

The Downward Path of the Civil Project for Electoral Reform

A critique of the cooperation between civil society, public
authorities and international organizations¹

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Electoral reform in Lebanon presents a rich and important case study for researchers interested in the public policy making process (policies) with regards to the question of cooperation between public authorities on the one hand and civil society activists on the other. Based on the most circulated concepts and terminologies and also on contemporary experiences and expertise, and namely the experiences of international organizations, it can be concluded that reform is no longer the work or the product of the political elite alone, but rather an integrated process involving the official authorities, along with political parties, syndicates, civil society organizations, and the media etc.

Part of the “recipe” that is promoted by international organizations and donor bodies, and is required for cooperation and funding, has been adopted in the electoral reform process in Lebanon, which started with the establishment of the “National Commission on Electoral Law” (the National Commission), created by virtue of governmental decree N°58 dated August 8, 2005. The National Commission was established through an official political decision and brought together twelve members from multiple professional, political and social backgrounds, most of whom are experts in the subject of electoral reform, including three prominent members of civil society². During its mandate, the National Commission listened to the views of local and international experts and received 122 proposals for complete or partial electoral law reform, continuously communicating with public opinion through media and making its work publicly available³. The National Commission was also bolstered by different types of support and assistance from major international organizations, specifically the United Nations Development Programme (UNDP) in Lebanon. This UNDP acted as a coordinator among the various international organizations concerned with the electoral reform process and unified their efforts, drawing on its financial, technical and logistics resources and becoming the essential partner in the electoral reform process for both Lebanese authorities and civil society alike.

² Those three members were founding members in the Lebanese Association for Democratic Association since 1996, and were members of its Administrative Board for consecutive years, and two of them were Executive Director, and one of them was appointed to the National Committee for Electoral law while he was a General Director, before he resigned in August 2005.

³ See: www.elections-lebanon.org

At the same time, a number of Lebanese civil associations formed a coalition under the name of the Civil Campaign for Electoral Reform (CCER)⁴ with the aim to support the National Commission and to provide technical assistance to the Commission and other relevant public institutions, specifically the Parliamentary Commission for Administration and Justice and the Ministry of Interior. In this sense, the National Commission met all the conditions required in the reform process by integrating different levels of reform, from within – on the national level – and from without – on the international level – as well as from the top-down – on the part of political authorities – and from the bottom-up – on the part of civil society.

The process of electoral reform in Lebanon is nevertheless witnessing a decline, specifically with regards to the fulfillment of the recommendations put forward by civil society organizations, notably the Lebanese Association for Democratic Elections (LADE). Based on a simple comparison between the 1960 electoral law that was recently adopted and the electoral reform project advocated by civil society organizations since 1996, civil society emerges as the biggest loser in the electoral reform process and is paying for the price of cooperation between international organizations and the public sector at the expense of its reformist claims. This article seeks to examine the nature of cooperation in the public policy making process and to understand its conditions through the analysis of its impact on the electoral reform process, taking the experience of LADE as a rich and fundamental case study in this field⁵.

From Civil Society as the Main Player in Electoral Reform ... to Formal and International Cooperation

Since the foundation of LADE in 1996, the research, articles and studies published in its name or in the name of its members and legal experts – and which can be dubbed the “civil project for electoral reform” – have formed a unified set of political principles and legal and technical rules that are based on constitutional texts. With the

4 The Civil Campaign for Electoral Reform (CCER) is a coalition of Lebanese civil society organizations led by the Lebanese Transparency Association (LTA), the Lebanese Center for Policy Studies (LCPS), and the Lebanese Association for Democratic Elections (LADE), along with several women, and youth advocacy organizations, and people with special needs associations.

⁵ Beside the scientific value of this article, this work consists on an auto-critic for an administrative and advocacy experience within the LADE, in order to analyze and take advantages of the results.

objective of realizing reform that assures fair representation, democracy, justice and equality among candidates and voters, the principles of the electoral project are as follow:

- (1) Although LADE has not officially adopted a statement on the proportional electoral system and the division of constituencies, its literature criticizes the simple majority voting system and the disparity in the size of electoral districts and argues that the proportional system with big districts ensures fair representation and overrides the sectarian system and sectarian representation in Lebanon⁶.
- (2) The electoral system should be based on national and political representation rather than on a sectarian one.
- (3) The size of electoral districts should be reconsidered in order to ensure political equality among voters so that they vote for an equal number of deputies in all the districts.
- (4) The legislative seats which are divided equally among Christians and Muslims should be subject to realizing “the goal of abolishing political sectarianism, including an electoral law that allows the citizen to rise above sectarian affiliation when participating in public decisions. These principles include rationality, assembly on a national basis, dialogue and voluntary assimilation.”⁷

Working from these political principles, LADE developed a set of reforms to be integrated in any electoral law, like lowering the voting age and the candidacy age, adopting a women’s quota, a national commission for elections, monitoring the media etc, in addition to a set of reforms related to election operations, such as the electoral ballot, the place of vote, monitors of the voting process etc.

The literature of LADE clearly shows that the approach adopted for the formulation of the “civil project for electoral reform” is an integrated approach in terms of preparation, approval and implementation; in other words, it is an approach that rejects the partition of the electoral reform process or its piecemeal implementation. A piecemeal implementation would empty proposed reforms of their content and potential impact and give rise to new practices that would render the political system more complex and

⁶ See: Nizar Saghie and Rana Saghie, *Iqtirahat Min Ajil Islah Al Nazam Al Intikhabi fi Loubnan*, LADE and Annahar, Beyrouth, 2004.

⁷ Ibid. p 17 – 19

stubborn to future reform. Such practices came about with the most fundamental reforms that were mandated by the Taef Agreement, creating a “*Presidential troika*” that operates outside the law and state institutions, along with a suspended constitutional council and a disabled social and economic council.

Since the goal of the “civil project for electoral reform” from the outset was to achieve political reform in the sectarian system, the project emphasized the interrelationship between reform of electoral districts, reform of the electoral system and other reform. During its first decade of work (1996–2004), LADE sought to achieve its goals by:

- (1) Monitoring elections, although the Ministry of Interior refused to recognize it and described it as “secret society,”
- (2) publishing valuable qualitative reports on elections (municipal, parliamentary and presidential), which developed into a key scientific reference on the subject,
- (3) following up on reforms of the electoral system and providing critiques and recommendations,
- (4) launching national advocacy campaigns, among the most important, the coalition for municipal elections, “My country, my town, my Municipality,”
- (5) maintaining democratic practice within the organization through a consecutive change in leadership (secretary-general, executive committee etc.),
- (6) and maintaining an important standard of objectivity and impartiality in its work, despite the different political walks of its members.

The above was achieved without external support or guidance, almost non-existent resources and without cooperation from the part of political authorities. The success of LADE’s work during this phase is due to several reasons, among the most important were the decline of institutionalized and organized political activities, and the decline of social mobilization and advocacy in the public sphere on the part of trade unions and political parties coupled with the imposition of strict restrictions on the part of the state.

The members of LADE understood this reality and participated in public affairs by calling on constitutional rights, specifically on public freedoms and political rights. This was supported by a number of journalists looking to play a public role in the period following the civil war, reconstruction and foreign influence. With the gradual return of “international concern” to Lebanon, which gained impetus in 2004 for various reasons

that will not be elaborated in this article, LADE profited from a distinguished interest by a large number of international organizations. Since early 2005, this interest translated into developments for LADE in several areas. First, many governmental and non-governmental organizations and representatives of diplomatic missions, specifically European and American ones, either proposed collaboration and partnership for electoral monitoring and electoral reforms, or consulted with LADE members on their points of views regarding public affairs issues in general. This interest coincided with the 2005 parliamentary election, which took place after the withdrawal of the Syrian army from Lebanon and which was considered by international delegations and missions as a driver of change in the political status quo established since 1992. Second, it generated a number of projects funded by international organizations and foreign missions and ensured funding for its operations. The most important projects, Afkar I and Afkar II, were funded by the European Union and sought to strengthen the capacities of media coverage for elections. The two projects were implemented in collaboration with the Office of the Ministry of State for Administrative Reform OMSAR and were the first to present a formal framework of cooperation between LADE and a Lebanese governmental institution. Third, it provided LADE with exposure to a broad, external and diverse audience and enhanced cooperation and networking with regional and international associations, especially since the events that took place in 2005 when international and Arab media have put Lebanon under the microscope.

At the same time, while LADE sought to proceed with the process of comprehensive reform of the electoral system, foreign missions and international organizations gave priority to holding elections regardless of the nature of the electoral law and advocated alongside the Lebanese government for the parliamentary election to be held without delay. Effectively, the 2005 parliamentary election was held in accordance with the 2000 electoral law, which was criticized by LADE and considered as unfair, undemocratic and imposed, failing to take into account the points of view provided by legal experts.

The “civil project for electoral reform” embarked on its downward path in the period preceding the 2005 parliamentary elections, and continues to be emptied of its content until today, with the collapse of the remaining reforms approved in the draft law of the National Commission.

On the one hand, political forces have damaged the electoral reform project; firstly, by neglecting to debate the draft law in the council of ministers, secondly, by adopting the 1960 electoral law in Doha May 2008, based on the *qaza* as an electoral district with a simple majority voting system, effectively deviating away from all that was proposed in the “civil project for electoral reform,” and thirdly, by failing to approve the technical reforms adopted in the draft law in a timely manner and allowing for the implementation of such reforms during the parliamentary elections in 2009 (ie. the right of emigrants to vote). On the other hand, the participatory policy that defined the electoral reform process and tied in international organizations along with official Lebanese institutions and civil society organizations greatly contributed to the failure of the “civil project for electoral reform” through assimilation, neutralization and alienation.

Towards Attraction

Three important factors contributed to the attraction of LADE, the “Lebanese Coalition for Electoral Monitoring” and later on the “Civil Campaign for Electoral Reform,” and their readiness to accept the adoption of an old law during the 2005 parliamentary election, albeit without conviction, and to contain the escalation of protestation to this law.

- (1) Due to a number of projects on electoral monitoring, largely funded by international organizations and diplomatic delegations.
- (2) Due to pressure exerted by these international organizations and delegations on the Lebanese government to provide LADE with formal authorization to monitor elections at the polling stations. A limited number of permits were issued directly by the Ministry of Interior in the name of the monitors working with LADE.
- (3) Due to the pledge made by these international organizations and delegations to pressure the Lebanese government to launch the electoral reform process immediately after the elections, to provide the necessary support for this, to ensure that the guiding principles of the “civil project for electoral reform” will be the starting point of the process and that LADE experts will play a key role in the entire process.

One of the lasting results of the above attraction process, throughout the 2005 elections that took place in circumstances and conditions that were not transparent, fair

and democratic and were defined by a sectarian discourse and political money, is that until today LADE has not been able to publish its report on electoral monitoring, despite the funding that was made available to it, along with the high number of volunteer monitors and official monitoring authorization. This happened for two main reasons.

On the one hand, LADE was unable to absorb all the transformations that took place on the institutional and administrative levels. Rather than monitoring electoral campaigns and electoral work in different regions and preparing the relevant reports, the energy of LADE members was wasted on the logistics related to the monitoring process. While LADE did receive formal monitoring authorization, the way it obtained permits from the ministry of interior had a very negative impact on the preparation and organization of its field workers, the distribution of its monitoring teams in addition to the actual content of the monitoring process. Permits were given to LADE monitors on the eve of every election round and LADE did not have prior knowledge of the actual number of permits to be allocated as well as the number of monitors authorized to enter the polling stations. “Cutting papers” for monitoring ballots became the main task of LADE experts during the four elections rounds. Thus technical preparations for “official monitoring” of the elections became the main goal of LADE rather than monitoring itself, so that the value added offered by LADE during the elections was restricted to cooperation with official institutions only.

On the other hand, since its founding, LADE developed strict conditions for accepting foreign funding for fear of being accused of working for outside forces, putting itself in a permanently unstable financial situation. With changing circumstances in 2005, specifically with regards to the composition of political authorities in Lebanon after the withdrawal of the Syrian army and the fall of an important number of political constraints, however, LADE did not hesitate to accept a majority of the projects that was proposed to them, without prior assessments of the impact of such funding on their role and function and without considering the objections raised by a number of LADE’s members about projects funded by international organizations. The main concern of LADE was to secure funding for the association following the “lean years,” in order to move from being a specialized association that operates on a free and voluntary basis to being an institution that covers the cost of its administrative staff and the cost of monitoring elections at all its stages and fields, including monitoring the media, and that pays its experts for intellectual production.

Among the most negative effects of foreign funding was the breakdown of the concept of volunteerism, which was the added-value and the distinguishing mark of all that was undertaken by LADE, whether its field work conducted since the 1996 elections or its intellectual and research work on the subject of reforming the electoral system. With the adoption of the concept of “paid volunteerism” and multiple administrative functions and the ability to pay for a large number of services required for its work, clientelism and nepotism were introduced to the association, negatively impacting the nature of relationships among LADE’s members, the nature and content of their work, and creating *assabiya* based on favoritism. This led a representative of an American organization that operates in Lebanon and funds LADE to tell its current leaders that they are unable to play the role played by the team that preceded them, who did not have the same financial capacities, and that they have become “globalized” in such a way that they are cut off from reality and this in spite of all the material support provided to them by his institution and their openness to a large number of international organizations. A large part of those who took on the leadership of LADE in 2005 belong to “a pragmatic culture” based on speed of thinking and practice that lends importance to the external framework, form and location of the project to the detriment of its content. This sheds light on the key subject at hand that requires in-depth analysis that has no place here and which relates to generational changes in the leadership of LADE.

Thus the 2005 elections ended, without LADE members able to follow or monitor the elections or reach results in accordance with the resources that were made available to them, and without publishing their final report. Therefore, the external attraction and the financial support provided to LADE were in vain compared to the content of the substantive work it produced in the stages preceding the 2005 parliamentary election.

Towards Assimilation

The 2005 elections ended and the process of electoral reform in Lebanon took off and was taken under the responsibility of foreign governments and several international organizations. Civil society received what it was promised, as the National Commission was established and incorporated twelve experts among whom were three founders of LADE who previously worked on electoral reform and made numerous

scientific contributions to the field. The final output of the commission was the draft law submitted to the council of ministers. Despite its importance and specifically its reform angles, the draft law remains a “compromise settlement” carrying the “thing and its opposite,” reforms and the status quo, like the Lebanese formula and similar to ministerial statements and speeches. It is a law formulated between the proportional system and the simple majority system, between the Caza and the Mouhafaza, with a considerable discrepancy between the electoral districts. This led one of the most prominent members of the “civil project for electoral reform” to say: “The commission through its experts has set an appalling precedent regarding standards of democratic elections. There is no justification for the whole project if the national commission comes out with the same results that could have been issued by the compromises of the politicians themselves (...) an unprecedented setback for democracy at the hands of some its advocates generating considerable bitterness towards reform projects.”⁸ And this opened the door towards the assimilation of the “civil project for electoral reform” on several levels.

Firstly, it is true that the expert members of LADE were not only selected for the National Commission as representatives of civil society, but also due to their multiple professional, political, social and sectarian affiliations. Yet despite this, it would have been better for them to agree among themselves on the basic principles and broad outline of a project that sums up their civil projects into one and that could be brought up and defended in the commission. Instead, competition among the experts occurred around electoral reforms or some of its basic aspects, each member giving priority to his/her political position at the expense of civil commitment and weakening the chance to defend fundamental reforms in the electoral system. When government relies on experts through the formation of a special commission for the sake of a given reform, it is well-known in the policy-making realm that it is seeking in the first place to alleviate politicization that the subject of the reform suffers from. Government tries to purify reforms from partisan or sectarian influence and puts it in the hands of experienced and competent experts to decide upon it and to approach it from a scientific and objective perspective, maintaining moral authority over politicians. This is what the members of the national commission did not do, and the international experts did not help them

⁸ Sleiman Taki El Din, “Mashrou’ Qanoun Al Intikhabat: Khasirna Ma’rakat Al Iislah ‘Ala Aydi Al Islahiyin”, Assafir, 7/6/2006

either. They played the role of politicians with a mandate and they authorized the compromised electoral draft law that opened the way for political forces to abandon the reforms that were not consistent with their electoral interests. That is effectively what happened in “Doha,” and what continues to happen until election date next summer in 2009.

Secondly, when the draft law was completed and submitted by the national commission to the Lebanese government in May 2006, the gradual assimilation of the “civil project for electoral reform” continued, on the parts of the political authorities and international organizations. The cabinet did not debate the draft law and did not even move it to parliament. For their part, international organizations, the United Nations Development Programme and concerned international organizations selected three experts from the national commission, themselves members of LADE, to promote the draft law and present it to the public in order to mobilize support and obtain formal approval for it. The Civil Campaign for Electoral Reform (CCER) was mandated by the same donors to be the supportive arm in the process of promoting the draft law, by organizing town-hall meetings throughout universities and areas in Lebanon and by preparing marketing campaigns. This promotion process, which involved the most prominent actors in electoral reform, resulted in the following: first, in the absence of any serious and meaningful criticism within the civil campaign by stakeholders concerned with the civil project for electoral reform in order to develop or reject the draft law. Second, the promotion process led to the complete removal of the civil project advocated by the civil actors from the agenda and the actual adoption of the draft law. Based on that, the process of the assimilation of the “civil project for electoral law reform” continued, even before Lebanese politicians headed to Doha, and since that date a new phase has started.

Towards Allegiance

Members of the Civil Campaign for Electoral Reform considered that “the proposed project [the national commission draft law] contains many items that can create a fundamental reform in the entire electoral process. It is incumbent upon the political authority, represented by the council of ministers and the parliamentarians, to take these principles, that constitute an integral part of the electoral law reform process, into

consideration, and to make them immune to the political incentives and tension surrounding the parliamentary law project.”⁹ With the Doha agreement and the commitment of the political authority to the majority system and to the Caza as electoral district, however, the CCER could no longer count on that because nothing remained of the “civil project for electoral reform” nor of the national commission draft law project. Moreover, current political tensions are invalidating the remaining reform items in the electoral draft law under discussion in the Parliamentary Commission of Administration and Justice, which even if approved today cannot be applied in the upcoming elections due to the little time remaining, like the independent commission for elections, which was approved by the president of the latter commission and the concerned minister as well as the technical experts.

On a final note, many interrogations can be raised:

1. What has remained of the electoral reform project today so that civil associations are calling for the monitoring of elections, regardless of any assessment of their monitoring experience in the 2005 elections? What is the required role of members of civil associations in the upcoming elections that at the least will pave the way for a new political balance? Is it the role of the intellectual advocating for the civil project for reform, or the technical expert, or the “files-holder,” or the implementing partner chosen by others? Is it not possible to reduce the role of civil associations only in technical matters; in fact, civil society loses its objectives and the meaning of its movements without an integrated civil reform project. In all cases, civil associations work to achieve reform but cannot replace it and they cannot be delegated an additional role as compensation for the lack of its achievement. Similarly they cannot be asked to monitor an election that to a large part has ended before it has started, as was expressed by a former secretary-general of LADE, who is the current leader of one of the most important international organizations concerned with electoral reform in Lebanon, “observation on the day of elections is no longer important since fundamental violations are related to the nature of the electoral system as a whole.”¹⁰

⁹ Assafir, Hay’at Ahliya Toushid Bil Mashrou’ Al Intikhabi”, 6/6/2006.

¹⁰ Khaled Saghieh, “Al Khouroukat Al Assasiya Tata’alak Bi Tabi’at Al Nizam Al Intikhabi”, Assafir, 6/7/2006

2. What remains of the project for electoral reform today so that international organizations are allocating millions of dollars in order to monitor the upcoming elections, without providing any criticism of its experience in this field since they pushed the Lebanese government to hold elections in 2005 according to the 2000 law and after the end of the reform project in Doha? What do international organizations need from the parliamentary elections in Lebanon, at a time when some are paying huge sums to survey what political forces will win a majority of the parliamentary seats in 2009, and when others are increasing their allocated budget for associations working in specific regions in order to create a certain political climate?

3. What remains of the project for electoral reform today after political forces have reached, in spite of their differences, a settlement on a law that secures their narrow interests regardless of any principles, standards or checks. These political forces are trying collectively to deceive the public opinion into thinking that the personality of the minister concerned with the electoral process, his integrity and experience as a former member of the national commission and former secretary-general of LADE, are enough to ensure the safety and transparency of the upcoming electoral process, and that his nomination is compensation for the lack of achieving the desired electoral reform and its institutionalization. Neither would the concerned minister accept that, nor would the simplified concept of public policy making mix between the personalization of reform on the one hand and the institutionalization of reforms on the other hand.

It is true that neither the international organizations nor the official institutions planned to undermine the “civil project for electoral reform” but we can seek feel this through a simple review of the participatory reform process in terms of the concepts that are used in the analysis of public policy, then the results become a tangible reality, concrete and clear, starting from the attraction, through assimilation and finally with the cooptation. Therefore, this analysis is truly valid, in principle, as the validity of analyses that say the opposite.