EDITORIAL

It's now or never

This week Parliament is slated for two legislative sessions to address a 47-item agenda full of pressing issues. However, despite being the main topic of political discussions for months now, a new electoral law will not make the list.

A law to replace the ailing and rejected 1960 one has been mooted by all corners for some time.

And every politician and his aunt has promised a replacement that will finally provide fair and truthful representation for the Lebanese.

Such a law is necessary. It would give fresh hope to women, intellectuals and the new generation, giving them belief that their aspirations will no longer be ignored.

However, all indications show that reaching such an outcome may not be as easy as many politicians would have us believe.

President Michel Aoun has insisted that there is no way elections would be held according to the 1960 law, a sentiment echoed by the Lebanese Forces and Hezbollah.

Parliament Speaker Nabih Berri, meanwhile, says that no agreement on the matter is in the air, and none of the 17 drafts put forward are getting even close.

Against this backdrop Interior Minister Nouhad Machnouk has strongly hinted that we're coming to a point where it is imperative that elections are conducted on time, regardless of whether they are held under the old law or not.

And, as if this were not a complicated mix already, Progressive Socialist Party leader Walid Jumblatt has made it clear that his party and Druze sect categorically reject all laws proposed – be it proportional, mixed or any other formula.

The logical outcome is that either elections will be conducted according to the 1960 law or not at all, with terrible consequences for the country, its people and its reputation.

The wise men of the country suggest conducting the polls according to the old law, with a few tweaks.

At the same time, however, an independent committee made up of reputable men and women without political ties or designs should be formed to solve this thorny issue.

With Saad Hariri in the premiership, who has the courage to champion such a cause, Lebanon has the opportunity to put the vote law debacle to bed once and for all.

FARID EL KHAZEN

The struggle for Syria goes on

Ever since the state was formed in the 1920s, the struggle for Syria began. Hinging on the ups and downs of internal and regional power politics, the struggle for Syria unfolded in phases, the most recent the Arab Spring and its aftermath since 2011.

On the borderline between the Ottoman Empire and Arab provinces, mobilized by the Arab revolt in 1916, Syria was a disputed land. The transition from Ottomanism to Arabism took off, at a time when Syria witnessed the early stirrings of Arabism, then identified with the Hashemites.

Following World War I and the downfall of the Ottoman Empire, Syria, particularly Damascus, was a disputed territory between Arab nationalists and France seeking to establish mandatory rule in line with the 1916 Sykes-Picot Agreement. France took over following the battle of Maysaloun in 1920 and the relocation of Sharif Hussein's son, Emir Faisal, to Baghdad, where a Hashemite monarchy was established with British backing.

The struggle for Syria continued after independence, following the 1948 Palestine war and the rise of Nasserism in the 1950s. The hotbed of ideological politics, Syria was the scene of a power struggle between Arab nationalism and Syrian nationalism-an ideology calling for Greater Syria, articulated by Antoun Saadeh, the founder of the Syrian Social Nationalist Party in the 1930s. Subsequently, the struggle for Syria went on, pitting the Baath Party and its rivals in the 1950s, notably the Syrian Nationalist and Communist Parties, against each other, a period elaborated in Patrick Seale's book "The Struggle for Syria."

Following the 1956 Suez War, Gamal Abdel-Nasser rose to unprecedented heights of popularity and influence in pan-Arab politics. In search of leadership and power, Syria's Baath Party joined ranks with him and called for the merging of Syria and Egypt in what became in 1958 the United Arab Republic. Three years later, this hasty Union collapsed and deepened the divide between Nasser and the Baathists. Another split occurred within the Baath Party, after coming to power in Syria and Iraq in 1963.

For major powers, Syria's open battlefield was irresistible

Following years of instability and internal feuding, Hafez Assad took over in 1970. Buttressed by the outcome of the 1973 Arab-Israeli war, the Assad regime gained legitimacy and power. The struggle for Syria turned inward, fomented by a violent clash between the regime and the Muslim Brotherhood movement, crushed by the regime in the early 1980s.

Assad skillfully weathered the storm of regional politics, as Syria allied itself with Islamic Iran while keeping ties with Arab countries, notably Saudi Arabia. He also re-established diplomatic relations with the United States after the 1973 war, while maintaining close ties with the Soviet Union.

Following Assad's death and the collapse of the Arab-Israeli peace talks in 2000, Syria, now led by Assad's son, Bashar, faced new challenges. This time, it was the struggle for Iraq and the New Middle East, claimed by the George W. Bush administration, that dominated regional politics in the aftermath of the 9/11 attacks. The U.S. invasion of Iraq in 2003 drastically altered the regional power equation. Apart from Iraq, Syria was most affected and, specifically, Syrian-American relations, which rapidly deteriorated. This was first manifested in Lebanon, with the passing of UNSCR 1559 in 2004, calling upon Syria to withdraw from the country.

In 2011, the "Arab Spring" reached Syria at the end of the rope. Unlike Tunisia, Egypt, Libya, Bahrain and Yemen, the conflict in Syria quickly turned into a regional and international showdown. The overlap between the internal and external dimensions of the conflict was too absorbing.

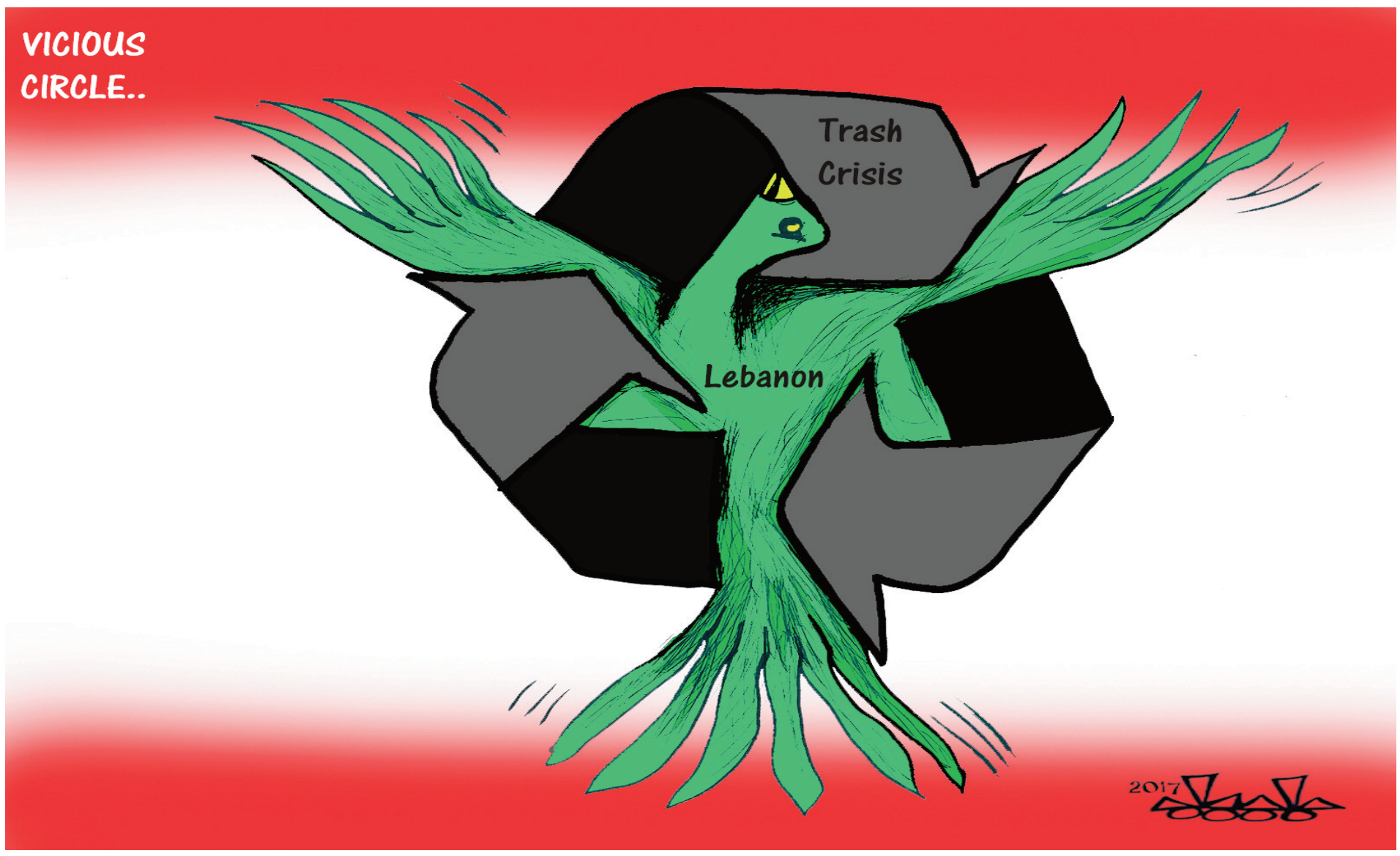
This was yet another episode in the struggle for Syria. Regional and major powers intervened in pursuit of conflicting agendas and interests: Iran backed the Syria regime, while Saudi Arabia and other Gulf states supported opposition groups. Turkey, though a newcomer to the Arab scene, backed the most radical Islamist groups and was most impatient to topple the Syrian regime while associating itself with Muslim Brotherhood leaders, based in Istanbul. Meanwhile, Daesh (ISIS) and other armed Islamist jihadi groups fought holy wars against infidels in Syria, Iraq and elsewhere.

For major powers, Syria's open battlefield was irresistible. For Russia, military intervention in support of the regime was an opportunity that could not be missed, especially following the Libyan debacle and the clash between Moscow and Washington and the European Union in Ukraine. Western powers had their own stake, first targeting the regime, then Islamist groups, following terrorist attacks carried out in Europe. The U.S., for its part, was content to get chemical weapons out of Syria and then carried out airstrikes targeting Daesh.

The struggle for Syria is now globalized while retaining its internal anchor. A common platform recently emerged bringing together improbable partners: Russia, Turkey and Iran. An alternative to the Geneva framework is currently in the making, and no settlement is possible without this trilateral entente, the success of which will also depend on the position of the Trump administration.

The struggle for Syria goes on. So does the suffering of civilians trapped in the debris of destruction and war. Before military operations end, no political settlement seems possible. And any settlement may not necessarily be to the liking of all or most parties – not unlike settlements in Syria's historical junctures since the 1920s.

Farid el Khazen is a member of Lebanon's Parliament and a professor of politics at the American University of Beirut. He wrote this commentary for THE DAILY STAR.



LORENZO KAMEL

UNSC Resolution 2334 on Israel: Why history matters

On Dec. 23, 2016, the United Nations Security Council adopted Resolution 2334, stating that Israel's settlement activity constitutes a "flagrant violation" of international law and has "no legal validity." Plenty of articles have discussed the early implications of the resolution, the potential follow up steps at the UNSC, the "Trump factor," and a number of other related issues.

Yet, none of these or other analyses has tackled the main historical and legal aspects outlined by those opposing the resolution. As noted by Prime Minister Benjamin Netanyahu on his Facebook account the day after the approval of the resolution, "The [British] Mandate, which expanded upon the Biblical and historical connection of the Jewish people to its land, was ratified in 1922 by the League of Nations. It was later adopted by the United Nations and until today it is a binding document under international law that defines the international legal status of the Land of Israel."

These claims are not new. Indeed, in recent years, thanks also to the work of scholars such as Eugene Kontorovich, Howard Grief, Edmund Levy, they have become part of a common argument adopted by all or most right-wing parties and voters in Israel.

From an historical perspective, however, these arguments require a careful scrutiny. For instance, if the "historical connection" is accepted as an argument in support of the construction of settlements in "Judea and Samaria," or for the maintenance of the ongoing status quo, Israel should simultaneously give up the entire coast between Ashdod and Ashkelon, which has never been part of any ancient Israelite kingdom.

The numerous archaeological expeditions carried out over decades in Ashkelon – one of five ancient Philistine cities, which today encompasses what was, until 1948, the Palestinian village of Al-Majdal – have confirmed that it has never been conquered by the ancient Israelites.

And even if one assumes that there was a conquest, the occupation of an area for a few years does not mean that it represented part of the "historic Jewish homeland." Otherwise, the many Philistine raids and sometimes occupations of Israelite towns as far east as the Jordan River valley would also make these areas "less Israelite."

It is noteworthy that Zionist consent to such interpretation was requested, and received

No less problematic, and certainly more consequential, is the second main aspect on which PM Netanyahu and others drew the attention of the public opinion: the legal-historical argument, largely connected to the issue of the mandate and the League of Nations. In order to shed light on this aspect it is necessary to turn to the historical phase following World War I, when Hubert Young, an important figure of the Foreign Office, wrote that the commitment made by London "in respect of Palestine is the Balfour Declaration constituting it a National Home for the Jewish People." Lord Curzon corrected him: "No. 'Establishing a National Home in Palestine for the Jewish people' – a very different proposition."

The British White Paper of June 1922 – the first document that officially clarified the interpretation of the mandate's text – pointed out that the Balfour Declaration does "not contemplate that Palestine as a whole should be converted into a Jewish National Home, but that such a Home should be founded 'in Palestine.'"

Furthermore, it stressed that the "Zionist congress" that took place in Carlsbad in September 1921 had officially accepted that "the determination of the Jewish people to live with the Arab people on terms of unity and mutual respect, and together with them to make the common home into a flourishing community, the upbuilding of which may assure to each of its peoples an undisturbed national development."

It is only in light on these clarifications that the preamble as well as Article 2 of the mandate text can and should be understood. It is noteworthy that Zionist consent to such interpretation was requested, and received, before the mandate was confirmed in July 1922. In Chaim Weizmann's words: "It was made clear to us that confirmation of the Mandate would be conditional on our acceptance of the policy as interpreted in the White Paper [of 1922], and my colleagues and I therefore had to accept it, which we did, though not without some qualms."

On top of all these arguments, the attempt to downplay the historical and legal role of the U.N. was rejected also by some of the most authoritative Israeli representatives. As David Ben-Gurion clarified in July 1947 in front of the UNSCOP commission, "the Mandate, in fact, does not exist because it was violated by the Mandatory. We are not in favor of renewing it. … we say that the original intention and the need, and what in our conviction is just, should be decided upon by the United Nations … I said we do not ask for a Mandate any more, so it is not a question. The question does not arise on the Mandate."

Also the assertion that Article 80 of the U.N. Charter implicitly recognizes the Mandate for Palestine is more complex than often claimed. One of the legal advisers to the Jewish Agency, Jacob Robinson, published a book in 1947 that presented a historical account of the Palestine Question and the U.N. He explained that when the Jewish Agency learned that the Allied Powers had discussed at the Yalta Conference (February 1945) a new system of international supervision to supersede the system of mandates, the agency decided to submit a formal request to the San Francisco Conference (April-June 1945) to obtain a safeguarding clause in the U.N. Charter.

The proposed clause would have prevented a trusteeship agreement from altering the Jewish right to nationhood secured by the Balfour Declaration and the Mandate for Palestine. The U.N. conference ignored the agency's request and stipulated in Article 80 of the charter that the U.N. organization did have the necessary power to conclude trusteeship agreements – such as the one that was suggested by the UNGA regarding Jerusalem in 1947 – that could alter existing rights held under a mandate.

None of the historical events of the last 70 years (1947-2017) has changed the juridical and historical validity of these aspects. This includes the 1967 Six-Day War, that – as confirmed in recent years by Ari Shavit's "My Promised Land" ("concentric circles of threat" surrounding Israel) and John Quigley's "The Six Day War and Israeli Self-Defense: Questioning the Legal Basis for Preventive War" ("rather than serving as precedent for preventing war, [the 1967 war] should be the poster child for pretextual invocation of force used in advance") – has been interpreted in very different ways by scholars.

Yet, there is a clear consensus that preventive war is illegal under the modern framework of international law and that, in Allan Gerson's words, Israel "never challenged the lawfulness of Jordan's control of the West Bank."

In conclusion, the British Mandate for Palestine and the historical events that followed offer no legal or historical justification for the construction of settlements, nor for keeping, since half a century, millions of individuals both without a state and a citizenship (i.e. rights). It might be relevant to stress that no other similar cases exist at the international level. In context such as Tibet, Turkish Republic of Northern Cyprus, Western Sahara, Abkhazia, to name a few, the "occupying powers" of these areas have created in loco nominally independent states, and/or are not building settlements in their "occupied territories," and/or have incorporated the local inhabitants as their citizens: with all the guarantees, rights and problems that this entails.

There is a clear consensus that preventive war is illegal under the modern framework

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