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Electoral Law Reform in Lebanon The Experience and Recommendations of the National Commission

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The parliamentary elections of 2005 in Lebanon following Syria's military withdrawal were a great missed opportunity for the holding of elections away from foreign manipulation, intimidation, and bargaining practices. In the eighty years of electoral life in Lebanon, including in the Taif agreement of 1989, election reforms were very limited. Acknowledging this problem, the government of Fouad Siniora established a National Commission to undertake a national dialogue on electoral reform and propose a new electoral law. Civil society, led by a number of NGOs, played an active role in the process. On the eve of the outbreak of war with Israel, the new draft law was being reviewed by the Council of Ministers before its submission to Parliament's vote. If adopted, the law would introduce major changes in political practices in Lebanon, including a women's quota of 30%, the establishment of an Independent Electoral Commission, strict rules on campaign finance and media regulations. The law would constitute one of the most progressive electoral laws in the Arab world. However, the new domestic and international context resulting from the war with Israel in summer 2006 will be decisive in determining the fate of the law.

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Background:

Lebanon has been a parliamentary democracy since the promulgation of the Lebanese constitution in 1926.

The first parliamentary elections were held in 1927, and except for gaps during the Second World War and the 1975-90 Lebanese War, they were held on a fairly regular four-year basis.

Throughout the past eighty years the election system has remained a majoritarian first-past-the-post system in multiple-member districts. Seats in each district are specified for candidates from particular religious communities, but all voters in each district vote for all seats. There were virtually no regulations on campaign finance and media, and the Ministry of Interior managed the election process.

The practice of reserving seats in Parliament for candidates from particular communities had been initiated in the 19th century during the period of the Lebanese *Mutasarrifiya* in which the Ottoman Governor of the Province of Mount Lebanon was officially assisted by an Administrative Council whose seats were fixed and apportioned to the various religious communities of the Mountain and whose members were elected indirectly by an electoral college composed of elected village headmen. During the Mandate, the French adopted and expanded the practice of confessional distribution of seats. At the time, the ratio of Christian to Muslim seats was set at 6:5, reflecting the overall demographic balances of the interwar period. These demographic balances changed steadily over the ensuing decades. In 1989, the Taif Agreement reset the Christian-Muslim representation in Parliament at parity.

The main changes that had affected election laws in the eighty years of electoral life in Lebanon had been limited to making districts smaller or larger. The National Movement of the 1960s and 1970s, as well as other change-oriented movements, had

proposed more serious changes to the electoral system, particularly pushing for the introduction of proportional representation, but to no avail.

The Taif Agreement had made only partial mention of the electoral law, stipulating that elections “should be organized on the basis of the *Muhafaza*, after the redrawing of the Administrative map”. At the time of the Taif Agreement, Lebanon was organized administratively into six *Muhafazat* (regions) within which there were 26 *Qada* (districts). The previous election law that had been promulgated in 1960 and on which four pre-war elections were held, had adopted the *Qada* as electoral districts. The Taif Agreement was thus indicating that electoral districts should be larger than the *Qada* that had been used previously, but was leaving the door open as to exactly how many *Muhafazat* there would be, and along which lines they would be drawn.

Post-war elections, of which there have been four so far (1992, 1996, 2000, and 2005), left much to be desired. The election laws that were adopted in each round were patchwork laws in which different districting was adopted in different regions, and which were designed to promote certain electoral outcomes that were favourable to the government of the time and to the Syrian regime which dominated politics between 1990 and early 2005. The Syrians interfered in the composition of slates, in the behaviour of voters, and in the management of the entire electoral process. And with the general adoption of large electoral districts, some of which contained 17 or 23 seats each, the skewed effects of majoritarian systems in multi-member districts became overwhelming. Indeed, through political intimidation and electoral engineering and manipulation, the Syrians and successive compliant Lebanese governments were able to reproduce overwhelmingly docile and pro-Syrian parliaments.

Many voices in civil society and the political community arose in the 1990s decrying the gross imbalances in the electoral system and denouncing the high levels of

political interference; voices were also raised about the uncontrolled influence of money in the process as well as the abuse of private television and radio stations. A movement developed in civil society, led by a number of NGOs, particularly the Lebanese Association for Democratic Elections which was established in 1995, to explore potential changes to the electoral system and to push for them.

After the withdrawal of Syrian forces from Lebanon in April of 2005, in the wake of the tragic assassination of Prime Minister Rafik Hariri in February of that same year, there was great hope in the country that the old Syrian-engineered electoral systems would be a thing of the past, and that Lebanon would adopt a new electoral law for the upcoming elections of June-July 2005. However, apparently calculating that what had been engineered by the Syrians could now serve their own purposes once the Syrians had left, key politicians from both anti-Syrian and pro-Syrian camps colluded in scuttling attempts to produce a new election law, and—as the election date approached—argued that, in the absence of any new law, elections had to be held on the basis of the election law that was still on the books: the Syrian-designed 2000 Election Law.

The holding of the 2005 elections on the basis of this election law dealt a large blow to the national momentum that had built in and around the massive demonstrations of March. Key members of the March 14 coalition, particularly Michel Aoun, withdrew from the coalition taking much of the Christian public with him, and wide sections of the general public were disillusioned to see that their politicians, taken briefly for heroes during March and April, were back to behaving as politicians. Indeed the elections of 2005 were a great missed opportunity for Lebanon; instead of using the first elections without Syrian influence as a great occasion to restore widespread representation in Parliament and to bring all major political players into the fold of democratic institutions, key politicians figured that, using the old electoral law, they could secure a

comfortable majority for themselves in Parliament, and weaken or exclude their political opponents.

The elections were viewed as highly controversial, and many groups in the country have since argued that the majority in Parliament and the resulting government do not reflect the true popular will and are the result of a skewed election law. Partly recognizing the problems with the elections, the government of Fouad Siniora formed after the elections, immediately established a National Commission and tasked it with undertaking a national dialogue on electoral reform and proposing a new electoral law for the country. The Commission was formed in August of 2005, pursued its work, and submitted its final proposed law and report to the Council of Ministers on June 1, 2006 (*see the Commission's website at www.elections-lebanon.org*).

Outline of the Proposed Reforms

The commission was composed of 12 members. It received 121 reform proposals and ideas from political parties, groups, NGOs, and independent researchers around the country. It also reviewed dozens of other proposals that had been submitted to previous governments. In addition, it reviewed dozens of election laws of other countries around the world and met with a stream of international election experts that were brought in by international organizations. After months of review, study, and collective decision-making, the Commission presented a fully detailed law of 129 articles proposing the following reforms:

1. The introduction of proportional representation by adopting a parallel electoral system in which 77 seats would be elected from the *Qadas* on a majoritarian block-vote basis, and 51 seats would be elected from six large *Muhafazat* on a proportional representation (PR) basis. At the PR level, lists would be closed but unranked. The voter is required to choose one of the competing lists and to indicate a preferential vote for any

two candidates within that list; the preferential votes would then rank the candidates within the list. The parallel system would provide a balance between the familiarity of the small districts in which voters and representatives could maintain close links and in which small communities find security; and the promise of large districts with PR which would allow new groups and leaders to enter into Parliament, and would end the monopoly of the main *Zaims* (chiefs) on representation.

2. The introduction of a 30% minimum women's quota on all lists at the *Muhafaza* PR level. With a minimum list size of four, this provision means that no list can be formed at the PR level without women representation on it. The quota applies only to the lists of candidates, which are not pre-ranked; hence, from there on, women must compete like their male counterparts to secure the necessary number of preferential votes to ensure their success.

3. The reduction of the voting age from 21 to 18. This has long been a demand of civil society and youth groups in the country.

4. The enabling of Lebanese abroad to vote. This reform applies to Lebanese who currently hold Lebanese citizenship and whose names appear on the voter roles, as do those of all current citizens, but who happen not to be in Lebanon. Such expatriates are required to register with their nearest Lebanese embassy and consulate, and can participate in the elections from abroad. This had long been a demand of the large Lebanese Diaspora.

5. The enabling of in-country Lebanese to vote near their place of residence. Voter registries set up in the 1930s are still organized based on one's place of origin. In the ensuing decades, rural-urban migration as well as internal and external wars and displacements, meant that many people no longer lived in the towns and villages from whence they originate. Completely dissociating voters from their place of origin is still a highly sensitive and controversial issue in Lebanon. Hence, the Commission decided simply to allow voters to forego the

expense and effort of travelling to their town or village of origin on election day (a process which affects close to half of the voting public in some districts) and to allow them to pre-register to vote in polling stations set up for them in their cities of residence. This provision should boost participation and should reduce the influence of money which often plays a key role in offering free transportation to voters in exchange for their vote.

6. Votes will no longer be counted at the village and neighbourhood level but will be counted centrally at the *qada* level. Previously, by counting votes at the village and neighbourhood level, campaign operatives could figure out quite accurately which groups and families voted for them and which did not; this was the basis for vote-selling and buying, and the basis for voter intimidation. In the new proposed system, campaign operatives could not find out how individual villages or neighbourhoods - nor the families and groups within them - voted.

7. A key provision of the proposed law is the establishment of an Independent Electoral Commission (IEC) which would replace the Ministry of Interior as the authority responsible for all matters relating to the electoral process. This Commission would be a permanent body headed by a senior judge, and would include representatives of the judiciary, the two bar associations of Lebanon, the press syndicate, the national audio-visual media council, and the academic community. It would be assisted by an administrative staff and would prepare for and manage elections, much as many electoral commissions do around the world.

8. Campaign finance. The Commission proposed strict and detailed provisions relating to campaign finance. This section of the proposed law sets a limit on campaign spending; stipulates that all income and spending must go through one bank account which must be declared and must forego Lebanon's general banking secrecy provisions. It stipulates that every campaign must have a registered financial officer and an external auditor, and that each campaign must

submit full and regular audited accounts to the IEC. The law specifies clear penalties and sanctions against campaigns that do not comply.

9. **Media Regulations.** A small number of politicians or political groups own and control the main television stations in the country, and this has been a key problem in post-war elections. The Commission presented clear and detailed regulations relating to television and radio broadcasting during the election campaign period. With regard to the public television and radio, the commission proposed that all lists and candidates should be able to have a share of air time on the public airwaves. With regard to private television and radio stations, several things are required of them:

- i. They are allowed to organize political programs and coverage, but they must provide fair and equal airtime to competing candidates and lists.
- ii. They are allowed to sell campaign advertising space, but they must fix and declare their price list to the IEC; and they must sell their political advertising space to all comers, and cannot refuse ads from any registered political candidate or list.
- iii. They are not allowed to use their own airtime to favour a list or candidate or otherwise propagandize for any list or candidate.

Taken together these reforms represent by far the most fundamental overhaul of the electoral system in Lebanon's modern history. With the introduction of proportional representation, the lowering of the voting age, the encouragement of women through a list-quota, and the voting of expatriate Lebanese, it represents a dramatic expansion of the actual electoral franchise and should bring new groups and leaders into Parliament. At the same time, it is a fairly realistic law which takes into account many of the political complexities and realities of the Lebanese condition.

The Fate of Reform

The proposed law is now in the hands of the Council of Ministers. In its ministerial statement, the government had given itself one month between receiving the proposed draft law from the commission and sending it (revised or otherwise) to Parliament. Realistically, the proposed law is likely to stay for most of the summer months in the Council of Ministers. Although many in the government might be opposed to the law, as it will reduce their numbers in any future election, the government itself is hard pressed—before domestic and international public opinion—to reject an electoral reform law proposed by an independent commission that it itself appointed. It is not unlikely therefore, that the government might reluctantly approve the proposed law (with perhaps non-fundamental changes) and send it along to Parliament, where opponents of the law could hope that the law would languish indefinitely in parliament or be changed completely.

In normal circumstances, it would be nearly impossible to hope for such fundamental change in the electoral system of Lebanon, which after all has been comfortably monopolized by successive oligarchies in different phases of Lebanon's modern history. Lebanon's current political conditions might offer an unusual opportunity for change for the following reasons: first, the current government and majority in Parliament is very dependent on international support, particularly from the US and France, and it will be very delicate for the current government and current majority to block electoral reform, particularly vis-à-vis the US, who has made of democratization a banner issue, and who wants to hold up Lebanon as a successful example of democratization in the Arab world, particularly since Lebanon has not shown significant signs of progress neither on deep economic and fiscal reform nor on key security issues. Second, many of the opponents of the government and the current majority might push for the electoral reform even if they are not comfortable with all its provisions, because they feel that it is a means by which they can challenge the

current government and by which they can prepare for another election in which they would hope to do better. In other words, the current domestic and international conditions in which Lebanon finds itself, just might provide the political pressures that could see such a law actually come into effect.

To conclude, though, one must admit that electoral reform will be a drawn out and tense process and that many of the traditional *zaims* of the country will find much that disturbs them in the law. The chances of such a reform package becoming law over the next twelve months remain less than even. Nevertheless, the work of the Commission has set the bar for the government and

Parliament and for the political leaders of the country. It also presents a challenge to civil society groups and leaders who have a key role to play in the ensuing debates and contests regarding the election law in the coming months. While most politicians have something to lose in this law, Lebanon and Lebanese civil society have much to gain. Now is the time for civil society voices and organizations to reclaim and repopulate the national common ground that many Lebanese so recklessly abandoned and to push electoral reform as a raft upon which to cross over to a healthier and more democratic political life.

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