

# JUDICIAL SOLUTIONS FOR POLITICAL SECTARIANISM: LESSONS FROM LEBANON

SARAH ABDELBAKI\*

## ABSTRACT

*For some countries, political sectarianism is an enduring reality where solutions to manage sectarian tensions and to maintain domestic stability are long overdue. This Note considers Lebanon as a case study, suggesting a reformed Lebanese Constitutional Council (“LCC” or “the Council”) as a critical solution. The LCC holds potential as a judicial body to protect minority rights in a heterogeneous society where executive and legislative powers are insufficient to complete that goal. This outcome requires three major reforms of the LCC: (1) implementing mechanisms to increase judicial independence, (2) allowing the Court to engage in constitutional interpretation, and (3) mandating representation by sect on the Court. Using Lebanon as an example, this Note proposes that a constitutional court with these qualities may be able to quell tensions in any multi-sect country, including Syria and the United States.*

I.	INTRODUCTION . . . . .	126
II.	CONSTITUTIONAL HISTORY OF LEBANON . . . . .	130
	A. <i>The Forgotten Judiciary</i> . . . . .	133
	B. <i>Conceptual Assumptions</i> . . . . .	137
III.	SUGGESTED REFORMS FOR THE LCC . . . . .	139
	A. <i>Maintaining Judicial Independence.</i> . . . . .	139
	B. <i>Restoring Constitutional Interpretation Powers</i> . . . . .	142
	C. <i>Instituting Representation by Sect</i> . . . . .	144
IV.	LESSONS ON CONSTITUTIONAL DESIGN FOR MULTI-SECT STATES . . . . .	147
	A. <i>Syria</i> . . . . .	147
	B. <i>The United States.</i> . . . . .	149
V.	CONCLUSION . . . . .	151

---

\* Sarah Z. Abdelbaki graduated from the Georgetown University Law Center class of 2025 with a Juris Doctor and as a Global Law Scholar. Sarah was the Senior Diversity, Equity, and Inclusion Editor of Volume 113 of *The Georgetown Law Journal*. Sarah graduated with distinction from the University of Michigan Ann Arbor class of 2022 with a B.A. in Economics and International Studies and a minor in French. This note was a submission for the course “Comparative Constitutional Law,” a seminar at Georgetown University Law Center taught by Professor Yvonne Tew. This Note does not reflect the views of the author’s employer. © 2026, Sarah Z. Abdelbaki.

## I. INTRODUCTION

The Buddhist monk Walpola Rahula Thero describes sectarianism as “a hindrance to the . . . understanding of truth.”<sup>1</sup> Adnan Pachachi, the former Iraqi representative to the United Nations, designates sectarianism as a concept that imprisons members of a society.<sup>2</sup> A simple dictionary definition lists sectarianism as strong adherence by individuals in a society to their religious, political, or other belief groups.<sup>3</sup> In sum, sources rarely defend the virtues of sectarianism.

A country diverse in sects does not automatically adopt sectarian authoritarianism.<sup>4</sup> At a basic level, multi-sect societies can instead rely on classic consociationalism—power sharing through allocating responsibility across representatives of each sect—to form their political institutions.<sup>5</sup> Some scholars posit that consociationalism “naturally biodegrade[s]” into sectarian authoritarianism, which entrenches dangerous divisions between diverse identities of a state—religious, ethnic, or otherwise.<sup>6</sup> Sectarian tension in turn diminishes institutional development by suppressing collective action, distorting incentives to engage in productive political behavior, and ultimately making political gridlock inevitable.<sup>7</sup>

1. WALPOLA RAHULA, *WHAT THE BUDDHA TAUGHT* 29 (1959).

2. Robert F. Worth, *As Violence Ebbs, Iraqi Leaders Seek to Contain the Crisis*, N.Y. TIMES (Feb. 24, 2006), <https://www.nytimes.com/2006/02/24/international/middleeast/as-violence-ebbs-iraqi-leaders-seek-to-contain-the.html>.

3. See *Sectarianism*, CAMBRIDGE DICTIONARY, [https://dictionary.cambridge.org/us/dictionary/english/sectarianism#google\\_vignette](https://dictionary.cambridge.org/us/dictionary/english/sectarianism#google_vignette) (last visited Dec. 11, 2024); *Sectarianism*, OXFORD REFERENCE, <https://www.oxfordreference.com/display/10.1093/oi/authority.20110803100451527> (last visited Dec. 11, 2024). Note that these definitions do not constrain sects to religious groups.

4. See generally Paul Dixon, *Power-Sharing in Deeply Divided Societies: Consociationalism and Sectarian Authoritarianism*, 20 STUDS. IN ETHNICITY & NATIONALISM 117 (2020) (describing different forms of power sharing that do not all rely on sectarian authoritarianism to manage pluralistic societies).

5. See *Consociation*, ENCYCLOPEDIA PRINCETONIENSIS, <https://pesd.princeton.edu/node/246> (last visited Dec. 11, 2024); Dixon, *supra* note 4, at 8-19. Note that, split between classic and revisionist theories, “[l]eading consociationalists Lijphart, McGarry & O’Leary disagree with each other on the [specific] definition of consociationalism and therefore provide wildly varying claims for the theory’s success.” *Id.* at 125.

6. Dixon, *supra* note 4, at 120; *Consociation*, *supra* note 5; Jomana Qaddour, *Governing Diverse Societies and the Limits of Constitutionalism in Syria*, 42 B.U. INT’L L.J. 297, 357 (2024).

7. Thomas J. Emery & Rok Spruk, *Long-term Effects of Sectarian Politics: Evidence From Lebanon*, 22 SOCIO-ECON. REV. 788, 788 (2023); see SUJIT CHOUDHRY, *CONSTITUTIONAL DESIGN FOR DIVIDED SOCIETIES* 5-6 (2008); see generally Allison McCulloch, *Diminishing Returns? Conceptualizing Power-Sharing and its Dilemmas*, in *REVISITING THE POLITICS OF SECTARIANISM AMIDST LEBANON’S CONCOMITANT CRISES* 11 (2022), <https://www.sciencespo.fr/kuwait-program/wp-content/uploads/2022/10/kfas-lebanon-roundtable-roundtable-summary-booklet-june-2022.pdf> (arguing that consociationalism brings forth a “vicious cycle of immobilism, intransigence and institutional collapse”).

## JUDICIAL REFORM IN LEBANON

However, entrenched political sectarianism is extremely difficult to weed out, forcing countries to work around the system.<sup>8</sup> This description captures the Lebanese condition, where consociationalism degraded into sectarian governance.

The Lebanese system originated informally in the late 1800s to foster peaceful coexistence between Muslim, Christian, Druze, and other communities around Mount Lebanon.<sup>9</sup> This ultimately resulted in an unwritten National Pact of 1943, which created parliamentary representation between major sects, and famously reserved the presidency for a Maronite Christian, the position of prime minister for a Sunni Muslim, and the position of speaker of Parliament for a Shia Muslim.<sup>10</sup> Lebanon's political sectarianism was formalized in 1989 by the Taif Agreement following a nearly fifteen-year Civil War.<sup>11</sup> The Taif Agreement was mostly codified into the Lebanese Constitution in 1990, including a notable provision from the Agreement that established the LCC.<sup>12</sup> The Taif Agreement simultaneously planned to abolish political sectarianism as a “fundamental national objective” through slowly ending quotas in Lebanon's judiciary, military, public institutions,

---

8. See Maya Mikdashi, *What Is Political Sectarianism?*, JADALIYYA (Mar. 25, 2011), <https://www.jadaliyya.com/Details/23833> (describing the example of Lebanon, where “[r]emoving political sectarianism is not a matter of changing a few laws”). This argument is also supported by the plethora of academic text focused on finding solutions for undoing sectarianism. See, e.g., Nader Hashemi, *The Politics of Sectarianism: What Causes Sectarian Conflict, and Can It Be Undone?*, ABC (Oct. 17, 2019), <https://www.abc.net.au/religion/the-middle-east-and-the-politics-of-sectarianism/11613338>; Tawakkol Karman, *Overcoming the Sectarian Challenge to Democracy*, PROJECT SYNDICATE (Mar. 11, 2025), <https://www.project-syndicate.org/magazine/democracy-syria-middle-east-equal-citizenship-must-replace-sectarianism-by-tawakkol-karman-2025-03>; Morten Valbjørn, *Three Ways of Countering Sectarianism – Challenges and Dilemmas*, LEB. AM. UNIV., INST. FOR SOC. JUST. & CONFLICT RESOL. 1, 1 (2021), <https://soas.lau.edu.lb/files/Morten-Valbjorn-Occasional.pdf>; Zahraa Alribeawi, *Iraq's Opposition Builds a Blueprint for Dismantling a Corrupt Sectarian System*, ARAB CTR. (June 28, 2022), <https://arabcenterdc.org/resource/iraqs-opposition-builds-a-blueprint-for-dismantling-a-corrupt-sectarian-system/>.

9. Joseph Bahout, *The Unraveling of Lebanon's Taif Agreement: Limits of Sect-Based Power Sharing*, CARNEGIE ENDOWMENT FOR INT'L PEACE (May 16, 2016), <https://carnegieendowment.org/research/2016/05/the-unraveling-of-lebanons-taif-agreement-limits-of-sect-based-power-sharing?lang=en>.

10. *Id.* This model stands today, in a country where Christians stand at 30.5% of the population, Sunni Muslims at 31.2%, and Shia Muslims at 32.2% as of 2023. *2023 Report on International Religious Freedom: Lebanon*, U.S. DEP'T OF STATE, <https://2021-2025.state.gov/reports/2023-report-on-international-religious-freedom/lebanon/> (last visited Mar. 26, 2026).

11. See generally Taif Agreement, Nov. 4, 1989, PERMANENT MISSION OF LEBANON TO THE U.N., [https://www.un.int/lebanon/sites/www.un.int/files/Lebanon/the\\_tauf\\_agreement\\_english\\_version\\_.pdf](https://www.un.int/lebanon/sites/www.un.int/files/Lebanon/the_tauf_agreement_english_version_.pdf) (Leb.).

12. *Lebanon 1926 (rev. 2004)*, CONSTITUTE, <https://www.constituteproject.org/countries/Asia/Lebanon>; Taif Agreement, *supra* note 11; THE LEBANESE CONSTITUTION, May 23, 1926, art. 19 (Leb.).

and independent agencies.<sup>13</sup> This plan was codified in Article 95 of the Lebanese Constitution but has yet to come to fruition<sup>14</sup>—in fact, quite the opposite result has transpired.

Today, political sectarianism in Lebanon is widely blamed for entrenching divisions and sowing bureaucratic corruption and inefficiency, including through “an intricate web of clientelist[] networks.”<sup>15</sup> Clientelism involves a system where sect leaders reportedly force citizens to maintain party loyalty in exchange for job positions reserved for members of their sect.<sup>16</sup> In particular, Hezbollah—a Shia political party and militia—exploited the sectarian system to garner domestic power.<sup>17</sup> Many assign fault to the political deadlock and “institutionalization of impunity” brought about by political sectarianism for recent national tragedies such as the 2020 explosion in Beirut’s port, the collapse of the national economy, and the waste management crisis.<sup>18</sup> In these ways, among others, political sectarianism has failed to protect fundamental rights of the Lebanese population as originally intended by the Lebanese consociationalist system.<sup>19</sup>

Beyond Lebanon, failed cases of political sectarianism can be evidenced across the Southwest Asia and North Africa (SWANA) region.<sup>20</sup>

---

13. Taif Agreement, *supra* note 11, art. II.G.

14. THE LEBANESE CONSTITUTION, May 23, 1926, art. 95 (Leb.).

15. Carmen Geha, *Co-optation, Counter-Narratives, and Repression: Protesting Lebanon’s Sectarian Power-Sharing Regime*, 73 MIDDLE E. J. 9, 12 (2019); see Rebecca Collard, *How Sectarianism Helped Destroy Lebanon’s Economy*, FOREIGN POL’Y (Dec. 13, 2019), <https://foreignpolicy.com/2019/12/13/sectarianism-helped-destroy-lebanon-economy/>; Imad K. Harb, *The Failure of Political Sectarianism in Lebanon*, ARAB CENT. WASHINGTON D.C. (Sep. 4, 2024), <https://arabcenterdc.org/resource/the-failure-of-political-sectarianism-in-lebanon/>; see Makram Ouais, *Militiamen Turned Politician: How Sectarian Authoritarianism Destroyed Lebanon*, in REVISITING THE POLITICS OF SECTARIANISM AMIDST LEBANON’S CONCOMITANT CRISES 16, 16-17 (2022), <https://www.sciencespo.fr/kuwait-program/wp-content/uploads/2022/10/kfas-lebanon-roundtable-roundtable-summary-booklet-june-2022.pdf>; Yasmeen Yaqoobi, *Rule by Identity: Why Sectarian Power-Sharing is Not the Answer to Ethnoreligious Conflict in Post-War Lebanon and Bosnia and Herzegovina*, TRENDS RSCH. & ADVISORY (Aug. 9, 2022), <https://trendsresearch.org/insight/rule-by-identity-why-sectarian-power-sharing-is-not-the-answer-to-ethnoreligious-conflict-in-post-war-lebanon-and-bosnia-and-herzegovina>.

16. Collard, *supra* note 15.

17. Harb, *supra* note 15.

18. Alessandra Thomsen, *An (In)escapable Fate? Lebanon’s Endemic Challenges and Their Manifestation in the Beirut Blast*, in REVISITING THE POLITICS OF SECTARIANISM AMIDST LEBANON’S CONCOMITANT CRISES 25, 25-26 (2022), <https://www.sciencespo.fr/kuwait-program/wp-content/uploads/2022/10/kfas-lebanon-roundtable-roundtable-summary-booklet-june-2022.pdf>; Geha, *supra* note 15, at 19-21; McCulloch, *supra* note 7, at 11.

19. See Yaqoobi, *supra* note 15.

20. See Daniel L. Byman, *Sectarianism Afflicts the New Middle East*, BROOKINGS (Feb. 1, 2014), <https://www.brookings.edu/articles/sectarianism-afflicts-the-new-middle-east/#:~:text=In%20Iraq>

## JUDICIAL REFORM IN LEBANON

Although scholars generally concur that sectarian systems are inherently flawed,<sup>21</sup> they also agree that such systems may be irreversible; forcing unification of diverse sects may be unrealistic where sect lines are so ingrained in countries such as Lebanon, Iraq, Bosnia-Herzegovina, and others.<sup>22</sup> One scholar goes so far as to argue that even with popular antagonism toward Lebanon's sectarian system, "the capacity of non-sectarian actors to leverage change to their advantage is chronically limited by power-sharing as a hostile environment for non-sectarian politics."<sup>23</sup> Although sectarianism in this corrupted form should certainly be addressed and reworked, it is unlikely that power sharing among sects will entirely disappear in Lebanon for the foreseeable future.

In spite of this reality, most literature continues to focus on attacking political sectarianism in Lebanon as opposed to proposing reforms compatible with classic consociationalism in a multi-sect society.<sup>24</sup> Further, the suggestions for reform that actually factor in power-sharing are geared toward the executive and legislative branches.<sup>25</sup> Even less literature proposes reforming Lebanon's power-sharing system through transforming the LCC, an entity that reviews the constitutionality of laws and election-related conflicts.<sup>26</sup>

This Note opens with a brief review of Lebanon's constitutional history and sectarian roots, particularly as a result of the Taif Agreement. A deeper dive into the Lebanese judiciary explores the sparse but notable literature on constitutional courts in Lebanon and the SWANA region. This Note then suggests that Lebanon should focus its energy on reforming the LCC through three mechanisms: (1) implementing mechanisms to strengthen judicial independence and separation of

---

%2C%20the%20Shia%20majority,ease%20tensions%20among%20their%20populations.&text=The%20Brookings%20Institution%20is%20committed,of%20its%20author(s).

21. See *supra* notes 4, 6-7.

22. Qaddour, *supra* note 6, at 355 ("Forcing communities to be seen as part of one unified community, which has proven to be unrealistic, can become an oppressive task, demanding one erase parts of his or her identity."); *Consociation*, *supra* note 5.

23. John Nagle, *Protesting Power-Sharing: Placing the Thawra in Recent Waves of Contentious Politics*, in REVISITING THE POLITICS OF SECTARIANISM AMIDST LEBANON'S CONCOMITANT CRISES 19, 20 (2022), <https://www.sciencespo.fr/kuwait-program/wp-content/uploads/2022/10/kfas-lebanon-roundtable-roundtable-summary-booklet-june-2022.pdf>.

24. John Nagle refers to this system as the inclusionist school of thought, which "characterizes efforts [of political reform in Lebanon] to enter into and work within the power-sharing system." *Id.*

25. See, e.g., Simon Badran, *Lebanon's Presidential Vacancy: An Opening for Constitutional Reform*, CONSTITUTIONNET (Oct. 7, 2016), <https://constitutionnet.org/news/lebanons-presidential-vacancy-opening-constitutional-reform-0>.

26. *Jurisdiction over Electoral Disputes*, CONST. COUNCIL, <https://cc.gov.lb/en/the-council/jurisdiction-of-the-council-on-constitutionality/> (last visited Nov. 21, 2025).

powers, (2) granting it constitutional interpretation powers, and (3) requiring representation by sect on the court. This Note is far from a defense of sectarianism;<sup>27</sup> instead, these reforms are meant to protect diverse voices in Lebanon, where popular confidence in the legislature and executive is low.

Lebanon is not the only country that stands to learn from these suggestions. Apart from countries traditionally recognized by existing literature as politically sectarian, this Note argues that the judiciaries of Syria and the United States—both countries with evidence of schismatic qualities—should consider consociationalist reforms.

## II. CONSTITUTIONAL HISTORY OF LEBANON

Unique among other constitutions in the SWANA region,<sup>28</sup> the Lebanese Constitution has remained in effect with only a few amendments since 1926, when France introduced the Republic of Lebanon as a separate political entity under its mandate.<sup>29</sup> The Constitution established a parliamentary form of government whose structure and early development were marked by French influence.<sup>30</sup> The political structure outlined in this constitution is preserved today, with the Parliament acting as the legislative branch alongside an executive branch that consists of the president, the prime minister, and the Council of Ministers.<sup>31</sup>

---

27. See *infra* Part II.B (discussing the difference between sectarianism and consociational democracy).

28. *Comparative Timeline of Constitutions in Asia*, CONSTITUTE, <https://www.constituteproject.org/countries/Asia> (last visited Feb. 7, 2026) (exhibiting a timeline that shows, for example, a new 2012 constitution in the Syrian Arab Republic, a new 2005 constitution in Iraq, a new 2003 constitution in Qatar, a new 1996 constitution in Oman, and a new 1992 constitution in Saudi Arabia).

29. Harb, *supra* note 15; ISSAM SALIBA, *LEBANON: CONSTITUTIONAL LAW AND THE POLITICAL RIGHTS OF RELIGIOUS COMMUNITIES 1* (2010), <https://tile.loc.gov/storage-services/service/II/lglrd/2018298839/2018298839.pdf>.

30. See Vida Hamd, *Overview of the Rule of Law in Lebanon 5* (Rule of L. Working Paper Series, Working Paper No. 21, 2012), [https://kpsrl.org/sites/default/files/publications/files/818\\_overview\\_of\\_the\\_rule\\_of\\_law\\_in\\_lebanon.pdf](https://kpsrl.org/sites/default/files/publications/files/818_overview_of_the_rule_of_law_in_lebanon.pdf); see generally Magnus Nordanskog, *The Legal System of Lebanon: From French Influence to Globalisation and European Community Law* (2002) (LL.M thesis, University of Lund) (on file with University of Lund Faculty of Law), <https://www.lunduniversity.lu.se/lup/publication/1560682> (highlighting the French influence on the Lebanese judicial system); Ussama Makdisi, *The Modernity of Sectarianism in Lebanon*, MIDDLE E. RSCH. & INFO. PROJECT (1996), <https://merip.org/1996/09/the-modernity-of-sectarianism-in-lebanon/> (describing the implications of French colonial ideology on nascent Middle Eastern states).

31. *Lebanon Government*, COUNTRY REPS., <https://www.countryreports.org/country/Lebanon/government.htm> (last visited Dec. 11, 2024).

## JUDICIAL REFORM IN LEBANON

However, Lebanon's political sectarianism was not crystallized until Lebanon gained independence from France in 1943.<sup>32</sup> At this point, a clear line separated Muslims preferring Arab unity from Christians desiring to align the country with Western powers.<sup>33</sup> In response, the unwritten National Pact of 1943 settled tensions by allocating the presidency, premiership, and speakership of parliament respectively to a Maronite Christian, a Sunni Muslim, and a Shia Muslim.<sup>34</sup> The Agreement also divided government positions between Christians and Muslims in a 6:5 ratio.<sup>35</sup>

Political harmony through the National Pact was ultimately proved as a superficial remedy and was therefore short-lived—Lebanon fell into a fifteen-year civil war, ending with the *Taif Agreement of 1989* that was codified into the Lebanese Constitution.<sup>36</sup> The Taif Agreement made two notable changes in Lebanon's political structure, both focused on amending the legislative and executive branches, but the Agreement only “readjust[ed] the old system.”<sup>37</sup> First, the ratio of seats in the Parliament moved to an equal 1:1 split between Christians and Muslims.<sup>38</sup> This new ratio was notably not representative of the Lebanese population by the end of the war; Shia Muslims alone formed the largest community in Lebanon, and the Druze community was virtually unrepresented in establishing the agreement.<sup>39</sup> Today, the numbers indicate that Sunni Muslims form 31.9% of the country, Shia Muslims 31.2%, and Christians 32.4% alongside fifteen other religious groups, but the 1:1 Christian-to-Muslim division in Parliament stands despite differing political interests between Sunni Muslim and Shia Muslim political parties.<sup>40</sup>

Second, as opposed to simply adjusting the Parliament's skewed sectarian ratio, the Taif Agreement transferred power in the executive branch from the Maronite Christian president to the Sunni Muslim

---

32. Harb, *supra* note 15.

33. SALIBA, *supra* note 29, at 9.

34. Bahout, *supra* note 9.

35. Harb, *supra* note 15.

36. SALIBA, *supra* note 29, at 10; *see generally* Taif Agreement, *supra* note 11 (outlining political reforms and goals for Lebanon following the civil war).

37. Bahout, *supra* note 9.

38. Harb, *supra* note 15.

39. Sandra M. Saseen, *The Taif Accord and Lebanon's Struggle to Regain its Sovereignty*, 6 AM. U. INT'L L. REV. 57, 68-69 (1990).

40. U.S. DEP'T OF STATE, *supra* note 10. These numbers are likely inaccurate because the last census was conducted in 1932, and the population count remains a hotly contested political issue. *See* Ciaran Mulholland, *A State Afraid to Take a Census: Lessons from Lebanon*, INTERNATIONALIST STANDPOINT (Mar. 21, 2024), <https://www.internationaliststandpoint.org/a-state-afraid-to-take-a-census-lessons-from-lebanon>.

prime minister and the Shia speaker of parliament.<sup>41</sup> In particular, the Taif Agreement instituted checks between the leading sectarian groups in the Council of Ministers by evenly allocating blocs of ministers between the president, prime minister, and speaker of parliament and requiring a two-thirds majority to vote on major decisions.<sup>42</sup> This effectively left veto power to one of the Council's three sectarian blocs. Additionally, the Agreement required consultations between the president and speaker of parliament to nominate a prime minister.<sup>43</sup> In sum, this aspect of the Taif Agreement "disseminated and diffused power, making it difficult to locate and exercise."<sup>44</sup>

The Taif Agreement included a short subsection that announced the creation of a constitutional council meant "to interpret the constitution, to observe the constitutionality of the laws, and to settle disputes and contests emanating from presidential and parliamentary elections."<sup>45</sup> Note, however, that the constitutional interpretation power vested by the Taif Agreement in the LCC was never codified into the Lebanese Constitution, with Parliament insisting that only it alone should have this right.<sup>46</sup>

The period following the Taif Agreement only witnessed increased division in Lebanon, particularly among the Shia and Sunni sects.<sup>47</sup> Heightened tensions culminated in the *Doha Agreement*, which ended a political standoff between Lebanon's sectarian parties and eighteen months of national protests following the conflict between Hezbollah and Israel in 2006.<sup>48</sup> The Doha Agreement was a political accord not meant to produce constitutional amendments, but instead solidified Hezbollah's effective veto power over decisions by the Council of Ministers in exchange for renouncing violence to resolve domestic disputes.<sup>49</sup>

The result of Lebanon's long constitutional history is a political structure that hosts elevated executive power, low levels of judicial independence

41. Saseen, *supra* note 39, at 68; BASSEL F. SALLOUKH ET AL., THE POLITICS OF SECTARIANISM IN POSTWAR LEBANON 21-22 (2015).

42. Bahout, *supra* note 9.

43. *Id.*

44. *Id.*

45. Taif Agreement, *supra* note 11, art. III.B.[1].2.

46. Robert Poll, *Towards a Reform in Lebanon? Interview with the President of the Constitutional Council Issam Sleiman*, VERFASSUNGSBLOG (June 20, 2018), <https://verfassungsblog.de/towards-a-reform-in-lebanon-interview-with-the-president-of-the-constitutional-council-issam-sleiman/>.

47. SALIBA, *supra* note 29, at 12.

48. Nicholas Blanford, *Qatari Deal Defuses Lebanese Crisis*, CHRISTIAN SCI. MONITOR (May 22, 2008, at 00:00 ET), <https://www.csmonitor.com/World/Middle-East/2008/0522/p01s05-wome.html>.

49. David Schenker, *An Israel-Lebanon Agreement May Not Be Worth the Costs*, WASH. INST. FOR NEAR E. POL'Y (May 14, 2024), <https://www.washingtoninstitute.org/policy-analysis/israel-lebanon-agreement-may-not-be-worth-costs>.

## JUDICIAL REFORM IN LEBANON

and power,<sup>50</sup> and exacerbated sectarian tensions in contradiction with the Constitution's Article 95 goal of abolishing sectarianism.<sup>51</sup> Today, Lebanon's sectarian split is not only limited to its leadership, but also bleeds into all public institutions that must follow a strict quota system dictating the number of Christians, Sunnis, Shias, Druze, Armenians, and other groups in high government positions.<sup>52</sup> As a result, citizens are forced to rely on leaders to secure government jobs and basic services—like education and health care—through bribery and clientelism.<sup>53</sup>

The following section describes the current structure of and existing literature on the LCC, which remains largely untapped as a potential solution to quell issues of mismanagement and corruption brought about by political sectarianism in Lebanon.

### A. *The Forgotten Judiciary*

Judicial power is rooted in Article 20 of the Lebanese Constitution, which simply and briefly vests power in “[c]ourts at various levels and jurisdictions, within a system prescribed by the law” that theoretically provides for judicial independence and “necessary guarantees” to judges and litigants.<sup>54</sup> The Supreme Judicial Council is also responsible for judicial appointments, transfers, training, and disciplinary actions,<sup>55</sup> but Legislative Decree No. 150 of 16 September 1983 split these responsibilities with the Minister of Justice under the executive branch, raising separation of powers concerns.<sup>56</sup>

There are three categories in the Lebanese judicial system: the ordinary judiciary, administrative courts, and religious courts.<sup>57</sup> The

---

50. *Lebanon 1926 (rev. 2004)*, *supra* note 12 (from the “Explore Indices” chart, toggle to view Executive Power, Judicial Independence, and Judicial Power). For more information on how these indices are measured, see *Constitutional Indices*, CONSTITUTE, [https://www.constituteproject.org/content/indices\\_data](https://www.constituteproject.org/content/indices_data).

51. *Article 95 — Lebanese Constitution*, CIVIC INFLUENCE HUB, <https://cihlebanon.org/en/initiatives/article-95/> (last visited Dec. 11, 2024).

52. Collard, *supra* note 15.

53. *Id.*

54. THE LEBANESE CONSTITUTION, May 23, 1926, art. 20 (Leb.).

55. *Lebanon Legal System*, MATTAR L. FIRM, <https://mattarlaw.com/lawyers-articles/lebanon-legal/#:~:text=The%20legal%20system%20of%20Lebanon,subject%20only%20to%20the%20law> (last visited Dec. 11, 2024).

56. SALIBA, *supra* note 29, at 7; INT’L COMM’N OF JURISTS, THE LEBANESE HIGH JUDICIAL COUNCIL IN LIGHT OF INTERNATIONAL STANDARDS 3 (2017), <https://www.icj.org/wp-content/uploads/2017/03/Lebanon-Memo-re-HJC-Advocacy-Analysis-Brief-2017-ENG.pdf>.

57. *Judiciary Guide for Judicial System*, GHERBAL INITIATIVE, <https://elgherbal.org/judiciary-intro> (last visited Dec. 11, 2024); *Lebanon Legal System*, *supra* note 55.

ordinary judiciary, which handles civil and criminal disputes, is split into trial courts or the Courts of First Instance, the Courts of Appeal, and the Court of Cassation in Beirut—Lebanon’s highest court.<sup>58</sup> Administrative courts, also known as the Council of the State, handle claims between citizens and government departments.<sup>59</sup> Sharia courts handle personal matters such as marriage for Sunni and Shia citizens, while Ecclesiastical courts handle similar matters for other religious sects.<sup>60</sup>

The LCC—or *Majlis al-Dustour* in Arabic—is not a court in the traditional sense because it does not hear claims from the Lebanese populace.<sup>61</sup> Only a select number of government leaders, including the president, the prime minister, and heads of “legally recognized sects” are permitted to bring claims to the LCC.<sup>62</sup> The LCC is separately established under Article 19 of the Constitution and is meant to “review the constitutionality of the laws, and to decide on the disputes and protests resulting from the presidential and the representative elections.”<sup>63</sup> This language differs from the original vision for the legal entity under the Taif Agreement, which specifically stated that the LCC would be able to *interpret* the constitution.<sup>64</sup> The LCC consists of ten members—five appointed by the Parliament, and five by the Council of Ministers—each of whom completes a six-year term.<sup>65</sup> Similar to the Parliament’s quota, the LCC requires a vague “balance” between Muslim and Christian members.<sup>66</sup>

Lebanon’s LCC is not unique in the SWANA region, with many scholars discussing the spread of constitutional courts with the potential to legitimize governments in crisis.<sup>67</sup> Constitutional courts are cited as key tools in working toward liberal democracy across the SWANA region.<sup>68</sup>

58. Warren G. Wickersham & Marwan M. Nsouli, *Legal System of Lebanon: Summary and Bibliography*, 5 INT’L L. 300, 302-03 (1971); *Lebanon Legal System*, *supra* note 55.

59. *Lebanon Legal System*, *supra* note 55; Wickersham & Nsouli, *supra* note 58, at 303.

60. *Lebanon Legal System*, *supra* note 55.

61. THE LEBANESE CONSTITUTION, May 23, 1926, art. 19 (Leb.).

62. *Id.*

63. *Lebanon 1926 (rev. 2004)*, *supra* note 12.

64. Taif Agreement, *supra* note 11, art. III.B.[1].2.

65. *The Constitutional Council*, INT’L FOUND. FOR ELECTORAL Sys.’s (May 27, 2009), [https://www.ifes.org/sites/default/files/migrate/constitutionalcouncilifeslebanonbriefingpaper052709\\_0.pdf](https://www.ifes.org/sites/default/files/migrate/constitutionalcouncilifeslebanonbriefingpaper052709_0.pdf).

66. *The Constitutional Council*, *supra* note 65.

67. See e.g., Chibli Mallat, *Constitutional Review: The Spread of Constitutional Council and Courts*, in INTRODUCTION TO MIDDLE EASTERN LAW 181, 181 (2007).

68. See Tiphanie Bedas Tueni, *Constitutional courts in the Middle East and North Africa: to what avail?*, GEOPOLDIA (Oct. 1, 2015), <https://www.geopoldia.org/invites/48-tiphanie-bedas-tueni>; see, e.g., Sharan Grewal, *Tunisia needs a constitutional court*, BROOKINGS INST. (Nov. 20, 2018),

## JUDICIAL REFORM IN LEBANON

Some countries witnessed tangible success in this effort; Egypt's constitutional court has addressed pressing rights issues related to election law, the hijab, and freedom of association,<sup>69</sup> and Jordan's constitutional court has declared certain laws to be unconstitutional that infringed on the principle of equality among its citizens.<sup>70</sup>

In comparison, the LCC is consistently overlooked in texts on the Lebanese judiciary; in one paper that overviews elections in Lebanon, the LCC is only briefly mentioned even though election law is a key area of its jurisdiction.<sup>71</sup> In a briefing paper by a non-governmental organization on the role of judges and judicial independence in Lebanon, the LCC is not mentioned at all.<sup>72</sup> On the citizen level, it seems that few people know about the existence or the purpose of the Council; it is an entity shrouded in mystery.<sup>73</sup> A visit to the Council on an afternoon revealed a barely visible building with closed shutters and fifteen-foot-high bushes enveloping the stone structure on all sides.<sup>74</sup> The actual decisions of the Council are equally difficult to access. Updates on LCC decisions are rarely published on Lebanese news outlets,<sup>75</sup> and the only way to view official decisions is through creating a paid account with the national Lebanese paper, *Al Jarida Al Rasmiya*.<sup>76</sup> The LCC's institutional weakness is exacerbated by accusations that the

---

<https://www.brookings.edu/articles/tunisia-needs-a-constitutional-court/> (advocating for the confirmation of more judges on the Tunisian constitutional court and highlighting the significance of such an entity).

69. Tueni, *supra* note 68.

70. ZAID EYADAT & LAITH NASRAWIN, THE CONSTITUTIONAL COURT OF JORDAN: EVALUATING 10 YEARS OF SERVICE & FUTURE EXPECTATIONS 10 (2021), <https://www.kas.de/documents/265308/22468947/The+Constitutional+Court+of+Jordan.pdf/0ef497cf-bef4-ad24-e500-df0ebc7a5ab1?version=1.1&t=1706273624622>.

71. SALLOUKH ET AL., *supra* note 41, at 105.

72. See generally INT'L COMM'N OF JURISTS, *supra* note 56 (omitting any discussion of the LCC).

73. In August 2025, I conducted a personal survey of my family and friends in Lebanon regarding their knowledge on the LCC. I spoke with individuals diverse in profession, region, and sect. Very few people recognized the English name of the Council. When I asked about *Majlis al-Dustour*, those that recognized the name shrugged their shoulders, indicated that they worried more about securing water and electricity for the day over the workings of another ineffective political body.

74. See *supra* text in note 73.

75. A search of the term "Constitutional Council" along with other variations of the term in the search bars of MTV Lebanon, Al Arabiya, Al Jazeera, Al Mayadeen, etc., produced little to no results.

76. See *Al Jareeda Al Rasmiya*, <https://jo.pcm.gov.lb/> (last visited Mar. 12, 2026) (demonstrating access is paywalled).

LCC is “packed with protégés of the [sectarian] elite”<sup>77</sup> and lacks the ability to conduct constitutional interpretation, among other issues.<sup>78</sup>

Some literature analyzes the core issues concerning constitutional courts across the SWANA region, and proposes suggestions for reform.<sup>79</sup> The limited scholarship suggesting reforms for the LCC indicates the importance of the LCC regaining its constitutional interpretation powers.<sup>80</sup> The United Nations Development Programme addressed issues of corruption that have contributed to diminishing judicial independence of the LCC.<sup>81</sup> Other suggestions for reform include establishing law clerk positions to increase the capacity of the court, amending the number of judges required to block a decision to prevent veto blocs, and revisiting the method through which the government elects LCC judges.<sup>82</sup>

77. SALLOUKH ET AL., *supra* note 41, at 29.

78. Simon Badran, *Lebanon’s Presidential Vacancy: An Opening for Constitutional Reform?*, CONSTITUTIONNET (Oct. 7, 2016), <https://constitutionnet.org/news/lebanons-presidential-vacancy-opening-constitutional-reform-0>; Hamd, *supra* note 30, at 6; Antoine Z. Sfeir, *The Consequences of Lebanon’s Constitutional Crisis*, MIDDLE E. INST. (Sep. 20, 2021), <https://www.mei.edu/publications/consequences-lebanons-constitutional-crisis>; Ghassan Moukheiber, *Constitutional Challenges and the Fight against impunity*, UNDP (July 4, 2021), <https://www.undp.org/lebanon/blog/constitutional-challenges-and-fight-against-impunity> (explaining that the Constitutional Council is “is rarely used by the political system for the constitutional review of laws”).

79. See generally Aylin Aydin-Cakir, *What Do We Know About the Middle Eastern Constitutional Courts?*, in HIGH COURTS IN GLOBAL PERSPECTIVES: EVIDENCE, METHODOLOGIES & FINDINGS (Nuno Garoupa, R. Gill & Lydia Tiede eds., 2021), <https://pure.eur.nl/ws/portalfiles/portal/95659424/UVABook-AylinCakir.pdf> (highlighting the tendency for authoritarian SWANA regimes to influence constitutional court decisions); Tueni, *supra* note 68 (suggesting that a lack of judicial independence disrupts the ability of constitutional courts in the SWANA region to conduct constitutional review).

80. Moukheiber, *supra* note 78; Hamd, *supra* note 30, at 6. For example, when the presidency was vacant in 2014, the Constitution was unclear about “whether the quorum required to elect the president is two-thirds of the majority of *all* the members of the Parliament (art. 49), or an absolute majority (art. 34)” and the LCC did not have a power to make such an assessment. Badran, *supra* note 78. Further, in 2013, the Lebanese Parliament agreed to a 17-month extension of its own mandate, a decision whose constitutionality the LCC was responsible for reviewing after the *Parliament* deemed the situation to constitute a *force majeure*, or an extraordinary circumstance. Stephanie Naddaf, *Is the Extension of Parliament’s Term Constitutional?*, EXEC. MAG. (June 12, 2013), <https://www.executive-magazine.com/economics-policy/lebanon-parliament-extension-legal>.

81. Moukheiber, *supra* note 78; see also Clothilde Facon, *NGOization and Politicization of Aid in the Context of Syrian Displacement*, in REVISITING THE POLITICS OF SECTARIANISM AMIDST LEBANON’S CONCOMITANT CRISES 32, 32-33 (Sciences Po Paris, June 30, 2022) (describing that centralized and authoritarian decision-making as well as a lack of leverage has hindered progress toward judicial independence).

82. THEO BYL ET AL., FUNCTIONAL REVIEW OF THE JUSTICE SYSTEM IN LEBANON SUMMARY REPORT 32-33 (2023), [https://www.lebanon3rf.org/sites/default/files/2023-12/Functional%](https://www.lebanon3rf.org/sites/default/files/2023-12/Functional%20Report%2032-33.pdf)

## JUDICIAL REFORM IN LEBANON

Existing scholarship does not appear to recognize the potential role of the LCC in a multi-sect society, nor does it propose reforms on this basis. However, the LCC has proven valuable multiple times in Lebanon's sectarian history. In 2021, former President Michel Aoun set a precedent that would erode the Parliament's position in choosing future prime ministers by blocking Saad Hariri's bid for prime minister.<sup>83</sup> Another opportunity for LCC intervention involves threats to religious freedom promised by Article 9 of the Constitution, which indicates that optional non-religious law must accompany existing religious courts to adjudicate matters of personal status.<sup>84</sup> The ability of the LCC to address power balancing among sects and individual rights protection must not be understated moving forward.

### B. Conceptual Assumptions

The preceding review of Lebanon's political and constitutional landscape demands a clarification of crucial assumptions upon which the proposed reforms for the Council are based. Although this Note is not focused on the merits of consociationalism, it first rejects the common conflation of consociationalism with the terms sectarianism or sectarian power-sharing.<sup>85</sup> Arend Lijphart defines consociational democracy as a system that allows "political leaders of all significant segments of the plural society [to] cooperate in a grand coalition to govern the country."<sup>86</sup> This stands in contrast to systems where "power [is] abused

---

20Review%20of%20the%20Justice%20system%20in%20Lebanon%20Summary%20Report-EN\_0.pdf.

83. Michael Young, *An Unlikely Savior*, CARNEGIE ENDOWMENT FOR INT'L PEACE (Sep. 20, 2021), <https://carnegieendowment.org/middle-east/diwan/2021/09/an-unlikely-savior?lang=en>.

84. THE LEBANESE CONSTITUTION, May 23, 1926, art. 9 (Leb.) ("There shall be absolute freedom of conscience"); Maya Mikdashi, *Beyond the Lebanese Constitution: A Primer*, JADALIYYA (Dec. 4, 2019), <https://www.jadaliyya.com/Details/40318>.

85. See Matthijs Bogaards, Ludger Helms, & Arend Lijphart, *The Importance of Consociationalism for Twenty-First Century Politics and Political Science*, 25 SWISS POL. SCI. REV. 341, 348 (2019); see generally Dixon, *supra* note 4 (noting that consociationalism can reinforce or oppose sectarian authoritarianism, which suggests that sectarianism and consociationalism are not the same, only overlapping, concepts).

86. Arend Lijphart, *Consociational Democracy*, in DEMOCRACY IN PLURAL SOCIETIES 25, 25 (1977). This general definition of consociational democracy is paired with three other elements: "(1) the mutual veto or 'concurrent majority' rule, which serves as an additional protection of vital minority interests, (2) proportionality as the principal standard of political representation, civil service appointments, and allocation of public funds, and (3) a high degree of autonomy for each segment to run its own internal affairs." *Id.*

by a permanent governing majority or bloc to abuse the human rights of minorities and to deny them meaningful autonomy.”<sup>87</sup>

Consociationalism is separate from sectarianism, as evidenced by the Lebanese example, where the latter is defined by a failure of power sharing when coupled with corruption and discrimination between sects.<sup>88</sup> Unclear definitions have brought about an incomplete understanding that power sharing is a failed Arab experiment in governance and is bound to lead to civil war.<sup>89</sup> The examples of South Africa and Ireland—which saw more success in implementing consociationalism following peace processes—cannot be ignored, especially in a world where political polarization is alive and well.<sup>90</sup>

Whether or not Lebanon can implement reforms in pursuit of a successful consociational democracy, the second assumption underlying this Note is that some type of power sharing will persist in Lebanon for the time being. Although figures like Prime Minister Nawaf Salam advocate for a termination of political sectarianism, others argue that Lebanon is not ready for such a discussion, particularly following recent acts of Israeli aggression that have reignited sectarian tensions.<sup>91</sup> Therefore, the following reforms for the LCC address how the Council can contribute to Lebanon’s multi-sect society with consociational democracy as the goal. Positioning the Council to play a role in achieving successful power sharing in Lebanon requires equipping it to effectively protect the constitutional rights of minority voices in a country where no sect is large enough to constitute a clear majority of the population.<sup>92</sup>

87. *Consociation*, *supra* note 5; see Yaqoobi, *supra* note 15 (blaming Lebanon’s government for maintaining merely an “illusion of equality”).

88. See Yaqoobi, *supra* note 15.

89. Dixon, *supra* note 4, at 119.

90. *Id.*; Bogaards, Helms & Lijphart, *supra* note 85, at 342, 344.

91. See Johnny Kortbawi, *Abolition of Political Sectarianism: Is It the Right Time?*, THIS IS BEIRUT (Feb. 21, 2025), <https://thisisbeirut.com.lb/articles/1308674/abolition-of-political-sectarianism-is-it-the-right-time> (stating that Lebanon, which is in the third post-war generation, “will not be ready to discuss such a proposal for at least three more generations.”); Mohamad El Kari & ICSR Team, *Israel’s Bombardment of Lebanon: Reopening Lebanon’s Sectarian Wounds*, INT’L CTR. FOR THE STUD. OF RADICALIZATION (Dec. 19, 2024), <https://icsr.info/2024/12/19/israels-bombardment-of-lebanon-reopening-lebanons-sectarian-wounds/>; Alex Martin Astley, *Israeli Strikes on Christian Villages Stoke Fears of Sectarian Violence in Lebanon*, NOW LEB. (Oct. 28, 2024), <https://nowlebanon.com/israeli-strikes-on-christian-villages-stoke-fears-of-sectarian-violence-in-lebanon>. *But see* Spencer Rieser, *Breaking Sectarianism: Lebanon’s 17 October Uprising (2023)* (M.A. thesis, Leiden University), <https://studenttheses.universiteitleiden.nl/access/item%3A3629651/view> (stating that protests in 2019 challenged sectarian power-sharing, with “many Lebanese call[ing] on their confessional leaders to resign.”).

92. U.S. DEP’T OF STATE, *supra* note 10 (noting the country split of Sunnis forming 31.2%, Shiites 32.2%, Christians 30.5%, Druze 5.5%, etc.).

## JUDICIAL REFORM IN LEBANON

### III. SUGGESTED REFORMS FOR THE LCC

This Note advocates for three reforms of the LCC that build on existing suggestions for the Court, consider the structure of constitutional courts in other multi-sect countries, and look to general constitutional theory. First, to protect the integrity and consistency of decisions by the LCC, Lebanon must prioritize implementing mechanisms for judicial independence as protection from external political pressure. Second, once judicial independence is established, the LCC must be empowered with constitutional interpretation powers as originally promised by the Taif Agreement. Finally, and unlike the Lebanese Parliament, the LCC must maintain true representation by sect among its judges to restore popular confidence in the Council while safeguarding against the abuse of fundamental minority rights.

#### A. *Maintaining Judicial Independence*

Although the LCC has been described as an independent judicial body, in reality, it is not.<sup>93</sup> Preserving clear separations of power between Lebanon's political branches has presented challenges due to its politically sectarian nature, with "conflict over personal and sectarian interests blurr[ing] the separating lines among them."<sup>94</sup> Sectarian authorities intervene on a "high and dangerous level" with the judiciary, hindering its ability to serve the public good.<sup>95</sup> Following the passage of Legislative Decree No. 150 of 16 September 1983, the executive branch overreached into the judiciary by maintaining a heavy hand in judicial appointments, transfers, training, and disciplinary procedures.<sup>96</sup> As a result, there is a concern that politicians may refuse to elect new judges in order to suspend LCC

---

93. *The Constitutional Council*, *supra* note 65; Sfeir, *supra* note 78; Andrea López-Tomàs, *Lebanon's Judiciary Languishes Due to Lack of Independence*, MEDIA LINE (Jan. 19, 2023), <https://themedialine.org/by-region/lebanons-judiciary-languishes-due-to-lack-of-independence>.

94. Hamd, *supra* note 30, at 4; Nizar Saghih, *The Independence of the Judiciary: A Social Priority in Lebanon*, LEGAL AGENDA (Dec. 5, 2015), <https://english.legal-agenda.com/the-independence-of-the-judiciary-a-social-priority-in-lebanon>.

95. See OMAR HOURI, RULE OF LAW QUICK SCAN LEBANON 16 (Ronald Janse, 2012), <https://www.hiil.org/wp-content/uploads/2018/09/Ruw-of-Law-in-Lebanon.pdf>; Nicole Hamouch, *In Lebanon There Is No Alternative to the Rule of Law*, RESET DIALOGUE ON CIVILIZATION (June 9, 2023), <https://www.resetdoc.org/story/lebanon-no-alternative-to-rule-of-law>.

96. SALIBA, *supra* note 29, at 7; INT'L COMM'N OF JURISTS, *supra* note 56, at 3-5. This is likely another source of claims that the LCC is "packed with protégés of the [sectarian] elite," as mentioned by SALLOUKH ET AL., *supra* note 41, at 29.

activities, allowing the government to pass laws without being subject to constitutional review.<sup>97</sup>

However, maintaining judicial independence from executive and legislative pressure is essential for any constitutional court to function effectively and robustly.<sup>98</sup> In Lebanon, the goals of the executive and legislative branches should ideally differ from the goals of the LCC; while authorities of the former are inherently and undoubtedly focused on garnering support for certain policy decisions to advance their sectarian interests, the latter must focus on protecting the fundamental rights of citizens who are currently losing out as a result of sectarian corruption and clientelism.<sup>99</sup> By highlighting this inherent goal of executive and legislative officials in Lebanon, the above comparison unearths the added incentive politicians in a sectarian country have to sway judicial decisions in their favor to advance sectarian goals; therefore, shielding the judiciary from improper influence becomes a particularly vital objective.<sup>100</sup>

Other politically sectarian countries have found success in prioritizing judicial independence. Belgium, defined by a longstanding divide between a French-speaking Walloon sect and a Dutch-speaking Flemish sect, has managed to run a “fairly well-developed” legal system, with a “level of perceived judicial independence [that] continues to be high among the general public.”<sup>101</sup> Northern Ireland’s government parties,

97. *Suspending Lebanon’s Constitutional Council: A Primer*, LEGAL AGENDA (Feb. 7, 2021), <https://english.legal-agenda.com/suspending-lebanons-constitutional-council-a-primer>.

98. YVONNE TEW, CONSTITUTIONAL STATECRAFT IN ASIAN COURTS 15 (2020); see ISSAM SLEIMAN, THE IMPORTANCE AND EFFECTS OF CONSTITUTIONAL JURISPRUDENCE IN LEBANON 2-3 (2020), [https://www.kas.de/documents/265308/29548418/Prof.+Issam+Sleiman\\_Chapitre+2\\_finalise%CC%81.pdf/6eeced95-388b-c5ed-f72a-9d6c1f75f642?version=1.0&t=1706273380617](https://www.kas.de/documents/265308/29548418/Prof.+Issam+Sleiman_Chapitre+2_finalise%CC%81.pdf/6eeced95-388b-c5ed-f72a-9d6c1f75f642?version=1.0&t=1706273380617) (highlighting that the main threat to rights occurs when a political power oversteps the constitutional powers granted to it); Sfeir, *supra* note 78.

99. See David S. Law & Hsiang-Yang Hsieh, *Judicial Review of Constitutional Amendments: Taiwan* 14 (Wash. U., Paper No. 19-02-01, 2019) (citing a dynamic of “institutional competition between the judiciary and the legislature . . . to set policy”); Saghieh, *supra* note 94 (“The judiciary should remain a public space where all citizens feel reassured and enjoy their fundamental rights, without having to be affiliated with a particular leader.”); Sfeir, *supra* note 78; Geha, *supra* note 15, at 11-12; Collard, *supra* note 15; Harb, *supra* note 15.

100. See U.S. INST. FOR PEACE, JUDICIAL APPOINTMENTS AND JUDICIAL INDEPENDENCE 1 (2009), <https://www.usip.org/sites/default/files/Judicial-Appointments-EN.pdf>.

101. EUR. COMM’N, 2022 RULE OF LAW REPORT: COUNTRY CHAPTER ON THE RULE OF LAW SITUATION IN BELGIUM (2022), <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52022SC0501>; see generally Melissa Block, *Belgium Terrorist Attacks Prompt a Renewed Sectarian Debate*, NPR (Mar. 30, 2016, at 17:28 ET), <https://www.npr.org/sections/parallels/2016/03/30/472442332/belgium-terror-attacks-prompt-a-renewed-sectarian-debate> (describing the sectarian nature of Belgium); Laura Barker, *Immigration and Belgium’s Far-Right Parties*,

divided between Protestant unionists and Catholic nationalists, “do not trust each other with judicial appointments” and resort to preserving high levels of judicial independence as a solution.<sup>102</sup>

Every judge carries some level of bias,<sup>103</sup> but this is surely heightened for judges brought up in a sectarian state where ingroup bias based on religious affiliation is strong.<sup>104</sup> Therefore, the most realistic options for advancing judicial independence for the LCC aim to insulate judges from external pressure as opposed to naively attempting to dilute entrenched internal biases. First, in spite of Lebanon’s financial struggles following the 2019 economic collapse, it is a worthy cause to allocate funds to raise LCC judge salaries.<sup>105</sup> One judge explained that his monthly salary plummeted from 4000 USD to 50 USD after the collapse, making it easy for political interference through bribery and other corruption.<sup>106</sup>

Second, the appointment process for LCC judges can be reformed, as it is currently conducted by the heavily sectarian executive and legislative branches.<sup>107</sup> Systems of appointment are crucial in achieving judicial independence; “[j]udges who are dependent in some way on the person who appoints them may not be relied upon to deliver neutral, high-quality decisions.”<sup>108</sup> Reforming the appointment process may be

MIGRATION POL’Y INST. (June 12, 2007), <https://www.migrationpolicy.org/article/immigration-and-belgiums-far-right-parties> (describing the sectarian nature of Belgium).

102. UNIV. COLL. LONDON, JUDICIAL INDEPENDENCE IN NORTHERN IRELAND 1 (2012), <https://www.ucl.ac.uk/constitution-unit/sites/constitution-unit/files/seminar-note-judicial-independence-in-northern-ireland.pdf>; *Judicial Accountability and Independence*, UK JUDICIARY, <https://www.judiciary.uk/about-the-judiciary/our-justice-system/jud-acc-ind> (last visited Dec. 12, 2024); John Nagle, *Northern Ireland: Still a Deeply Divided Society?*, FOREIGN POL’Y CTR. (July 19, 2022), <https://fpc.org.uk/northern-ireland-still-a-deeply-divided-society>; Charles Landow & James McBride, *Moving Past the Troubles: The Future of Northern Ireland Peace*, CFR (Oct. 3, 2013), <https://www.cfr.org/backgrounders/moving-past-troubles-future-northern-ireland-peace>.

103. Karen Steinhauser, *Everyone Is a Little Bit Biased*, ABA (Mar. 16, 2020), [https://www.americanbar.org/groups/business\\_law/resources/business-law-today/2020-april/everyone-is-a-little-bit-biased/](https://www.americanbar.org/groups/business_law/resources/business-law-today/2020-april/everyone-is-a-little-bit-biased/).

104. See Alexandra A. Siegel & Vivienne Badaan, #No2Sectarianism: *Experimental Approaches to Reducing Sectarian Hate Speech Online*, 14 AM. POL. SCI. REV. 837, 839 (2020) (“Decades of social psychology research suggest that identification with a group—even random assignment to a relatively meaningless group in a laboratory setting—leads individuals to establish an ‘us versus them’ mentality and can exacerbate prejudicial attitudes and behaviors.”).

105. López-Tomàs, *supra* note 93; BYL ET AL., *supra* note 82, at 32.

106. López-Tomàs, *supra* note 93; BYL ET AL., *supra* note 82, at 32; see generally Moukheiber, *supra* note 78 (advocating to increase accountability and implement political reforms to combat corruption).

107. BYL ET AL., *supra* note 82, at 32-34.

108. U.S. INST. FOR PEACE, *supra* note 100, at 1.

possible by authorizing other entities, like local bar associations and faculties of law, to take part in selecting judges, which academics have suggested for other sections of the judiciary in Lebanon.<sup>109</sup>

Third, a constitutional amendment allowing ordinary citizens to appeal claims to the LCC is crucial. Currently, the civil and administrative judiciaries play a role in preserving constitutional rights, while the LCC has been reserved for the queries of self-serving sectarian authorities.<sup>110</sup> This change would allow the LCC to properly protect the constitutional rights of citizens, where complaints by private citizens are deemed “important means for the protection of human rights.”<sup>111</sup> Such a shift must be paired with trainings on judicial ethics for LCC judges and more judicial clerk positions to increase the LCC’s capacity;<sup>112</sup> this would help prepare for an influx of complaints by private citizens. Trainings carry a requisite of addressing LCC judges who may struggle to balance their own sectarian values with judicial priorities like neutrality.

### B. *Restoring Constitutional Interpretation Powers*

Constitutional interpretation powers must be transferred away from the Parliament and restored to the LCC.<sup>113</sup> The former President of the LCC, Issam Sleiman, has suggested this reform, and it was also promised by Article III of the original Taif Agreement.<sup>114</sup> As the “guardians” of

109. Karim Merhej, *Towards an Independent Judicial Branch in Lebanon? Part 1: The Civil Judiciary*, TAHIR INST. FOR MIDDLE E. POL’Y (Oct. 26, 2021), <https://timep.org/2021/10/26/towards-an-independent-judicial-branch-in-lebanon-part-1-the-civil-judiciary>. Note, however, that the best authority to look to for neutrality in the judge appointment process may differ by jurisdiction. See Claude Assaf, *Beirut Bar Association Took No Decision on Banning Lawyer Nizar Saghie*, L’ORIENT TODAY (Apr. 20, 2023), <https://today.lorientjour.com/article/1335247/supporters-rally-in-beirut-against-lawyer-nizar-saghieh-summons.html> (noting that the Beirut Bar Association considered banning lawyer Nizar Saghie for his speech related to judicial reform in Lebanon).

110. Merhej, *supra* note 109; Assaf, *supra* note 109.

111. Mikdashi, *supra* note 84; Khanlar Hajiyev (Chairman of the Const. Ct. of Azer.), *The Role of the Const. Ct. and Ordinary Cts. in the Prot. of Hum. Rts.*, CDLJU (2002) 43, at 3 (Dec. 5, 2002), [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDLJU\(2002\)043-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDLJU(2002)043-e).

112. BYL ET AL., *supra* note 82, at 32-33; see generally Morgan Clarke, *The Judge as Tragic Hero: Judicial Ethics in Lebanon’s Shari’a Courts*, 39 AM. ETHNOLOGIST 106 (2012) (arguing that an ethical tension exists “between the identity of judges presiding as Islamic religious specialists and their identity as legal professionals.”).

113. See Poll, *supra* note 46 (in which former LCC President, Dr. Issam Sleiman, makes the same argument).

114. *Id.*; Taif Agreement, *supra* note 11, art. III.B.[1].2.

constitutions,<sup>115</sup> judges of the LCC are arguably more equipped and specifically trained to engage in detailed constitutional interpretation.<sup>116</sup> According to Sleiman, constitutional interpretation is meant to be a truth-telling practice, free from personal interests<sup>117</sup>—however, in the hands of a Parliament defined by sectarian divides, constitutional interpretation has only led to conflicting analyses and political deadlock in Lebanon.<sup>118</sup> In 2013, the Lebanese Parliament agreed to a seventeen-month extension of its own mandate, whose constitutionality the LCC was charged with reviewing after Parliament interpreted the situation to constitute a *force majeure*, or an extraordinary circumstance.<sup>119</sup> When the presidency was vacant in 2014, the Constitution was unclear about “whether the quorum required to elect the president is two-thirds of the majority of *all* the members of the Parliament . . . , or an absolute majority,” and the LCC could not contribute its interpretation.<sup>120</sup>

Restoring constitutional interpretation powers to the LCC would further efforts to guarantee its “independence from politics and reflect the common will in order to secure the democratic legitimacy of its decisions.”<sup>121</sup> By preventing powers outside of the judiciary from directing constitutional interpretation, parties will not be able to distort constitutional provisions to serve their sectarian interests.<sup>122</sup> Instead, the LCC can more clearly articulate and uphold fundamental rights of citizens, such as religious freedom, that have existed for decades in the Constitution.<sup>123</sup> Transferring constitutional interpretation powers to the LCC would also allow for consistent judicial decisions that may help build public trust in government institutions.

Although scholarship indicates that the constitutional courts of politically sectarian countries may engage in different forms of constitutional interpretation, the more successful courts of sectarian governments

115. Conrado Hubner Mendes, Book Note, *Interpreting Constitutions: A Comparative Study*, 6 INT’L J. OF CONST. L. 349 (2008) (citing JEFFREY GOLDSWORTHY, INTERPRETING CONSTITUTIONS, A COMPARATIVE STUDY 2 (2006)).

116. SLEIMAN, *supra* note 98, at 8.

117. *Id.*

118. *Id.*; Hamd, *supra* note 30, at 6.

119. Naddaf, *supra* note 80.

120. Badran, *supra* note 78.

121. GOODWIN LIU ET AL., KEEPING FAITH WITH THE CONSTITUTION 24 (2009).

122. See SLEIMAN, *supra* note 98, at 8 (explaining that legislators are more likely to interpret the Lebanese Constitution in line with personal interests and the interests of the parliamentary majority controlling the decision); Tueni, *supra* note 68 (calling constitutional interpretation a central factor in determining “whether a judiciary is able to withstand political pressure”).

123. SLEIMAN, *supra* note 98, at 8; THE LEBANESE CONSTITUTION, May 23, 1926, art. 9 (Leb.) (“There shall be absolute freedom of conscience”); Mikdashi, *supra* note 84.

generally engage in some level of interpretation.<sup>124</sup> This success is apparent in the extensive case material of Bosnia-Herzegovina and Northern Ireland, which displays the significance of constitutional interpretation in cases “relevan[t] to the consociational form of power-sharing and institutions.”<sup>125</sup> In 2000, the Constitutional Court of Bosnia-Herzegovina interpreted the *Dayton Peace Accords* through a purposive approach to “re-establish the multi-ethnic society that had existed prior to the war without any territorial separation that would bear ethnic inclination.”<sup>126</sup> This example positions constitutional interpretation not only as a mechanism that would increase the LCC’s effectiveness in protecting individual rights, but also as a process that can allow the LCC to undergird stability in a divided country like Lebanon.

C. *Instituting Representation by Sect*

Judges on the LCC are currently arranged in a *de facto* balance between Muslim and Christian members, with little guidance in the Constitution on the required composition, guarantees, and mandates of members.<sup>127</sup> To avoid threats of court packing and external influence by parties in control of the executive and legislative branches at any given time,<sup>128</sup> the composition of the LCC must be codified into the Lebanese Constitution.<sup>129</sup> Membership should specifically be amended to more accurately and broadly represent Lebanon’s sectarian spread. As opposed to vaguely balancing “Muslims” and “Christians,” similar to the current practices of Parliament, the Court should include numbers of Sunni Muslims, Shia Muslims, Maronite Christians, Druze, and other sects that are relatively proportional to the population. Along with preventing court packing, instituting sectarian representation on the LCC would generally allow for “extended competences and functions by

---

124. See generally Andras Gal, *Beyond “Unwinding”: Constitutional Review Strategies in Consociations*, 26 *NATIONS & NATIONALISM* 606 (2020) (arguing that Bosnia and Herzegovina and Northern Ireland use interpretative approaches “to reconcile the ideas of constitutional supremacy and respect for political agreements”).

125. *Id.* at 600.

126. *Id.* at 601.

127. *The Constitutional Council*, *supra* note 65; *BYL ET AL.*, *supra* note 82, at 33.

128. See generally David Kosař & Katarína Šípulová, *Comparative court-packing*, 21 *INT’L J. OF CONST. L.* 80, 88, 117-18 (2023) (discussing court-packing strategies in constitutional courts globally); Benjamin Garcia Holgado & Raúl Sánchez Urribarri, *Court-Packing and Democratic Decay: A Necessary Relationship?*, 12 *GLOB. CONST.* 350 (2023) (describing that court-packing “can have a substantial negative effect on liberal democracy”).

129. *BYL ET AL.*, *supra* note 82, at 33.

making it difficult for sects to maintain blocs on the court that could act as blocking minorities in constitutional review processes.”<sup>130</sup>

To account for the overwhelming size of the combined Sunni, Shia, and Maronite Christian bloc, one potential arrangement would allocate five seats each to judges from the three major sects and maintain two seats as rotating positions reserved for two members of Lebanon’s fifteen other sectarian groups. This entails a total of seventeen judges on the LCC, an increase from the ten judges currently allotted to the Council.<sup>131</sup> The division (based on a 5:5:5:2 ratio) can be reassessed every several years to account for changes in the country’s makeup.

This suggestion will not be easily accepted by staunch critics of Lebanon’s sectarianism.<sup>132</sup> The Lebanese National Bloc, a secular political party, explicitly rejected the maintenance of sectarian representation on a separate arm of the Lebanese judiciary (the Supreme Judicial Council) as unconstitutional in light of the goal of Article 95 to end political sectarianism in Lebanon.<sup>133</sup> It is clear, however, that Article 95 has been reduced to an aspirational provision based on futile reforms that “remain trapped in the [sectarian] quota system, which is still an impenetrable bulwark today, despite its abject failure.”<sup>134</sup> While the first suggestion, to achieve judicial independence, guards the LCC from external pressures and overreach, this reform acknowledges the limitations of internal sectarian bias held by every judge. Accepting the existence of internal sect-linked biases is the only way for the system to grow past them.<sup>135</sup> Furthermore, in light of persistent sectarian tensions across Lebanon, it is highly unlikely that political sects would accept an increase in LCC power by returning its constitutional interpretation powers without ensuring representation on the Council.<sup>136</sup>

At this point, the obvious counterargument is that representation by sect on the Council will reduce each judge into a spokesperson for their sect, turning the Council into a miniature version of the Lebanese legislature that is fraught with bribery and corruption.<sup>137</sup> However, this is

---

130. *Id.*

131. CONSTITUTIONAL COUNCIL, *About Us*, <http://www.cc.gov.lb/en/the-council/about-us/> (last visited Nov. 25, 2025); Law 250 of 14 July 1993 (Establishing the Constitutional Council) art. 2 (Leb.).

132. See Facon, *supra* note 81, at 32-33.

133. *An Independent Judiciary is the Foundation of all Reforms*, LEB. NAT’L BLOC PARTY (Mar. 20, 2020), [https://en.nationalbloc.org/an\\_independent\\_judiciary\\_is\\_the\\_foundation\\_of\\_all\\_reforms](https://en.nationalbloc.org/an_independent_judiciary_is_the_foundation_of_all_reforms).

134. *Article 95—Lebanese Constitution*, *supra* note 51.

135. See J. Randall Patterson, *Implicit Bias – Awareness and Accountability*, 52(4) DICTA 21, 21 (2024).

136. See Yaqoobi, *supra* note 15.

137. See Collard, *supra* note 15.

where the three proposed reforms must be taken together to avoid a counterproductive outcome. What should stand to separate the LCC from the legislature are robust initiatives toward preserving judicial independence, while constitutional interpretation powers should allow LCC judges to lean into collectively fair analyses of legal texts.

Other multi-sect societies have indicated that representation by sect on their constitutional courts would increase confidence in their judicial systems.<sup>138</sup> Northern Ireland, for example, indicated that a “strong imbalance” between Protestant unionists and Catholic nationalists in the composition of the judiciary led to the perception that court decisions were awarded on political grounds.<sup>139</sup> On the other hand, Bosnia-Herzegovina’s Constitutional Court carries consociational features, prioritizing the representation of recognized sectarian groups on the court.<sup>140</sup> It is an “established practice” to elect six domestic judges to the Court based on ethnicity, including two Bosniaks, two Croats, and two Serbs; the final three judges are international judges.<sup>141</sup> Although this is not a constitutional rule, it has stood as a testament to the Court’s great success following the Dayton Accords.<sup>142</sup>

Alexander Hamilton says that a “[c]ourt’s judgment must reflect the nation’s best understanding of its fundamental values.”<sup>143</sup> In the case of Lebanon, maintaining peaceful coexistence in a diverse multi-sect society is an ingrained value of the system, whether this is desirable or not. Instituting sectarian representation on the LCC would just act to protect this diversity on the Court, which must “draw its authority from [*all* of] the public’s acceptance of its institutional role.”<sup>144</sup> Instead of viewing this reform as one that would further entrench political sectarianism in Lebanon, it should be viewed collectively with the first two reforms. Together, these reforms can pull the LCC away from the tight grasp of sectarian dynamics by the executive and legislative branches, and allow the Council to stand on its own, with each sect confident that their voice will be represented on this Council.

---

138. Andrew Hamilton, *Discrimination and the Administration of Justice*, CAIN, <https://cain.ulster.ac.uk/issues/discrimination/gibson4.htm> (last visited Dec. 12, 2024).

139. *Id.*

140. Gal, *supra* note 124, at 598-99.

141. Harun Išerić & Maja Sahadžić, *Perils from Within and Without*, VERFASSUNGSBLOG (July 27, 2023), <https://verfassungsblog.de/perils-from-within-and-without>.

142. *See id.*

143. LIU ET AL., *supra* note 121, at 24.

144. *Id.* (emphasis added).

## JUDICIAL REFORM IN LEBANON

### IV. LESSONS ON CONSTITUTIONAL DESIGN FOR MULTI-SECT STATES

The above suggestions for reform of the LCC can be applied outside of the Lebanese context. Any country split by sect under a broad definition—strong adherence by individuals to various religious, political, or other groups—should prioritize a constitutional court that is judicially independent from external pressure and equipped with constitutional interpretation powers.<sup>145</sup> Countries with sectarian division so ingrained in their political structure should also prioritize instituting sectarian representation in their constitutional courts. The preceding section touched on evidence illustrating that states traditionally recognized as multi-sect, including Bosnia-Herzegovina and Northern Ireland, may benefit from a representative constitutional court.<sup>146</sup> This Note, however, is focused on the potential benefits of instituting sect representation on constitutional courts in countries *not* typically at the center of discussion on political sectarianism. Taking judicial independence and constitutional interpretation as necessarily good, this section focuses on the merits of instituting sectarian representation in the highest constitutional courts of Syria and the United States.

#### A. Syria

Following the end of Bashar Al-Assad’s dictatorship at the close of 2024, this Note urges Syria and its allies to prioritize a strong constitutional court in rebuilding the country. Syria is deemed an “epicenter of sectarian conflict,” cleaved by religion and ethnicity.<sup>147</sup> Religiously, Sunni Muslims constitute 74% of the population, Christians 10%, Druze 3%, and Alawites, Ismailis, and Shia Muslims 13%.<sup>148</sup> Ethnically, the country is split between Arabs, Kurds, and Armenians, among other groups.<sup>149</sup> Before the fall of Assad, sectarianism was not constrained to the population but bled into Syria’s political structure. Although the 2012 Syrian Constitution did not mandate sectarian quotas, Alawite dominance was clear and entrenched in the regime, excluding the Sunni Muslim majority from its institutions.<sup>150</sup> In an interesting, if not

---

145. See CAMBRIDGE DICTIONARY, *supra* note 3; OXFORD REFERENCE, *supra* note 3.

146. See *supra* notes 125-29.

147. Raymond Hinnebusch & Ola Rifai, *Understanding Syria’s Sectarian Wave*, E-INT’L REL. (May 9, 2021), <https://www.e-ir.info/2021/05/09/understanding-syrias-sectarian-wave>.

148. Victoria Heath, *Exploring Syria’s Religious Landscape*, GEOGRAPHICAL (Dec. 12, 2024), <https://geographical.co.uk/news/exploring-syrias-religious-landscape>.

149. *Syria (10/03)*, U.S. DEP’T OF STATE, <https://2009-2017.state.gov/outofdate/bgn/syria/35817.htm> (last visited Mar. 16, 2026).

150. Hinnebusch & Rifai, *supra* note 147; see CONSTITUTION, 2012, art. 8(4) (Syria) (repealed 2025), <https://web.archive.org/web/20210731063047/https://www.parliament.gov.sy/arabic/index.php?node=201&nid=15740&ref=tree&>.

Machiavellian, tactic, Bashar Al-Assad positioned himself as a “protector of minorities”—Christians, Alawis, Shias, etc.—to gain credibility as the former President at the great expense of Sunni Muslims.<sup>151</sup>

Like Lebanon, Syria has always maintained its own version of a constitutional court. The 2012 Constitution gave the Syrian Constitutional Court (“SCC”) jurisdiction over election issues and the power to review the constitutionality of laws.<sup>152</sup> However, the Constitution did not clearly grant the SCC constitutional interpretation powers. Further, although it was called an “independent” judicial body, the judicial independence of the SCC was low.<sup>153</sup> Syrian citizens could not directly petition the SCC, as it was “effectively an organ of the executive branch given the exclusive nomination powers vested in the President.”<sup>154</sup>

Looking back, a clear argument existed for establishing sectarian representation on the Court based on Syria’s population: with an overwhelming majority of Sunni Muslims and a relatively large number of Kurds in the country, their representation on the SCC could have transformed the Court into an important protector of their fundamental rights if properly paired with reforms to insulate the SCC from executive overreach and employ it with interpretation tools.

These issues of Syria’s highest court must be remedied in the rebuilding process, but recent constitutional updates show some cause for concern. In February 2025, a new and temporary Constitution was signed into force as a replacement for the 2012 Constitution. Article 47 of the temporary Constitution created a new Supreme Constitutional Court “consist[ing]” of seven members appointed by the President of the Republic.<sup>155</sup> The text on the new SCC in the new Constitution ends there, leaving much room to shape this key entity.

It is too early to tell what shape the SCC will take and what role it will play in the new government after the fall of the Assad regime. It is likely that Alawite power in the Syrian government will wither, but it is unclear

151. Diana Darke, *Is Bashar al-Assad really the guardian angel of Syria’s minorities?*, MIDDLE E. INST. (Apr. 12, 2021), <https://www.mei.edu/publications/bashar-al-assad-really-guardian-angel-syrias-minorities>.

152. CONSTITUTION, 2012, art. 66, 89, 146-47 (Syria) (repealed 2025).

153. *Id.* art. 140; *Syrian Arab Republic Constitutional Statistics*, CONSTITUTE, [https://www.constituteproject.org/countries/Asia/Syrian\\_Arab\\_Republic\\_the](https://www.constituteproject.org/countries/Asia/Syrian_Arab_Republic_the) (last visited Nov. 26, 2025) (select “Judicial Independence” from the dropdown menu of the “Explore Indices” table).

154. Meroua Zouai, *Domestic Avenues for Accountability in Syria*, TAHRIR INST. FOR MIDDLE E. POL’Y (July 7, 2023), <https://timep.org/2023/07/07/domestic-avenues-for-accountability-in-syria/>.

155. CONSTITUTIONAL DECLARATION OF THE SYRIAN ARAB REPUBLIC, Mar. 13, 2025, art. 47 (Syria).

## JUDICIAL REFORM IN LEBANON

whether the political structure will also lose its sectarian form.<sup>156</sup> The head of the militant opposition group Hayat Tahrir al-Sham, turned President of Syria, Ahmad Al-Sharaa, originally signaled the importance of coexistence among Syria's sects.<sup>157</sup> However, others say that Alawites have already "lost faith" in Al-Sharaa's government after hundreds were killed in the country's coastal cities in March of 2025.<sup>158</sup> In addition, some fear that the new text on the SCC leaves too much power in the hands of the executive branch by allowing the President to choose its judges.<sup>159</sup> This persistence of sectarian tensions proves that a sect-proportional SCC is still crucial as an effective method to protect minority groups in Syria as the country restores its political institutions.<sup>160</sup>

### B. *The United States*

In international affairs, the term sectarianism is typically reserved for regions fractured by religion or ethnicity and is often used to describe Muslim-majority countries in the SWANA region. However, "there is nothing inherently 'Middle Eastern' about [sectarianism]."<sup>161</sup> A broader view suggests that increasingly polarized division between Democrats and Republicans in the United States falls under this concept, "shap[ing] how Americans view the world, other Americans, and themselves [as] Americans have increasingly grown to hate supporters of the other party, viewing their capture of political power as not merely unfortunate but illegitimate."<sup>162</sup> The same way that a sectarian upbringing in Lebanon

---

156. See Sirwan Kajjo, *Syria Post-Assad: Alawite Minority Faces Uncertainty Under Islamist Rebel Control*, VOA (Dec. 10, 2024, at 15:29 ET), <https://www.voanews.com/a/syria-post-assad-alawite-minority-faces-uncertainty-under-islamist-rebel-control/7896499.html>.

157. *Id.* ("No one has the right to erase another group. These sects have coexisted in this region for hundreds of years, and no one has the right to eliminate them.")

158. Mat Nashed, *Don't Trust Anyone: Have Syria's Alawites Lost Faith in New Government?*, AL JAZEERA (Mar. 20, 2025), <https://www.aljazeera.com/features/2025/3/20/dont-trust-anyone-are-syrias-alawis-losing-faith-in-the-new-government>; Chantal Da Silva et al., *You Started This: Attacks on Alawites in Syria Highlight Deep Divisions*, NBC NEWS (Mar. 23, 2025), <https://www.nbcnews.com/news/world/syria-deadly-violence-alawites-assad-ahmed-al-sharaa-rcna196707>.

159. Radwan Ziadeh, *Challenges Facing Syria's Constitutional Declaration*, ARAB CTR. (Apr. 4, 2025), <https://arabcenterdc.org/resource/challenges-facing-syrias-constitutional-declaration>; *Syria: Constitutional Declaration Risks Endangering Rights*, HUM. RTS. WATCH (Mar. 25, 2025, at 16:15 ET), <https://www.hrw.org/news/2025/03/25/syria-constitutional-declaration-risks-endangering-rights>.

160. See Kajjo, *supra* note 156.

161. Simon Mabon, *Afterword: Sectarianisation Beyond the Middle East*, 49 RELIGION, STATE, AND SOC'Y 174, 177 (2021).

162. Richard Johnson, *Sectarianism in the Divided States of America*, FOREIGN POL'Y CTR. (July 19, 2022), <https://fpc.org.uk/sectarianism-in-the-divided-states-of-america/>.

inherently creates bias in the minds of citizens, an American's political party shapes their worldview and stays relatively consistent throughout their life.<sup>163</sup> The United States' polarized and sectarian nature is political as well as social. Although many agree that the two-party system is failing the United States, it is hundreds of years old and seems impenetrable by third-party candidates.<sup>164</sup>

In this case, the United States could learn from SWANA constitutional courts. The U.S. Supreme Court already hosts high levels of judicial independence and holds constitutional interpretation powers, but it may be worthwhile to also consider formally and explicitly implementing representation by sect on the Court.<sup>165</sup> A 2022 study found that over half of the U.S. population currently disapproves of how the Supreme Court is run, and many agree that it needs serious reform.<sup>166</sup> One source insists that the Court should “function[] on an ideologically balanced basis” in order to “provide meaningful representation to all, defuse the politicization of judicial appointments, and make wiser decisions.”<sup>167</sup>

The United States can quell disapproval by its public and return the Supreme Court to its original purpose by passing a constitutional amendment requiring no more than five seats be filled by justices of the same political leaning. This change would more closely reflect the even split in the United States between registered Democrats and Republicans.<sup>168</sup> In response to arguments that this reform would increase sectarianism and polarization in the United States, ideological balance on the Supreme Court could “defuse the partisan maneuvering that plagues the judicial appointment process.”<sup>169</sup> Although the Court

163. *See id.*

164. Christopher Rhodes, *Can the US Ever Break the Two-Party Binary?*, AL JAZEERA (Jan. 26, 2024), <https://www.aljazeera.com/opinions/2024/1/26/can-the-us-ever-break-the-two-party-binary>; *see* Jonah Goldberg, *Our Two-Party System Is Stuck*, AEI (Aug. 9, 2017), <https://www.aei.org/articles/our-two-party-system-is-stuck/>.

165. *United States of America 1789* (rev. 1992), CONSTITUTE, [https://www.constituteproject.org/countries/Americas/United\\_States\\_of\\_America](https://www.constituteproject.org/countries/Americas/United_States_of_America) (last visited Dec. 13, 2024).

166. *See e.g.*, Kathleen Hall Jamieson, *Over Half of Americans Disapprove of Supreme Court as Trust Plummet*, ANNENBERG SCH. FOR COMM'N (Oct. 10, 2022), <https://www.asc.upenn.edu/news-events/news/over-half-americans-disapprove-supreme-court-trust-plummet>; *Supreme Court Reform*, DEMAND JUST., <https://demandjustice.org/priorities/supreme-court-reform> (last visited Dec. 13, 2024).

167. David Orentlicher, *Politics and the Supreme Court: The Need for Ideological Balance*, 79 U. PITT. L. REV. 411, 412 (2018) (alteration in original); *see Supreme Court Reform*, *supra* note 166.

168. *The Partisanship and Ideology of American Voters*, PEW RSCH. CTR. (Apr. 9, 2024), <https://www.pewresearch.org/politics/2024/04/09/the-partisanship-and-ideology-of-american-voters>.

169. Orentlicher, *supra* note 167, at 414.

## JUDICIAL REFORM IN LEBANON

is meant to be nonpartisan, it has not been so for a long time upon reflection of the Reconstruction Era, with precedents such as *The Slaughterhouse Cases* that weakened essential civil rights protections, through the modern-day dynamics of the Court.<sup>170</sup>

Currently, the Supreme Court hosts a “six-justice majority of Republican appointees,”<sup>171</sup> which might increase if Justice Sonia Sotomayor steps down during the presidential term of Donald Trump that ends in January 2029.<sup>172</sup> The modern threat of such a majority on the Supreme Court to the fundamental rights of U.S. citizens became clear in 2022 with the overturning of *Roe v. Wade*, which protected the right to abortion in the Constitution, by *Dobbs v. Jackson Women’s Health Organization*; moving forward, a number of other rights hang in the balance, including the protection of inmates against the death penalty, *Miranda* rights in criminal law, and immigrant rights, among others.<sup>173</sup> Do U.S. citizens not deserve a Supreme Court that properly reflects their values in judicial decision-making processes? Additionally, a 5-4 split on the Court would insulate against large swings by the electorate and bring a desired stability to the Court.<sup>174</sup> Americans should consider lessons from the LCC on the merits of sectarian representation on a constitutional court as one potential solution.

### V. CONCLUSION

This Note calls for three reforms of the LCC that would position it as an invaluable tool in protecting fundamental minority rights in a sectarian society: increasing judicial independence where it is prone to executive and legislative overreach, equipping judges with constitutional interpretation powers to uphold promises of the Taif Agreement, and instituting representation by sect among LCC judges to more accurately reflect the will of the Lebanese people. Although scholars agree

---

170. Joshua Zeitz, *The Supreme Court Has Never Been Apolitical*, POLITICO (Apr. 3, 2022), <https://www.politico.com/news/magazine/2022/04/03/the-supreme-court-has-never-been-apolitical-00022482>; Timothy Sandefur, *Slaughtering the 14th Amendment*, CLAREMONT REV. OF BOOKS (2004), <https://claremontreviewofbooks.com/slaughtering-the-14th-amendment>.

171. Vincent M. Bonventre, *6 to 3: The Impact of the Supreme Court’s Conservative Super-Majority*, N.Y. STATE BAR ASS’N (Oct. 31, 2023), <https://nysba.org/6-to-3-the-impact-of-the-supreme-courts-conservative-super-majority>.

172. See Sam Cabral, *US Supreme Court Justice Sotomayor Ignores Pressure to Retire – Reports*, BBC (Nov. 10, 2024), <https://www.bbc.com/news/articles/cvg4n2rdjp6o>.

173. Bonventre, *supra* note 171.

174. See Nicola Gennaioli & Andrei Shleifer, *Overruling and the Instability of Law*, 35 J. OF COMPAR. ECON. 309, 309 (2007) (“We find that overruling leads to unstable legal rules that rarely converge to efficiency.”).

that consociational democracy and political sectarianism have consistently proven that they entrench identity politics and inequality over national unity, the unwavering existence of power sharing must be factored into judicial reforms in multi-sect societies like Lebanon.

This Note does not suggest that reforms to the LCC can singlehandedly fix deeply-rooted issues in Lebanese society. Systemic corruption stretches far beyond the political sphere, and is coupled with a severely weak economy, a lack of basic infrastructure, and a longstanding refugee crisis.<sup>175</sup> However, a strong constitutional court is crucial in upholding the rule of law and protecting the citizenry as the country finds its way toward stability.

Like the events unfolding in Syria, it is unclear how current events in Lebanon will impact the overall structure of its government moving forward. Clashes between Hezbollah—backed by the Iranian government—and the Israeli government since October 7, 2023, have led to the widespread destruction of Hezbollah’s assets and infrastructure.<sup>176</sup> Once a big player in Lebanon’s power-sharing system that successfully garnered significant political leverage for the Shia sect, Hezbollah’s future in Lebanon is now a major question.<sup>177</sup> However, these changing dynamics might pose an ideal opportunity for the Lebanese government to empower the LCC without fear of major backlash or harm to judges.

This Note opens the door to future research in a number of areas. Moving forward, officials should consider the best approaches to introduce the reforms proposed by this Note into the LCC, whether by a constitutional amendment, political bargaining, or otherwise. Deeper explorations of the judiciaries of successful consociations such as Bosnia-Herzegovina may unearth more reforms for Lebanon, Syria, and

---

175. Mohammad Almoghabat, *Lebanon: Systemic Corruption Problems Require a Systemic Response*, TRANSPARENCY INT’L (Jan. 28, 2021), <https://www.transparency.org/en/blog/cpi-2020-lebanon-systemic-corruption-problems-require-systemic-response>; *Lebanon—Economic Reform and Infrastructure Investment Programme (LERII)*, DAI, <https://www.dai.com/our-work/projects/lebanon-economic-reform-and-infrastructure-investment-programme-lerii> (last visited Dec. 13, 2024); *Lebanon at a Glance*, UNHCR, <https://www.unhcr.org/lb/at-a-glance> (last visited Dec. 13, 2024).

176. Jonathan Masters, *Lebanon: How Israel, Hezbollah, and Regional Powers Are Shaping Its Future*, COUNCIL ON FOREIGN RELS. (Jan. 27, 2025, at 09:00 ET), <https://www.cfr.org/backgrounders/lebanon-how-israel-hezbollah-and-regional-powers-are-shaping-its-future>.

177. *Compare id.* (“Israel’s 2024 assault significantly eroded Hezbollah’s military power in southern Lebanon, but the Iran-backed group could remain a major political force in the country”), with Brian Stewart, *The Destruction of Hezbollah Is an Opportunity for Lebanon*, BULWARK (Dec. 12, 2024), <https://www.thebulwark.com/p/the-destruction-of-hezbollah-is-an> (“Since the Israeli invasion of southern Lebanon in October, Hezbollah has suffered immense, perhaps irreversible damage . . . Today, Hezbollah is a shadow of its former self, with scant options to regenerate any time soon.”).

## JUDICIAL REFORM IN LEBANON

the United States to consider. Additionally, thoughtful consideration is owed to the merits of instituting representation by sect on the United States Supreme Court. Other papers, including one by Professor David Orentlicher in 2018, have suggested the need for balance on the Supreme Court's bench.<sup>178</sup> As the United States moves deeper into polarization while the political center shrinks in the background of rising authoritarianism, this idea becomes ever more important.<sup>179</sup>

Although power sharing is a delicate process, as shown by the Lebanese example, consociational democracy in a multi-sect country is not inherently bad and should not be shied away from. We live in a diverse society, and any system should be equipped to handle an abundance of religious, ethnic, racial, and political identities—the study of law must confront this reality. When sectarianism becomes political, relevant judicial solutions must be considered and adopted.

---

178. See generally Orentlicher, *supra* note 167 (arguing that “the ability of a conservative or liberal majority to impose its perspective creates the same kind of problems as a single executive who imposes a conservative or liberal perspective” and outlining a rationale for ideological balance on the Supreme Court).

179. Sarah A. Binder, *The Disappearing Political Center: Congress and the Incredible Shrinking Middle*, BROOKINGS (Sep. 1, 1996), <https://www.brookings.edu/articles/the-disappearing-political-center-congress-and-the-incredible-shrinking-middle>; *Ring the Alarm Bells: Rising Authoritarian Practices and Erosion of Human Rights in the United States*, AMNESTY INT’L (Jan. 20, 2026), <https://www.amnestyusa.org/reports/ringing-the-alarm-bells-rising-authoritarian-practices-and-erosion-of-human-rights-in-the-united-states>; Dan Herman & Robert Benson, *A Green Light for Authoritarianism: How the Trump Administration Fuels Global Autocracy*, CTR. FOR AM. PROGRESS (Sep. 19, 2025), <https://www.americanprogress.org/article/a-green-light-for-authoritarianism-how-the-trump-administration-fuels-global-autocracy>.