pas, elles sont couchées les villes, au bord de la mer ou sur les fleuves, elles s'allongent sur le paysage, elles attendent le voyageur, tandis que celle-là l'Américaine, elle ne se pâmait pas, non, elle se tenait bien raide, là, pas baisante du tout, raide à faire peur'.



Lebanon, to the Middle East, to New York and the world. Allow me to end with Nadia Tuéni's, the mother of Gebrane, verses on Beirut, in my approximate translation:

Beirut...

A thousand times dead, a thousand times relived...  
In Beirut each idea dwells in a house  
In Beirut each word is ostentation.  
In Beirut are unloaded thoughts and caravans,  
pirates of the spirit, priestesses and sultans,...  
So be she religious or sorceress  
be she both, be she pivot  
of the sea door or of the Levant's gates  
be she adored or be she cursed,  
be she bloody or water blessed  
be she innocent or murderous  
be she Phoenician, Arab or a relaying post  
be she Levantine with multiple vertigo  
like these strange flowers fragile on their stems  
Beirut is in the East the last sanctuary  
where humanity can always don the robes of light<sup>(42)</sup>.

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(42) Elle est mille fois mort, mille fois revécue...  
À Beyrouth chaque idée habite une maison.  
À Beyrouth chaque mot est une ostentation.  
À Beyrouth l'on décharge pensées et caravanes,  
flibustiers de l'esprit, prêtresses ou bien sultanes.  
Qu'elle soit religieuse, ou qu'elle soit sorcière,  
ou qu'elle soit les deux, ou qu'elle soit charnière,  
du portail de la mer ou des grilles du levant,  
qu'elle soit adorée ou qu'elle soit maudite,  
qu'elle soit sanguinaire, ou qu'elle soit d'eau bénite,  
qu'elle soit innocente ou qu'elle soit meurtrière,  
en étant phénicienne, arabe ou routière,  
en étant levantine, aux multiples vertiges,  
comme ces fleurs étranges fragiles sur leurs tiges,  
Beyrouth est en orient le dernier sanctuaire,  
où l'homme peut toujours s'habiller de lumière.

Let us wear again, in Beirut, in a new and different presidency, the robes of light. Let us make that decisive stand for humanity.

### 38. ملاط يرّحّب بصدارة البند الديمقراطي في البيان الرئاسي للأمم المتحدة ويكشف عن المرحلة الثانية من خطة المختارة لإنقاذ الديمقراطية في لبنان<sup>(43)</sup>

أكد المرشح للرئاسة اللبنانية شبلي ملاط أن الجهود في الأمم المتحدة لتصدير البند الرئاسي في القرار 1559، بدأت تعطي ثمارها. و تكثفت الجهود بعد اطلاق غبطة البطريرك مار نصرالله بطرس صفير على تفاصيل تحركه وطنياً ودولياً وبعد تنسيق وثيق مع القيادات اللبنانية، بالأخص رئيس الوزراء فؤاد السنيورة والزعيمين النائين سعد الحريري ووليد جنبلاط، بهدف تنحية الرئيس اميل لحود عبر آليات دستورية لا عنفية لانقاذ البلاد من التسيّب الامني والجمود الذي نتج عن التمديد على الصعيدين السياسي والاقتصادي،

ورحّب ملاط بإصدار مجلس الأمن الدولي بياناً رئاسياً يسطر في القانون الدولي ما لم يُصر الى تنفيذه من بنود قرار الأمم المتحدة 1559 وفي صدارتها المطلقة البند الديمقراطي الذي ينص على إجراء انتخابات رئاسية حرة وعادلة في لبنان. وألقى ملاط أهمية خاصة على تصدر هذا البند على سائر البنود في القرار، لاحتظاً إمكانية تطوير المسار الإنفتاحي بشكل أسهل متى انتخب رئيس جمهورية جديد يحظى بثقة الشعب.

وعملاً بخطة المختارة وعلى ضوء الاجتماع مع البطريرك صفير كان ملاط قد شدد في مقالات ومقابلات متتالية مع عدد من وسائل الإعلام اللبنانية والغربية على «ضرورة انتخاب رئيس جديد للجمهورية لإعادة إحياء تراثنا الدستوري»، مشيراً اليوم أنه «بعد صدور القرار

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(43) بيان صحفي صادر عن حملة ملاط الرئاسية في 24 كانون الثاني 2006.

1559 ووجب الذهاب الى نيويورك وإحياء البند الديمقراطي... فالتمديد حالة شاذة تمت قسراً كما ظهر في وثائق دولية عديدة -آخرها حديث نائب الرئيس السوري عبد الحلیم خدام- تؤكد ما بات راسخاً في تقارير فيتزر جوالد وتيري رود لارسن وميليس دليلاً وافياً في القانون الدولي لما يعرفه اللبنانيون جميعاً، وهو أن التمديد القسري هو سبب الكوارث التي حلت بأهل لبنان منذ أيلول 2004».

وصرح الملاط من جامعة يال، حيث يلقي محاضرة الأربعاء عن «ثورة الأرز مفصلاً في تاريخ الشرق: عوائق بنيوية وفعل التغيير» قبل توجهه الى نيويورك لإلقاء كلمة في الحفل الجامع الذي نظّمته اللجنة اللبنانية الأميركية لدعم ترشيحه، والتي يرأسها رجل الأعمال البارز ريمون دبانة: «واضح الآن، بعد صدور البيان الرئاسي، أن التمديد خرق للقانون الدولي من الضروري للبنان معالجته فوراً لإعادة الدستور الى نصابه، والديمقراطية المسلوبة الى الشعب»

وأوضح «أن المرحلة الثانية للخطة بدأت، وأن المسؤولية تقع على ممثلي الشعب اللبناني أن يلتزموا ليفتحوا أولاً باب السجال الرئاسي واسعاً، ثم في غضون أسبوعين الى شهر انتخاب رئيس للجمهورية: فهناك خلو في الرئاسة وفق المادة 74 - مقر به دولياً - كرسه البيان الرئاسي في الامم المتحدة».

وطلب ملاط من وسائل الإعلام أن تتحمل مسؤوليتها التاريخية «عند هذا المفصل»، وعلى المرشحين أن يتبعوا نهجه المنفتح على مستوى مختلف من التواصل الديمقراطي، وأن يتقدموا الى الشعب اللبناني بإنجازاتهم وبرنامجهم ليختار ممثلوه بالمفاضلة رئيساً جديداً يفتح على لبنان مرحلة ديمقراطية جديدة لاثقة بطموحات الناس، وقدراتهم، وتضحياتهم العظيمة في الرئيس الحريري ورفاقه، من مروان الى جبران والأربعين مغدوراً مثلهم من أبطال لبنان في سنة التحرير».

وأشار مكتب حملة ملاط الرئاسية أنه يمكن الإطلاع المفصل على «معركة البند الديمقراطي» الذي خاضها المرشح في العامين الماضيين، ووضعت الحملة تقريراً مفصلاً عنه على مركز الحملة، [www.mallatforpresident.com](http://www.mallatforpresident.com)

## 39. Voting Abroad - Practical and theoretical difficulties<sup>(44)</sup>

On the technical side, casting one's vote abroad is not difficult. A citizen will be able to cast his or her vote by mail, by proxy, at the national embassy or consulate of the country she resides in, even electronically. Voting by internet is proving more difficult than expected, and has taken a step backwards in recent years. In 2000, the Arizona Democratic Primary was the first in history to allow internet voting. But in 2004, elections in the US and Britain did not carry any such electronic voting due to fear of security breaches<sup>(45)</sup>. Where the more difficult question lies is in the theoretical underpinnings of dual or more citizenships in a world still ruled by the logic of the Nation-state. Some of these overarching frameworks have also practical effects on the technical dimension, as it complicates modes of voting depending on the electoral rolls, the system of representation, or the various levels of electoral consultations.

In a first part, I examine some of the practical arrangements arising from actual or projected schemes for voting abroad in some Mideast countries. The list can be extended, but the survey includes first Turkey, Israel, Morocco, Iran, for which I could gather some useful data with the help of colleagues, then Iraq, Syria and Lebanon.

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(44) Paper contributed in New Haven, at the Yale law school Middle East Legal Seminar, 20 January 2006.

(45) Michael Cross, "Voting against internet elections", *The Guardian*, 12 February 2004.

The emerging patterns (if any) are set in the second part against the more theoretical problems that arise from a new form of conundrum for the 21st century citizen in the shape of dual (or multiple) exercise of his or her voting right. The analysis of the Vote Abroad issue is set against conclusions reached elsewhere on the challenge to the constitutional order as operates against a discreet and non-insular ME legacy.

## I

Each Mideast country has problems of its own with regard to voting abroad for citizens, and each society has its own idiosyncratic characteristics in this important respect. The Turkish constitution leaves it to the law to define how Turkish citizens exercise their right to vote<sup>(46)</sup>. Turkey counts 70 million citizens. In a diaspora of 3.5 m Turkish citizens abroad, the German Turkish diaspora is the largest, and includes some 2.2m people. One problem in Germany is arguably technical, and has to do with the fear that Turkish consulates are unable to deal with the voters if they come in significant numbers over one day. Despite recent pressure from within the political parties, voting however has been allowed only at the border, to serve the Turkish minorities living in the Balkans after the disaggregation of the Ottoman Empire almost a century ago. Clearly, this is done not so much to increase the democratic participation of Turks abroad, but as a measure of old-style 'minority' politics that allows some leverage to Turkey in neighbouring countries like Bulgaria. Numbers do not tally, and some 100,000 citizens at most benefited from this arrangement in the last elections<sup>(47)</sup>. No doubt the issue is controversial in Turkey, especially considering the EU factor, but it is also probable that the impact of voters abroad is bound to remain limited, even with a full participation of the diaspora, which is unlikely.

In the case of Israel, the Jewish factor is unique not only for the Middle East, but as a *sui generis* example the world over. Israeli law allows a Jew

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(46) "Article 67. (As amended on October 17, 2001)... However, the conditions under which the Turkish citizens who are abroad shall be able to exercise their right to vote, are regulated by law".

(47) Communication from Soli Osel, 5 Jan. 2006.

living anywhere in the world to acquire citizenship, if he or she wishes, by performing *aliya* and 'elevate' him or herself to settle in Israel. The debate over who qualifies as Jew is a thorny one, in Israeli society one of the most elusive and passionate. The debate used to be more inflamed in the early years of the Israeli Republic, owing to the strong stream of *aliya* performers and the division between Ashkenaz and Sephardim, Western and Oriental/Arab Jews respectively. This division drives an immense sociological literature best epitomized in the school of Professor SM Eisenstadt. I have argued elsewhere that the successful integration of the two allegedly opposed ethnic groups and the rise to prominence of both the Palestinian problem composed by the refugees of 1948/occupied Palestinians of 1967 and the 'Israeli Arab' Palestinians on the other, all these developments have resulted in the fracture within Israel to shift from Ashkenaz/Sephardim to Israelis and Jews, with the Kimmerling school replacing in prominence and centrality the previous Eisenstadt school. The Voting abroad problem shifts in consequence. It was never a prerogative of a Jew who has not performed *aliya* to be able to cast his or her vote. However, arrangements for Israeli citizens (both Jewish and Arab) to vote abroad are limited. All Israeli nationals physically present abroad are barred from voting even if their names appear on the electoral register rolls. They could cast their vote only if they took the plane and came back on V-day. Over the past decade, the law was altered slightly, first to allow military personnel who happened to be abroad to vote in the nearest Consulate, then to allow diplomats posted abroad to cast their vote. The overwhelming majority of 'yordim'<sup>(48)</sup>, some 420,000 in the national elections of 2003, are not allowed to vote<sup>(49)</sup>. Leaving Israel

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(48) Hebrew yordim is the apposite of olayim, from aliya, yordim perform yerida, 'exit' from Israel and settle abroad, olayim perform aliya, 'elevation'.

(49) "Israeli law does not provide for absentee ballots, and voting takes place only on Israeli soil. The sole exceptions are Israeli citizens serving on Israeli ships and in Israeli embassies and consulates abroad." Official summary of electoral law by Israeli Ministry of Foreign Affairs, "Elections to the 16th Knesset - Jan 28, 2003, Special Update", 10 March 2003, <http://www.mfa.gov.il/MFA/History/Modern%20History/Historic%20Events/Elections%20in%20Israel%20January%202003%20-%20Special%20Update>, See also for figures Yossi Verter and Motti Basok, Ha'aretz survey: Likud on 31 seats, Labor on 18-19 seats, Ha'aretz, 23 Jan. 2003.

is obviously a matter of concern to the Jewish authorities, and some controversy has built up over the right of Israeli citizens living abroad to cast their votes. Technically an easy problem considering the voting system by proportional, national lists, my sense is that the relative dominance of the Israeli right since the late 1970s over the national agenda prevents any major move to accommodate a demand which would probably yield a larger vote to Labour from disappointed *yordim* who leave Israel for what they must perceive as better skies. But there is a less fleeting concern. Jewish society within Israel finds difficulty in accommodating the vote of citizens abroad as it means the risk of undermining a unique nationality law that considers all Jews as *potential* Israeli citizens. In light of this potentiality, and irrespective of the willingness of Jews living abroad to vote in Israeli elections, the passage of time makes it difficult to draw a clear boundary between *yordim* Jews and *non-yordim* Jews living abroad.

Morocco offers an alluring example of the forward move operated centrally when the key authority, the King, sees a way to enhance his popularity with a tinge of post-modernism electioneering. In a speech in Washington in early November 2005, King Mohammed vi made the following promise after praising the Moroccan expatriate community:

To show how keen I am to fulfil the legitimate aspirations of the various generations making up our expatriate community, who look forward to full-fledged citizenship, and in order to guarantee effective, credible participation of Moroccans who live abroad in the nation's institutions and in public life in general, I have made four important, complementary decisions:

- First, to enable Moroccans residing abroad to benefit - deservedly - from appropriate, realistic and rational representation in the House of Representatives;
- Second, and building on the first decision, to have constituencies set up abroad so that Moroccans may elect their representatives to the Lower Chamber. Moroccans abroad enjoy the same political and civil rights as those guaranteed by the law for their fellow citizens at home, which means they, too, can vote and seek office.
- Third, to make it possible for members of the new generations of



Moroccans abroad to vote and to run for office, just like their parents, in accordance with the principle of equal citizenship. I therefore call on the government to take the steps needed to implement these three decisions when reviewing the electoral system. Over and beyond these decisions, however, my goal is to continue responding to the legitimate aspirations of our citizens who live abroad, seeking to enable them to participate as actively and as fully as possible in the country's development.

- Fourth, and further to what I have just said, to set up a higher council for the Moroccan community abroad, to be placed under my chairmanship. Its membership shall be determined in a democratic, transparent way in order to guarantee true representation, as well as credibility and efficiency. It will be composed of members whom I shall choose from among distinguished persons known for their commitment to defending the rights of Moroccan emigrants as well as the nation's interests. The council will also include representatives of state agencies and institutions concerned with emigrants' issues<sup>(50)</sup>.

The scheme is particularly telling because it underlines both the aspirations and limits on the voting abroad policy as considered from the top decision-maker in Morocco. Aspirations the King underlined reflect the general mood current in the Middle East, most probably the unease of Moroccans to remain behind the Iraqis or Lebanese on an issue in which they pride themselves to be ahead. But limitations are also reflected in the fuzziness of the scheme despite the structured way the King presents it. Two directions are offered for legislative reform: one concerns the possibility of having special representatives in Parliament who would be voted in by the diaspora, and represent them, arguably on a par with other, nationally elected, representatives. The other is the principle of voting abroad for deputies elected also in local or national cases. The former case is a red herring, as the idea of representatives abroad can at best offer a marginal representation such as the so-called DOM (usually it

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(50) <http://www.washingtonmoroccanclub.org/King'sspeechonmoroccanabroad.html>

comes with TOM, Departements d'Outre-Mer, as opposed to Territoires d'Outre-Mer, the DOMs having MPS sitting in Paris, the TOMs not). Some hesitation over the issue was conceivable in times of colonialism, for instance when Algerian French wanted serious representation in the French parliament, but a small group of 'abroad deputies' is a moot case in the post-colonial world. In contrast, the issue of voting for MPs in Morocco when one lives abroad will certainly prove more complex than suggested in the Monarch's speech.

A word on Iran, for which I did not gather more data than what Professor Abbas Amanat kindly offered in the following communication: 'As for voting rights, all Iranian citizens abroad can vote if they produce proof of citizenship (birth certificate or passport). No restrictions as far as I know are applied and religious affiliation and political orientation is not questioned, at least in theory. Since there are Jewish, Armenian and Assyrian representatives in Majlis, 'recognized minorities' too can vote for their representatives. Baha'is of course are neither recognized nor have a representative but can vote. It's a «don't ask, don't tell» kind of policy'<sup>(51)</sup>.

The Iranian experiment deserves closer attention, especially considering the issue of minorities defined religiously by Iranian law. There are quotas, reserved seats in Parliament for religious minorities, and so co-religionists can vote for them even if they live abroad, with the proviso of the shunned openly, and cyclically mistreated, Baha'i community. Voting abroad however cannot matter much in Iran in the context created since the Islamic Revolution in 1979. This is because of two factors: the first is the sociological setup of the country when defined by religious sects. Shi'is are an overwhelming majority, over 80 per cent, and the other minorities do therefore not matter much, especially since there is no one group that can count on more than a small percentage of the population. Even the Sunnis, who are perhaps slightly more numerous than other religious sects, tend to be scattered across the country rather than concentrated in a single province or town, and so their vote gets diluted naturally.

(51) Communication from Abbas Amanat, 3 Jan. 2006.

The other, more important factor, is the heavily constraining role of the Council of Guardians, that vets both parliamentary and presidential candidates, and does so energetically: over 90 per cent of postulants in presidential elections are barred from becoming candidates, and the same ratio is probably true for MPs as well. Voters abroad will therefore find it unlikely, if they dissent from the Islamic system as practiced in Iran, to vote for a candidate to their taste on the roster of candidates. This non-democratic weight is duplicated, in an interesting variation, in the case of Syria.

Syria is a straightforward example of a characteristically authoritarian system where vote does not count as democratic exercise. Voting does not matter for representation at the top, yet Syrians living abroad are entitled to cast their votes in various elections. The 'right to vote' gets therefore deformed in further levers for authoritarianism's grip. An interesting twist is added to the perversion of the system. In the case of the up-to-one million Syrians living in Lebanon, who probably represent the most important component of the Syrian diaspora, the absence of an Embassy in Lebanon has made the voting right abroad moot. The absence of voting arrangements in Lebanon in the absence of an embassy despite the theoretical right to vote abroad forces Syrian citizens working in Lebanon to return to Syria for the vote. They must cast their vote in the referendum for the president, for instance (with the foregone result), to receive the 'has voted' stamp without which they are severely penalized by seeing the Syrian administration shut to any request. As a result of forced voting with the absence of an Embassy where it can be exercised, the system ensures that the 'voter' comes back to Syria from Lebanon for a trivial exercise for him. This allows the government to reassert his power over any reluctant citizen by sheer exercise of arbitrariness: you better come and vote in the referendum, otherwise the administration is closed to you. For the citizen, the threat is tantamount to getting deprived from basic civil needs.

It is not particularly useful therefore to dwell on the Syrian voting experience, except to underline that an extended voting right leads in fact to further burdens on the citizen for reasons that have nothing to do with voting per se. The Syrian model applies to any electoral consultation in a

non-democratic country - the majority in the Mideast region. In this case, voting abroad becomes useless, actually perverse.

Iraq since the collapse of the Baath system in April 2003 offers a strong counterpoint to Syria, and the keenness of the former 'brothers' in Damascus to trumpet the Syrians' right to vote abroad must be understood against this historic rivalry, suddenly distorted by US occupation and the carrying out of two major elections since. Also, Iraq's diaspora is large, and in the two consultations in 2004 and 2005, Iraqis abroad were allowed to vote. Against a plethora of articles on the subject, one can offer two conclusions: first, voting abroad has proved easy technically, even with an inexperienced Electoral Commission, the more so since voting inside Iraq was a major exercise in bravery. Secondly, far fewer Iraqis availed themselves of the vote, this probably also because the first elections were organized on a national, proportional basis, and the 300,000 or so votes cast abroad for the 31 January 2005 elections proved marginal in shifting the trend. I do not have the exact figures for the elections on the constitution in late Summer 2005 and the latest parliamentary vote in January 2006, but I suspect that the disaffection has remained. Iraqi vote abroad will remain marginal, until a more coherent political configuration takes root in the country.

The Lebanese example I have grown more familiar with, partly as an advocate of the right to vote abroad for citizens. The Lebanese electoral system is a complex one, which is bedraggled with communitarian constraints - a quota system for deputies according to their religious sect -, and with the demographic weight of history. While it has fluctuated in terms of size of precincts, the smaller *qada'* (some 20 in the country) as opposed to the larger *muhafaza* (five), about four times the *qada's* size, the number of sectarian MP posts does not. Over most of the 20th century it responded to the principle of an equation called 'six-five multiplied, *sitti-khamsa mukarrar*,' meaning that for each six Christian deputies, you'd have five Muslim deputies (so a Parliament of 66, with 36 Christians, 6 x 6, and 30 Muslim, 5 x 6; or, in its latest such form, from 1972 to 1992, 99 deputies, with 54 Christians, 6 x 9 and 45 Muslims, 5 x 9). At the end of the civil war in 1990, partly as a move forward to accommodate a demographic shift perceived to stand in favour of Muslims, and partly out of a search for

overall sectarian equality between Muslims and Christians, Parliament was declared to be composed of an equal number of Christian and Muslim MPs, standing since 1992 at 128.

Things are more complex, because communities cannot simply be divided in two, and the further sectarian drive makes the Christian-Muslim divide pale at times before the deep cleavages within the communities belonging to the same religion. While numbers make it less palpable amongst Christians, because the largest denomination is the Eastern Catholic Church known as 'Maronite', with the Greek Orthodox trailing relatively far behind, the divide between Muslim Sunnis and Muslim Shi'is is sharp. This was always evident, but the sectarian tensions from Lebanon all the way to India, in all countries with a sizeable or majoritarian Shi'i populations compared to their Sunni component, also reflects strongly in Lebanon, and trumps the whole Muslim-Christian equation. At times of tension, such as throughout 2005, the divide appears to be thick as a brick, making the whole electoral system particularly fragile and even more prone than usual to communitarian distortions.

This naturally reflects on the Lebanese Vote Abroad initiative. How did the concept arise in the first place? Like Italy in the 19th and 20th centuries, Lebanon is a country of emigration. It stands amongst one of the densest countries in the world, with some 400 persons to one square kilometer<sup>(52)</sup>. Depending on how you define them, Lebanese abroad vary between half a million and 20 million (!). It is true that few Brazilians from old Lebanese descent will feel a stronger urge to vote in Lebanese elections than Americans with an Italian origin will bend over backwards to vote in Italian domestic elections, even if they emigrated to the US recently.

Common sense is necessary, and works both ways. The picture fluctuates historically, and few Italians living abroad care much for

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(52) 3.5 to 4 million inhabitants for 10,000 square kilometers- For comparison, Connecticut has 14,000 square kilometers, with 3.5 million inhabitants. Also for comparison, total gross state product for 2004 in Connecticut was \$187 billion, for Lebanon in 2003 about \$ 19 billion.

their national elections nowadays, compared with the scene we have from Italian movies of an era which is past. They show that at one point in the 60s and 70s, the large Italian working force in Northern Europe did show great attachment to its vote, and returned back in droves for national elections to cast it<sup>(53)</sup>. Similarly, interest of Lebanese abroad for the vote is novel, and was tied in 2005 to the great enthusiasm generated by the Cedar Revolution. A number of internet-driven organisations emerged, partly in support of the anti-Syrian street movement in Lebanon, coupled with a natural interest in making the Lebanese voice abroad heard at the polls in May-June 2005. At one point the opposition needed to show its strength in numbers, as opposed to the vast Hizbullah crowd-cum-mobilisation capabilities, and the showing at the polls appeared both important and feasible. Cheaper Fly-to-Lebanon arrangements were sponsored, and were made prominent by some powerful groups who had the means to support them. This 'return to cast the vote' did not matter in the end, as the political scene had shifted with the collapse of the opposition. It was no longer a simple Syrian/anti-Syrian issue, but a battle for or against one populist Christian figure. The Vote Abroad issue then moved to principle, namely to a right to vote for Lebanese living abroad.

I worked hard to force the issue in the last elections, acting as 'counsel of record' for the groups that emerged abroad in favour of the right to vote. At one point in a highly fluid situation, it seemed that the right to vote was about to be agreed, and some of the key leaders appeared to favour it, including the Speaker and the head of the opposition at the time. But the Prime Minister did not rise to the occasion and refused to put his imprimatur on his brief period in power by arranging for Lebanese to vote at the nearest embassy or consulate, as the lobby groups suggested. The issue moved to the newly established Commission to reform the electoral law, which was headed by veteran figure Fouad Boutros<sup>(54)</sup>.

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(53) One of my favourites, 'Pane e cioccolata', 1973, by F. Brisati with Nino Manfredi.

(54) Communication with lawyer Ziad Baroud, who is a member of the Boutros Commission, and his presentation on the subject on 27 Dec. 2005. For the issue generally, see [mallatforpresident.com](http://mallatforpresident.com), and the section Profile/Achievements on Lebanese Vote Abroad.

## II

Can one argue that there is a Mideast pattern for voting abroad, beyond the differences in the various countries? The results evidently belie any such pattern on a superficial level. Countries are too different, the voting patterns too uneven, and the electoral practice of democracy in any case wobbly and uncertain. In that, Israel offers a contrastive pattern only if the Jewish section of the population is artificially severed from the population under Israeli-Jewish control since 1967, if not 1948.

The argument therefore could be reduced to a simple Mideast set: the right to vote abroad is either meaningless democratically (there is no democracy, as in Syria or Iran) or marginal (Turkey, Morocco, Iran, Iraq recently), or it simply doesn't exist (Lebanon, Israel, Egypt, Jordan and many other countries). In any case, differences between one Mideast country and another, on that surface reading, are neither less nor more significant than differences between a Mideast country and, say, Argentina, or between Argentina, Canada or Japan.

One could stop the analysis here, and claim some intellectual satisfaction with the patchy survey conducted above.

Having been tempted recently by the argument of a specific form of constitutionalism in the Mideast, different in nature from constitutionalism understood as a common base of democratic practices elsewhere in the world, I will indulge in a further probe along these specifically Mideastern lines for the Vote Abroad issue.

Let me try to make the argument clearer against the following conclusions, reached elsewhere in my research, of a history-laden, deep constitutional structure in the Middle East, one that pits personal v. territorial Law in an identifiable counter-model to the dominant system in the world. After this longish detour, the issue of citizens voting abroad might appear in a different light<sup>(55)</sup>.

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(55) Follows an edited excerpt from Chapter 2 of my *Introduction to Middle Eastern Law*, forthcoming, also published as article in the forthcoming issue of *Case Western Reserve Journal of International Law*.

Despite the transnational appeal on Arab, Muslim, or other ethnically or religiously defined constituent groups, all countries in the modern Muslim world have adopted constitutions or basic laws, including the Kingdom of Saudi Arabia in 1992. For comparative public law, more telling than the discussion of the explicit «reference to Islam in the constitutional text» is the Westphalian model of nation-states as a contrast «territorial model» to what we can describe as the «personal model.» Under the personal model, law adheres more to the person as a member of a given religious sect rather than to her belonging, as a citizen, to a nationally defined territory.

The system of nation-states is well-entrenched in all Muslim countries with sizeable Muslim populations; this is a fact of the twentieth century. Another fact is that the nation-state straitjacket does not operate well. In his *Summa* on Mediterranean society as seen from the Cairo Geniza documents of the 10th-13th centuries, Samuel Goitein provides archival evidence to the historical depth of a dysfunctional structure: «At the root of all this was the concept that law was personal and not territorial. An individual was judged according to the law of his religious community, or even religious «school» or sect, rather than that of the territory in which he happened to be.»<sup>(56)</sup>

Compare this to René Maunier's in a 1935 report, on the «effects of the transformation of law.» After noting «the gains of written law over customary law, with the emergence of *Codes* in Muslim land,» Maunier describes the second most important characteristic to be «the gains made by *territorial* law over personal law.»<sup>(57)</sup>

Confronted with the failure of democratic constitutionalism both in terms of working transnational institutions and domestic arrangements, one should therefore wonder whether the difficulty

(56) S.D. Goitein, *A Mediterranean Society: The Jewish communities of the Arab World as portrayed in the documents of the Cairo Geniza*, Vol. 1: *Economic foundations* 66 (1967).

(57) René Maunier, 'Plan d'enquête sur le progrès du droit en pays musulman', in *L'Enseignement du droit musulman* 168 (M. Flory & J.-R. Henry eds., 1989).



does not lie in deeper historical structures outlined, in the some society a thousand years apart, by our two scholars.

While fashionable after Samuel Huntington's *Clash of Civilizations*<sup>(58)</sup>, in which the fault line between Islamic and Western civilizations emerges as the defining paradigm of the international scene, any grand approach requires an initial *caveat*: The modern nation-state is eminently territorial, including in the Middle East. Within one's boundaries vests a legal system which is by definition exclusive of any other. All citizens in the state are bound by that system, and they become bound by the next door system as soon as they cross the international boundary.

Here is perhaps the historical fault line identified already in Goitein's works on 10th to 13th century Egypt. In the received world of Islamic law, this is illustrated in the divide made by classical lawyers between *dar al-harb* and *dar al-silm* or *dar al-islam*, the war territory as opposed to the peace-Islam territory<sup>(59)</sup>. The distinction forces a relation onto the law which tends to be far more strongly personal than it is territorial. The citizen carries under the divide her or his *religious* attachment to the law wherever he or she goes: while this is not completely unknown to an American or a French national, who may be bound for instance by fiscal laws of her country irrespective of territory, personal law is not the dominant relation outside one's country in a Westphalian system. It is in an Islamic one.

This sort of generalisation may be facile, with examples or counter-examples strengthening or weakening assumptions that the theory may render unnecessarily rigid. Still, one component is decisive,

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(58) Samuel P. Huntington, *The Clash of Civilizations and the remaking of world order* (1996).

(59) See Chibli Mallat, The Need for a Paradigm Shift in American Thinking: Middle Eastern Responses to "What We are Fighting for?" in *The Case of Ariel Sharon and the fate of universal jurisdiction*, app. 1, at 150 (John Borneman ed., 2004). See also Khaled Abou El Fadl, *Rebellion and violence in islamic law* (2001); and Noah Feldman, *After Jihad: America and the struggle for Islamic democracy* (2003).

which grounds the issue of personality versus territoriality of laws in a special mould of a typical Middle Eastern constitutional system and arguably beyond, in Pakistan, India, Malaysia, and now Europe because of emerging, self-defining Muslim communities. This mould is at the root of the difficulty present nation-states in the Middle East confront for the future of their people.

The pre-Westphalian dimension of the debate can be brought into a more philosophical perspective. John Rawls addressed precisely the issue of democracy and religion in one of his latest works by giving the example «of Catholics and Protestants in the sixteenth and seventeenth centuries when the principle of toleration was honored only as a *modus vivendi*. This meant that should either party fully gain its way it would impose its own religious doctrine as the sole admissible faith.»<sup>(60)</sup> In this case, which Rawls finds in «a constitution resembling that of the United States... honored as a pact to maintain civil peace,» one does «not have stability for the right reasons, that is, as secured by a firm allegiance to a democratic society's political (moral) ideals and values.»<sup>(61)</sup> Tolerance therefore is not a sufficient ground rule for conviviality of citizens.

*Modus vivendi* thus fails. Equally insufficient to the democratic ideal is the individual's identification with a group as a be-all and end-all component of society. Nor is democracy ensured in the second example adduced: «Nor again do we have stability for the right reasons in the second example - a democratic society where citizens accept as political (moral) principles the substantive constitutional clauses that ensure religious, political, and civil liberties, when their allegiance to these constitutional principles is so limited that none is willing to see his or her religious or nonreligious doctrine losing ground in influence and numbers, and such citizens are prepared to resist or to disobey laws that they think undermine their positions.»<sup>(62)</sup>

(60) John Rawls, *The Law of peoples* 149 (1999) (footnote omitted).

(61) Id. at 149-150 (footnotes omitted).

(62) Id. at 150.

Rarely has the «demographic threat» in Israeli, Iraqi, or Lebanese societies been more clearly depicted in philosophical terms. The demographic argument, which attaches to communities fearing the loss of their numerical majority, is deafening in the Middle East. «Here again, democracy is accepted conditionally and not for the right reasons,»<sup>(63)</sup> which is the equality of individuals coming together as transcendental citizens, that is as citizens moved by a moral law which is superior to their communitarian belonging, and even to the morality that may derive from their religion. Rawls states: «What these examples have in common is that society is divided into separate groups, each of which has its own fundamental interest distinct from and opposed to the interests of the other groups and for which it is prepared to resist or to violate legitimate democratic law. In the first example, it is the interest of a religion in establishing its hegemony, while in the second, it is the doctrine's fundamental interest in maintaining a certain degree of success and influence for its own view, either religious or nonreligious. While a constitutional regime can fully ensure rights and liberties for all permissible doctrines, and therefore protect our freedom and security, a democracy necessarily requires that, as one equal citizen among others, each of us accept the obligations of legitimate law.» The conclusion is a damning verdict for any Middle Eastern-style democracy: «While no one is expected to put his or her religious or nonreligious doctrine in danger, we must each give up forever the hope of changing the constitution so as to establish our religion's hegemony, or of qualifying our obligations so as to ensure its influence and success. To retain such hopes and aims would be inconsistent with the idea of equal basic liberties for all free and equal citizens.»<sup>(65)</sup>

Powerful as the conclusion may be, we think it may not be a decisive indictment if the religious belonging of the individual, which forms in much of the Middle East a defining bond to his and her community, is

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(63) Id.

(64) Id. (footnote omitted).

(65) Id.

perceived in a different mould. This mould is typically constitutional, and suggests that in the same way majoritarianism gets trumped in democracies by the federal principle, as well as by the role of courts and government in acknowledging and defending «discreet and non-insular minorities,» some constitutional arrangement can, even must be sought, to accommodate that pervasive communitarian trait of Middle Eastern societies. Non-insular should not be a surprising trait: it is the idea, both national and religious, that nationals in one country belong to a group or a sect which finds comfort, and therefore allegiance, beyond its borders: this is the case typically of Kurds in Iraq, Iran, Syria, Turkey, the Amazighs in North Africa, when it comes to national/linguistic groups, of Shi'is in Iran, Lebanon, Iraq, India, when one focuses on sects....

For domestic constitutionalism, including voting issues of course, the problem can be put in simple words: the individual's allegiance in the Middle East, including Israel and Lebanon, is dual in law. He or she operates nationally, as a constitutional citizen in a Habermas way. But he or she also relates to public affairs through his or her religious or sectarian affiliation, which makes the community a constitutional agent recognised in law. That fault line is hard to bridge, and new constitutional formulas may be needed that bring together not only the dilemma identified in this section, between the personal and the territorial, but also the two other constitutional conundrums discussed earlier: (a) how does a federal system acknowledge communities on the other side of the border - for instance for Kurdish Iraqis their folk in Syria, Iran or Turkey, and even communities who do not live in adjacent states, for instance Lebanese Shi'is vis-à-vis their sister communities in Iraq or Iran; and (b) how are the classic pillars of constitutional democracy, popular and competitive choice of leaders, separation of powers, and judicial or constitutional review operate in such a system?

For the Middle Eastern world, bringing citizenship and community allegiances together into one working framework is the challenge of constitutionalism for the twenty-first century. Meanwhile, the clash between the two legal logics remains daunting, and it is against

the pulls and pushes that they force onto the world system that constitutional law must be assessed inside each Middle Eastern jurisdiction.

To this conclusion, intricate enough in itself, we now need to graft some consequences on the Vote Abroad initiative. This requires further simplification, and the allegiances just delineated should in this perspective be put in the proper voting context. No one is arguing that Kurds of Turkey should vote in Iraq, or Lebanese Shi'is vote in Tehran. What is problematic is the inclusion of the vote of citizens abroad when the domestic situation itself is volatile in terms of basic rights tagged on sectarian or nationalistic constraints. To put it in a comparative context, the example which comes to mind is about the dual nationals in America from Hispanic origins. Should they, could they be allowed to vote in the US for their previous or other 'country'? In his latest book<sup>(66)</sup>, Huntington does not bring up the issue. This failure to discuss an important aspect of sovereignty and identity is telling, especially since Mexican changes (effective or discussed) to the right to vote abroad (essentially for US Mexicans, if the word could be coined) make the issue less perfunctory than one may think.

Again, let's take the Lebanese perspective from a presidential candidate who has to confront it practically, even short of a system which recognises the right of Lebanese citizens to elect their president. The issues that have developed are much deeper than the mere voting right, because organised Lebanese-US citizens confront questions of a new character. Given that US law would obviously not prevent them, so long as they pay their taxes, to contribute to their families, or to businesses, back home, would they be allowed to support the campaign of one given candidate financially? What happens in that case to the taxation/representation principle at the effective root of the democratization of England in the 17th century? What is the effect on allegiance and citizenship overall?

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(66) Samuel Huntington, *Who Are We?: The Challenges to America's National Identity*, New York 2004.

The problem, for the moment, is not critical, in the US or in the Middle East, and there are more pressing issues for democracy taking root in that forlorn region than the right of citizens abroad to cast their vote. I suggest nonetheless that a doubly paradigmatic question is raised: one question concerns duality of identities, a common enough phenomenon, the political/democratic consequences of which will be increasingly raised the world over, in shapes which are yet unknown to the democratic polity. The literature about dual or multiple identities is immense, anthropologically and sociologically, but it is far poorer on such practical terms as the issue of the vote. The second paradigmatic question is specific to the Middle East.

For the Middle East, if our constitutional conundrum of the personal v. territorial law is correct, there is the additional defiance to the Westphalian system and its repercussions on the right to vote abroad. Only some form of Kantian cosmopolitanism could solve some of the resulting problems, an issue that brings us back to international justice and constitutional frameworks, but even then, Kant's reflection never went as far as the practical questions which cosmopolitanism forces upon the debate. Kant himself never asked what happens to the vote of a dual-national cosmopolitan citizen.

## **40. Luncheon working session at UN as presidential statement regarding 1559 debated<sup>(67)</sup>**

Candidate Mallat held a working lunch with UN representatives and leading members of the US Mallat for President Support Committee January 18, as the UN presidential statement regarding UNSCR 1559 and specifically the 'presidential' clause, was being discussed and debated. The text of the presidential statement, adopted unanimously by the Security Council on January 23, noted with regret that provisions of resolution 1559 (2004) have yet to be implemented, in particular the clause stipulating «free and fair presidential elections conducted according to the Lebanese constitutional rules, without foreign interference and influence».

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(67) Campaign Statement on 18 January 2006, New York.

## 41. قوة الكلمة في رئاسة لبنان

### بعيدا عنونا للعالم<sup>(68)</sup>

يروي وجدي:

«1873-1883. رستم باشا المتصرف الوافد الى الجبل بعد داود باشا وفرنكو باشا، مال الى الإقامة في دار أحد الأمراء الشهابيين في الحدث، الأمر الذي حمل أهالي بعيدا الى خطوة لافتة، جمعت شملهم وأدت الى حيازة قطعة أرض في الهضبة المطلة على البحر في بلدتهم، وتقديمها للسلطة من أجل ابتناء دار الحكم عليها.

دوائر المتصرفية تلزم السراي منذ ذلك الحين خريفاً وشتاءً وريبعاً...»<sup>(69)</sup>.

وهكذا، وبفضل أسلافنا والعقل الذي حكموه بشكل مستقبلي منذ قرن ونصف، تحولت بعيدا عاصمة جبل لبنان أيام المتصرفية، فعاصمته الإدارة والسياسة الفعلية منذ الإستقلال، ومقرّاً رئاسته، ووزارة دفاعه، ووزارة خارجيته قريباً إن شاء الله.

نقول: هذا همّة أهل بعيدا منذ قرن ونصف، وعقلهم النير، وبصيرتهم المحكمة، فبفضلهم بات العالم يلفظ 'بعيدا' كما العالم يلفظ اختصاراً لقيادة فرنسا «الإيليزيه»، و«البيت الأبيض» اختصاراً لقيادة العالم. هذا يا أهلنا في بعيدا كان قاعدته قراراً من أسلافنا الميامين، نستوحى به حديثنا اليوم، وهو رحلة بعيدا الى العالم في ثوب رئاسي جديد.

(68) كلمة ألقاها شبلي ملاط في لقاء نظّمته لجنة من نخبة أهالي بعيدا ، 2006/1/14.

(69) وجدي ملاط ، شبلي الملاط شاعر الأرز ، مدرسة التلاقي الوطني ، بيروت 1999 ، ص 23.



نقول أيضاً: بعبدًا متنفساً لبيروت، بعبدًا البيئَة، بعبدًا التي نحبها بأرزها ويرزها، والتي حافظتم عليها رغم الفوضى المستشرية عقدين طويلين، والتي نريدها همتمكم شجرة واسعة وافرة تعيد الى لبنان حقيقة خضراء يتوق اليها الناس من عكار الى الناقورة.

نقول: بعض ريادة بعبدًا اللبانية كان إدارياً، وبعضه كان سياسياً، وبعضه بفضلكم بيئياً. لكن القاعدة الأصيلة كانت أيضاً أدبية، في شاعر الأرز، والشاعر العبقرى تامر، وفرائد الملائم<sup>(70)</sup>، ومساهمات جيلنا الجديد الأكثر تواضعاً نحن في سلالة مجروحة شهادتها، لن نتوقف عندها سوى لما تشكل من إلهام لقوة الكلمة، وقوة الكلمة عنوان حملتنا الرئاسية. آخرون كثر في الجيل الجديد من مؤرخين وشعراء شبان بلغات مختلفة نفتخر بهم وبهن، هم إلهامنا وفخرنا لأن «الكلمة هي البداية» في تعاليم يوحنا العظيمة، «في البداية الكلمة»، أليس على اليراع بنى شاعر الأرز مجده<sup>(71)</sup>؟، والكلمة هي النهاية، وهي كما بات متداولاً منذ شهادة اليراع الكبرى في جبران التويني، الفرق بين النور والظلماء، «تراخت» في وطننا لولا الكلمة «سدلاً على سدل»<sup>(72)</sup>.

نقول: الكلمة عنوان بعبدًا، وريادتها العالمية ما نصبو اليه بإطلاق ترشيحنا اليوم من بعبدًا بهذا العنوان - قوة الكلمة - بين أهلنا وأحبنا. هذا العنوان لبناي طبعاً، وهو عربي طبعاً، إنما بعروبة مختلفة عما طغى على العالم العربي زهاء نصف قرن من العتمة والإستبداد، العروبة البيضاء التي خطها سوية شبلي الملاط وسعد زغلول، العروبة النيرة النابذة لكلّ عنف، العروبة اللبانية الطاهرة.

نقوله أيضاً، والقول طموح: بعبدًا عنواناً للعالم.

نقول: بعبدًا عنواناً لبناي في طرح رئاستنا على العالم، والبوادر طيبة، فكما أننا التقينا في نيويورك مجموعة مميزة في نجاحها في الولايات المتحدة من مدرسة الجمهور، فقد وصلت أعالي

(70) ديوان تامر وشبلي الملاط، الجزء الأول، بيروت 1925؛ ديوان شبلي الملاط، الجزء الثاني، بيروت 1952؛ فريد أمين الملاط، ديوان الفرائد، بعبدًا 1985.

(71) ديوان شبلي، الجزء الثاني، قصيدة الشاعر لأولاده، ص 522.

ودونكم البيان فاتقنوه أليس على اليراع بنيت مجدي

(72) تامر الملاط، قصيدة النمر، ديوان تامر، 1925، ص 40.

وليل تكاد الكف تلمس جلدُه ترامت به الظلماءُ سدلاً على سدلٍ

بعبداء يا أحباب الى أقاصي العالم بقوة الكلمة التي تعلمناها على تلك الهضبة العالمة قبالتنا.  
نقول: هذا حاصل، في رئاستنا ومن دونها، وها هي السفارات قاطبة، تؤم بعبداء، ورمز  
شموها منزل السفير الإيراني على قاب قوسين من محط رحال الدبلوماسية الأميركية التي  
تنتظرها بعبداء ضيفة جديدة على رحابها.

نقول إذاً: بعبداء ملتقى الشرق والغرب، كما أرادها شاعر الأرز في بعض أعظم أبياته:

أيهما الغرب ضيف ذا الشرق خفف	عنه وارهل وأنتما صاحبان
غاية الشرق أن يصيب انطلاقاً	من أسار ونجوة من هوان
فإذا الغرب حرر الشرق فعلاً	فهما عند ذاك يلتقيان <sup>(73)</sup>

نقول ختاماً: الرمز موجود، لكن هدفنا أكثر طموحاً بهذه المعركة الرئاسية الطاحنة التي  
بدأت تتحول عنواناً لتلاقي الشرق والغرب في قيم الحرية.

(73) ديوان شبلي الملائط، الجزء الثاني، 1952، ص 494 .

## 42. ويكون التلاقي بداية جديدة بين الشرق والغرب، فعلاً، بالانتصار «المواطن والقانون» مع شبلي ملاط - «صوت الشعب»<sup>(74)</sup>

س - تم الاتفاق بينكم وبين النائب جنبلاط على وضع خطة تتعلق بتصدير البند الديموقراطي في قرار الامم المتحدة 1559. فما هي هذه الخطة؟

ج - هناك أمران يجتمعان في التباس هذا الموضوع، الاول، هو نص القرار 1559 وهو يشمل ثلاثة مواضيع اساسية: السيادة، اي ضرورة مغادرة القوات الاجنبية من لبنان؛ وموضوع الحياة الطبيعية المتعلق بالمليشيات، اي انه يجب الا يكون هناك قوة عسكرية مستقلة عن الدولة، وهذا مرتبط بسلاح حزب الله والسلاح الفلسطيني؛ اما البند الثالث والاهم، هو يقول كما ورد حرفياً بالنص: «ان الانتخابات الرئاسية المقبلة يجب ان تتم من دون تدخل او تأثير اجنبي». وهذا القرار صدر في الثالث من ايلول 2004 اي قبل يوم واحد من التمديد للرئيس اميل لحود. التمديد، واصبح ذلك معروفاً، تم قسراً ومن جراء التدخل السوري المباشر ضغطاً على الرئيس المرحوم رفيق الحريري والنواب. ما يعني ان هناك خرق واضح في بند اساسي وهو البند الرئاسي الديموقراطي. هذا البند، برأينا وبرأي وليد جنبلاط يجب ان يكون له الاولوية المطلقة. اما موضوع السيادة فقد طبق بأغلبته. والبند المتعلق بسلاح الميلشيات، له وضع خاص واهميته تقل كثيراً عن البند الرئاسي لأن الأخير مرتبط بتوقيف الحياة الدستورية والسياسية والديموقراطية في البلاد.

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(74) جزء من مقابلة على إذاعة صوت الشعب مع الصحافي عبد الكريم حجازي ضمن برنامج «المواطن والقانون» في 2006/1/12.

س- ولكن ما هي آلية ازاحة الرئيس لحدود؟

ج- هناك وتيرة دولية اليوم لها طابع قانوني واضح. علينا ان نحبي هذا البند المنسي (البند الديموقراطي من القرار 1559). وعلينا ان نتذكر ان الوتيرة الاجرامية التي وقعت تحت وطأتها البلاد كانت بسبب التمديد. اما نسيان هذا البند فنتاج عن ظروف دولية صعبة. اما الواضح اليوم من خلال عدم زيارة وزير الخارجية البريطاني جاك سترو لرئيس الجمهورية، هو ان التمتع يعود لسبب قانوني وهو عدم شرعية التمديد له. ولقد قال ديتليف ميليس ان الدافع لمقتل الرئيس الحريري هو التمديد.

س- هل يحق للرئيس بشار الاسد ان يمتنع عن الاستجابة لمطلب اللجنة الدولية للتحقيق في مقتل الرئيس الحريري بالتحقيق معه، لا سيما وان المحكمة الدولية تعطي حصانة لرؤساء الحكومة ووزراء الخارجية؟

ج- هناك جدل حول موضوع الحصانة مرتبط بقرار محكمة العدل الدولية كما حصل في الجرائم السياسية التي ارتكبتها وزير خارجية الكونغو. لكن الجواب قانونياً عن هذا الامر واضح كما هو صادر عن محكمة العدل الدولية، وهو أنه لا يتمتع رؤساء الدول او وزراء الخارجية بحصانة عندما تكون الهيئة المخولة التي تتعاطى معهم هي هيئة دولية. لذا لا يستطيع الرئيس الاسد رفض استجوابه من حيث القانون.

س- بالنسبة للقرار 1644، هناك من قال إنه اعطى البذرة لانشاء المحكمة الدولية، وهناك من قال انه ألغى الفكرة تماماً. فما رأيكم؟

ج- اننا وطاقم في نيويورك من اللبنانيين الذين نجحوا نجاحاً باهراً هناك، نعمل معهم مع مجلس الامن على مواضيع أساسية وهامة لمستقبل هذا البلد. والموضوع الاساسي الذي نعمل عليه هو محكمة دولية للتحقيق بكافة الاغتيالات من غازي أبو كروم الى جبران تويني، خاصة وأن القضاء اللبناني قاصر عن تولي هذه المهمة لان القضاة معرضون للتهديد والخطر. ثانياً، انه ليس طبيعياً بحسب النسق الواضح في سلسلة الجرائم الذي حدثت أن لا تشكل محكمة دولية للنظر في كافة هذه الجرائم. تطورت العملية كثيراً دولياً من ناحية قبول فكرة المحكمة الدولية الشاملة لجميع الجرائم. ولقد اجتمعنا مع رئيس الوزراء فؤاد السنيورة والنائب وليد جنبلاط لأجل هذه الغاية. في مجلس الامن تصدر، عادة، مسودة قرار قبل صدور القرار النهائي، وهذه المسودة يمكن ان تضعف او تقوى. ويرتبط إضعافها او تقويتها بتحريك جدي، وصدرت

المسودة قبل مقتل تويني. حاولنا التواصل مع أهل الضحايا لكي يشكّلوا «لوبي» ويجمعوا في مجلس الامن بهدف تقوية هذه المسودة. لكن الأمور جمدت عند اغتيال جبران تويني ورفيقه. هذا، ووقع خطأ من قبل الحكومة الفرنسية والحكومة اللبنانية على هذا الصعيد. تأخرت الحكومة اللبنانية بطلب تشكيل المحكمة الدولية. وموضوع الضغط الذي يتمثل بوجود مجموعة من أهالي الضحايا قد غاب. ومن ثم الخطأ الفرنسي، اذ قال الفرنسيون ان دور لجنة التحقيق في مقتل الرئيس الحريري ينتهي في 15 كانون الأول، وهذا يعني انه كان يجب التوصل الى قرار بشأن المحكمة الدولية قبل هذا التاريخ، لأن الطابع القانوني يزول بعد هذا التاريخ. هذا أضعف المسودة فظن الشعب اللبناني الذي كان قد اطلع على المسودة أننا خسرنا في إصدار قرار بشأن إنشاء محكمة دولية. غير أن ذلك غير صحيح لأن النص واضح حيث يقول: «أخذت الامم المتحدة علماً بطلب الحكومة اللبنانية بإنشاء محكمة ذات طابع دولي للنظر بكافة الاغتيالات». برأيي إن الأهم هو إنشاء محكمة راسخة دولياً. تأخير المحكمة الدولية ليس لصالح أهالي الضحايا، ولا لصالح المتهمين او الموقوفين.

هذا وإن المحكمة الدولية يجب أن تتضمن قضاة لبنانيين، على الأقل لموضوع اللغة.

ومن ناحية أخرى إن الاعتبارات التي كانت تؤخر إنشاء المحكمة الدولية، وكان الرئيس السنيورة يأخذها بعين الاعتبار، أي رفض حزب الله وحركة أمل لهذا الموضوع، قد زال، لأنهم يعلمون أنه يجب عدم التأخير بالنظر في قضية الموقوفين الأربعة. ومن ثم هناك سابقة، وهي قضية اختفاء الامام موسى الصدر، الذي لم يُشكّل للنظر فيها، محكمة دولية.

س- ما هو تأثير تصريحات نائب الرئيس السوري عبد الحلیم خدام على مسار تحقيقات اللجنة الدولية؟

ج- أهمية حديث خدام من الناحية القانونية البحتة هي أن الرجل يطرح شهادة خاصة من موقع السلطة من الداخل. وهذا مقلق جداً إذ يقول إنه مقتنع بأن الرئيس الاسد أعطى الامر بقتل الرئيس الحريري. وأنا عندي انزعاج شديد ادبياً وتاريخياً بان يُثبت أن الرئيس الاسد او الرئيس لحود مسؤولان عن هذا الاغتيال.

س- هل تبادل العلاقات الدبلوماسية بين سوريا ولبنان يؤثر على المصالح المشتركة بينهما؟

ج- العلاقات المميزة في ظل اتهام الرئيس السوري بقتل رئيس الوزراء اللبناني أمر مربك. لكن أحبذ معالجتها عبر إنشاء علاقات دبلوماسية مع سوريا، وذلك لتسهيل التواصل مع المسؤولين السوريين، وإنسانيا لتحسين أوضاع العمال السوريين في لبنان الذين يفتقدون الى مرجع هنا، وهم في وضع مزير.

س- والنسبة الى ترسيم الحدود في مزارع شبعا؟

ج- لا تكون المزارع اللبنانية إلا اذا قدمت وثيقة رسمية مكتوبة من قبل الدولة السورية مرفقة بترسيم مفصل بخريطة الحدود تفيد أن المزارع لبنانية. لكن هذا الامر لم يحدث لأن له طابع سياسي أكثر منه قانوني.

هناك قرية مرتبطة بـ«أوندوف» UNDOF وهي المجموعة العسكرية التابعة للأمم المتحدة والمسؤولة عن مناطق التماس والمناطق المحتلة من قبل اسرائيل في حرب 1967. وهذه القرية تقول إن المزارع سورية، وهي القرية الأقوى في القانون الدولي. اي أن تلك المناطق التي خضعت منذ حزيران 1967 لسلطة الامم المتحدة المتمثلة بـ«أوندوف» تشير الى ان هذه المنطقة هي سورية كسائر المناطق التي تخضع لسلطة «أوندوف». اذا أرادت الحكومة السورية أن تزيل هذه القرية عليها أن تقدم كتاباً رسمياً واضحاً مع حدود مرسومة، تقول إن هذه المزارع لبنانية، او إنها كانت سوريا وتتنازل عنها للدولة اللبنانية على شرط ان تقبل الدولة اللبنانية ذلك. عندها يتم الاقرار بأن ترسيم الخط الأزرق خاطئ ويجب إعادة تصحيحه.

## 43. مناسبتان من وحي كمال جنبلاط

### الوظيفة الاجتماعية لفلسفة رئاسية<sup>(75)</sup>

مناسبتان في مناسبة، ولما لا؟

مناسبتان في راشيا اسم أولاهما التواصل مع الأحاب، لأنها ليست أوّل مرّة، وإن شاء الله لن تكون آخر مرّة نتواصل كلاماً وودّاً؛ مناسبة حملة رئاسية تابعها مختلف لأنكم بتضحياتكم رفعتم عن هذا البلد وطأة التدخل اليومي الإعتباطي في كل شاردة وواردة من أمورنا الدنيوية التي وحدهم اللبنانيون - وليس السوريين ولا الأميركيين ولا الأوروبيين - نحولون تقريرها، فيما بيننا وفي نقاش عنوانه تقرير المصير، وتقرير المصير رديف الديمقراطية متى صحّ تحديدهما قانوناً.

مناسبة أولى اسمها تواصل في عنوان الديمقراطية الأسمى، وهو التنافس الحرّ، الواسع الأطراف، الجامع أطراف الجمهورية كلها، على ما يصحب الطامح الى المسؤولية العليا في الجمهورية من ضرورة إجابته على أسئلة الناس. صحيح أن جمهوريتنا لا تزال قاصرة عن المبدأ الديمقراطي الأرفع، وهو ببساطة أن الشعب يختار مسؤوليه في القمّة مباشرة، أي المسؤولين في السلطة التنفيذية، وليس فقط نوابه في المجلس التشريعي. هذا لا يمنع، في ساحة الحرية الناشئة في بلادنا، أن نصحح النواقص قدر الإمكان، بهذا السعي الى التواصل مع أهلنا في راشيا، كما نتواصل مع أهلنا في عكار، وفي الجنوب، وفي زحلة، وفي المتن، وفي طرابلس، وهي

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(75) حديث المرشح الرئاسي شبلي ملاط في راشيا في 2006/1/3.

كلها محطات المسؤولية التي نصبو الى تلبية دعوات أهلنا وشعبنا فيها قدر الإمكان. هذا ما نسميه سياسة التواصل politique de proximité، ليس بالحقيقة لأننا غافلون عما يشوب ديمقراطيتنا الناشئة مجدداً من رواسب الإنحطاط، عما يشوبها من نواقص لا بد من معالجتها، بل لأن الخدمة العامة تبدأ بمناسبة كتلك التي نعيشها الآن سوياً: هموم الناس وأولوياتهم وخصوصياتهم في كل منطقة، وعظمة اختلافهم، كما عظمة اتحادهم.

مناسبة أولى إذاً عنوانها الكلام، والديمقراطية، والحجة تقرر الحجة، مولدة شرارة العقل، وحكم القانون.

هنالك مناسبة أخرى متضافرة مع الحملة الرئاسية في سياسة التواصل هذه، وهي تنشأ من مواهب خاصة جاءت بها راشيا الى العالم في شعرائها وكتابها، أفترصها، مع الاعتذار، بوعد قديم الى أهلنا في راشيا الحرّة نحياه في هذه المناسبة، وعنوانها كمال جنبلاط، جنبلاط والوظيفة الاجتماعية للفلسفة، وموقعنا من هذا البعد لفكره العميق، وهو بعد كان مجهولاً حتى أثرت المكتبة الجنبلاطية، وهي المكتبة اللبنانية والعربية، بتلك المساهمة المبدعة من شوقي أبو لطيف، «كمال جنبلاط والوظيفة الاجتماعية للفلسفة». السؤال، في تضافر المناسبات، يتجلى بما ورد في هذه الدراسة من معالجة «للمشكلة الخطيرة» التي «تظهر للمتبرصين في الأمور السوسولوجية، وهي مشكلة الانفصال بين العقل والسياسة، مما يعيق الفلسفة عن تأدية وظيفة اجتماعية في الواقع السياسي اللبناني». (كمال جنبلاط والوظيفة الاجتماعية للفلسفة، بيروت 2000، ص 46-47)

هو العقل وحده قادر على جمع المستويات الإنسانية الثلاثة، الفلسفة، والإجتماع، والسياسة. أما تراث جنبلاط الأفلاطوني، منذ أولى مداخلاته السياسية العظيمة، في «رسالته كئائب (1947)»، فهو ما غاب عنا في لبنان منذ تضحيته العظمى في 16 آذار 1977.

بالعودة الى هذه الدراسة، يتضح أن مفهوم القانون عند كمال جنبلاط كان أرقى من المفهوم المتداول لدى أهل القانون: هو سنّة الحياة بما هي تضم القوانين التي يسنّها الإنسان، إنما هي أوسع مدىً وروحاً، تجمع في فلسفته التراث الغربي مع التراث الشرقي، لا سيما الهندي منه. «تبدو القوانين، لدى جنبلاط، مرتكزاً وراثياً لعلم السياسة، لأن العالم الفرضي، عالم الصوت والشكل واللمس والمذاق والشم، هو عالم لا يمكن أن يكون موجوداً، بحد ذاته». (الوظيفة الاجتماعية، ص 298)



طموحنا لرئاسة كمالية لا يرقى الى هذا المستوى. صحيح أننا نتناول قدر الإمكان رفع العبارة الى طاقات أدبية ليست متداولة في الشأن العام، إلا أن الوظيفة الاجتماعية للفلسفة كما رأها كمال جنبلاط تحمل عندنا أوجهاً لها طابع أدنى مرتبةً مما نجح هو وحده بالارتفاع اليه.

ما نريده لا يرقى الى العالم الكمالى الفرضي، هو أكثر تواضعاً، وهو حقيقة عالم الصوت والشكل واللمس والمذاق والشم، في تعبيره اليومي. فلا يخفى على أحد عمق الأزمة المعيشية التي نعاني منها في هذا البلد، ولا بدّ من معالجتها اقتصادياً ليعود الى كلّ منا في لبنان أفقٌ لبنانيّ، وليس رحيل الإغتراب الصعب في آفاق المهجر. في الفترة التي عاشها كمال جنبلاط، لم يكن هذا الطرح الأساسي، وكانت البلاد قد ازدهرت منذ الإستقلال على نحو لم يُلغِ الإغتراب، إنّما حدّ من بعض تواتره على حياة اللبنانيين على امتداد قرنين.

الوتيرة الحالية مختلفة، لأن الأزمة المستمرة لا تسمح للوظيفة الاجتماعية للفلسفة أن تقتصر على ما انتهت اليه «النظرة الكمالية... من منطلق التنظير السياسي؛ إن تطلعاً كمالياً الى تحقق الإنسجام والتوحد في المجتمع اللبناني، ونمو الوعي الوطني، وعلمنة الدولة، هو تطلع، لتوظيف المفهوم التقدمي، المنبثق عن مقولة اقتران الوعي بالحرية؛ كما أن التطلع الى اتحاد عربي، هو تلبية للتقدم نحو الظاهرة القومية، بمعناها التوحيدي المنفتح إنسانياً» (الوظيفة الاجتماعية، ص 312)؛ أو حتى «من منطلق الفلسفة؛ باعتبارها، لدى جنبلاط، تفسيراً لواقع الحياة، لواقع الوجود، والوصول من خلال هذا التفسير الى الإلتقاء بين التغيير والثبات، بين التبدل والتحقق، مما يستلزم رؤية صوفية تتميز بتناسها في المعاش، وبالتالي بكونها فلسفة اجتماعية.» (م. ن.)

الوتيرة الحالية، وهي وتيرة ملّحة، هي انتصار الحرية بطاقتي قيادي جديد يمثل هذا المجتمع البطل الذي تجلّى في لبنان هذه السنة، شعبياً في ساحات بيروت، وقيادياً في أعظم التضحيات، من مروان الى جبران، على خطى قربان معلّم جيل القرن العشرين.

مناسبتان في مناسبة واحدة يأتي بها المستقبل توظيفاً لأرقى الفكر وأرقى التضحيات، عنوانها رئاسة بثوب جديد تعطي فعلاً بعض الوظيفة الاجتماعية للفلسفة الكمالية.

