Electoral reform in Lebanon: steps for ensuring improved parliamentary elections in 2009

Serious shortcomings in the electoral framework of Lebanon need to be addressed ahead of the next parliamentary elections. Those elections are scheduled to take place in spring 2009 but with delays in the election of a president and the appointment of a new government as well as parliament continuing not to function, it is clear that there is a limited timeframe for Lebanese authorities to adopt and implement any steps towards electoral reform. This IFES Lebanon paper offers recommendations for reinvigorating and refocusing the approach by Lebanese stakeholders and international actors to ensure electoral reform can be achieved ahead of the next elections.

The need for a new election law

The law used for the 2005 parliamentary elections – the Law on the Election of the Chamber of Deputies (2000) – holds no degree of public confidence: as well as failing to meet many of the international standards for elections, the law is seen as formalising a gerrymandered electoral system that does not adequately represent the will of the electorate. Following the 2005 elections, all stakeholders were united in supporting calls for the election law and the electoral system to be changed for future elections.

The National Commission on Electoral Law – known as the Boutros Commission – was an important attempt to initiate an electoral reform process in Lebanon. Its draft law (“the Boutros Law”) addresses many of the issues that have previously undermined public confidence in the credibility of parliamentary elections. The Boutros law was submitted to Prime Minister Sinoria in June 2006 but no follow-up action has been taken by the Lebanese government to move forward with election reform. Despite the useful and innovative work of the Civil Campaign for Electoral Reform (CCER), various factors – the conflict with Israel, the ongoing political stalemate and the presidential election delay – have caused the topic to fall from the political agenda.

In coming months, electoral reform is likely to re-emerge as a priority political issue: the current lack of consensus, highlighted by the failure to agree on procedures for the presidential election, has meant that many political actors have begun looking ahead to assessing the environment surrounding the next parliamentary elections, which must be held no later than June 2009 – just 18 months away.

Next steps for achieving electoral reform

In terms of implementing electoral reform, an 18-month timeframe creates considerable obstacles that must be overcome for a new election law to be adopted. But the consequences are clear: if no new law is adopted in time, the next parliamentary elections will be run in accordance with the 2000 law, despite its many flaws. It is crucial therefore that domestic stakeholders and international actors reinvigorate their calls for electoral reform and push the Lebanese authorities to take all steps to ensure that a new election law is adopted in time.

There is no certainty that the Boutros law has sufficient political support to reach and proceed through Parliament; the complex debate over the choice of an alternative electoral system has tended to overshadow discussion on the need for other reforms which would improve the technical conduct of elections and, importantly, would provide better protection to the civil rights of Lebanese citizens.

If the Boutros law is not sent to Parliament, the Lebanese authorities may seek to propose an alternative draft election law. Benchmarks must be set to ensure that, whichever law is adopted, it addresses the areas where reform is necessary for future elections to meet international standards. Even if no new law is proposed, it may also be feasible for reform to be achieved through alternative methods, such as by the introduction of detailed governmental regulations.

Consideration should also be given to strengthening support for initiatives to improve the electoral process without the need for legislative change (e.g. capacity-development of stakeholders, codes of conduct, voter education) as well as targeting problematic issues that cannot be addressed by law reform alone (e.g. promoting the role of women in politics).
Ensuring a draft election law reaches parliament

The new Prime Minister and President should be encouraged to commit to electoral reform
The new Prime Minister, who will be newly appointed following the presidential election, sets the legislative agenda to be pursued by government. The new President also has the right to propose urgent matters to the Cabinet. Both the new Prime Minister and the President should be encouraged to commit to supporting electoral reform and that the issue will be prioritised in the first set of draft laws to be discussed by the new government.

The new Cabinet of Ministers should be encouraged to approve a draft electoral law
A draft election law can only be sent to parliament after it has been approved by two-thirds of the Cabinet of Ministers. Following their appointment, the new members of the Cabinet should be encouraged to commit to supporting electoral reform. As it is possible that the Cabinet may seek to amend whichever draft election law is proposed by the Prime Minister/President, it is also important at this stage to set clear benchmarks for reform.

Deputies can be encouraged to submit a draft election law
Parliamentary procedures provide that a draft election law can be introduced to Parliament upon the petition of up to ten, Deputies. In practice, this procedure is likely only to be successful if the initiative has the support of the government and parliamentary majority.

Expediting the legislative process of the draft election law

The rules of the game must be agreed well-ahead of the elections
A new election law should be adopted well before the elections are called, especially if the new law introduces important changes (e.g. on the election system) or where further legal drafting is needed (e.g. campaign and media regulations). There may also be a ‘cut-off’ date, after which any attempt to introduce reforms may be counterproductive. The Lebanese authorities should be encouraged to adopt an election law sufficiently early to allow for reforms to be put into place.

The parliamentary authorities should be encouraged to prioritise the status of the draft election law
Parliament sits in session only twice a year and there is only a limited period for Deputies to review, debate and vote on legislation, especially as the current political stalemate has resulted in an extensive legislative backlog, including three budgets. The parliamentary authorities should be encouraged to prioritise a draft election law for it to stand any chance of being adopted before the next elections. The progress of a draft election law can be further expedited if it is specified as an ‘urgent law’ by the government, while there is also the possibility that Parliament could be called to an extraordinary session to discuss electoral reform if there is political will to do so.

Support should be given to parliamentary committees to review the draft election law
A draft election law will fall under the jurisdiction of several parliamentary committees, all of whom will have the right to review, debate and report on the draft. A Joint Committee, composed of members of the different committees, could also be established. Civil society and international actors should liaise closely with the members of these committees to ensure all relevant information on electoral reform is available during the discussion of a draft election law.

All sides must be encouraged to take part in the parliamentary debate on electoral reform
It is important that a new election law reflects political consensus based on broad consultation. This is especially relevant in Lebanon. A key element of achieving this step will be to encourage all parliamentary blocs to take part in the review of the draft election law and, in particular, to discourage any boycott of the process. Non-parliamentary parties and other stakeholders, including civil society, should be consulted on whichever draft law is discussed by Parliament.

There should be an assessment of the practical implementation of reforms
No assessment has been made of the possible practical implications of electoral reforms. The Lebanese authorities should be encouraged to assess the steps needed to implement the proposed reforms, including identifying the cost implications of potentially complex and expensive reforms such as ballot paper printing and expatriate voting.

1 A chart outlining the legislative process can be found at Annex A.
2 Parliament has not met in legislative session since November 2006. There is no certainty that it will start to function in 2008.
Assessing the likelihood of the Boutros law being adopted

Identifying political consensus on the Boutros changes to the election law

No political party has offered its full endorsement to the Boutros law. While some parties have given a positive response to its non-contentious proposals, many of the same parties have also criticised key aspects of its other reforms that may have a political impact – including, for example, lowering the age of voting. Steps should be taken to assess the strength of support amongst political parties for the Boutros law and the specific individual reforms it proposes. In addition, political parties should be encouraged to identify their alternative proposals.

Identifying political consensus on the Boutros changes to the electoral system

The dominant focus of public discussion on the Boutros law has been the proposed changes to the electoral system. The proposed reforms, which introduce a parallel majoritarian/proportional system that retains a complex confessional seat distribution, reflect an attempted compromise by the Boutros Commission to find a system that serves Lebanon’s different political interests. While all stakeholders agree that the system must be changed, so far no political party has indicated that they would endorse the proposed Boutros changes; indeed, many parties have proposed very different alternatives (see opposite). Steps should be taken to identify the proposed alternative models and to assess the degree to which they could introduce reform.

Improving the Boutros law as a package of reforms

If adopted, the Boutros law would undoubtedly be a significant improvement of the electoral framework in Lebanon. However, some of the reforms it proposes – e.g. the establishment of an independent election commission – will require extensive planning and implementation to succeed in improving the next parliamentary elections. Even if such proposals were soon to be adopted by Parliament, it may not be realistically achievable to successfully introduce them within the short timeframe available. If the Boutros law is to be pushed as a draft election law, a reassessment of the practical feasibility of its proposals should be undertaken. In addition, it may be useful to undertake an independent assessment of the Boutros law in order to strengthen its status as a basis for credible reform.

Encouraging political actors to understand the purpose of the Boutros law is to achieve reform

The Boutros law was prepared as a ‘reform package’ and no other credible or comprehensive alternatives for reform have been put forward. However, it is possible that the lack of explicit political support for the Boutros law could undermine its chances of reaching or being adopted by parliament. If the Boutros law is not adopted as a whole, political actors should be encouraged to realise that the reforms it proposes should be considered individually. This is especially important if key reforms that seek to improve the rights of Lebanese citizens are overshadowed by the debate on the electoral system. Political parties in Lebanon have shown little grasp of understanding the alternative electoral system proposed by the Boutros law and, as a result, some parties appear unwilling to support the other important reforms it also proposes.

There is a possibility that an alternative draft election law is proposed by the government or is discussed by the Parliament that bears little resemblance to the Boutros law, or contains only some of the Boutros reforms. In this scenario, stakeholders should be prepared to assess such draft election laws and to determine whether the new drafts are still able to provide reasonable options for reform.

Other options for electoral systems

Political figures in Lebanon have discussed alternative models for the electoral system they would like to see in place. These include:

- 128 single member districts using first-past-the-post (supported by National Liberal Party, National Bloc, Phalangist Party);
- multi-member districts using block voting at the qada-level as electoral district, known as the “1960 law” system (supported by Future Party, Progressive Socialist Party, Reform and Change bloc);
- proportional representation in 15 districts (supported by Charles Rizk, Lebanese Forces);
- proportional representation in one national district (supported by Naibh Berri MP);
- single non-transferable vote (as used in Jordan) (supported by Boutros Harb MP).
Establishing alternative options for achieving reform

Benchmarks for reform should be set

A process of reforming an electoral framework should be based on identifying and achieving clear benchmarks. The key benchmarks to be applied when considering a new election law are:

▪ it has the broad support of stakeholders, and
▪ it meets international standards for elections.

Civil society and international actors should take steps to encourage the Lebanese authorities — including the Cabinet and the Parliament — to guarantee that these benchmarks are clearly met by whichever new election law they adopt.

There should be an assessment of alternative possibilities for reforming the electoral framework

Even if a new election law cannot be adopted in time, other legal means may be available to introduce reforms that could improve the conduct of the next parliamentary elections. The Cabinet of Ministers, upon the proposal of the Minister of Interior, has the right to introduce administrative regulations to supplement the current 2000 law.3 Such decrees could cover issues such as campaign regulations, media regulations, disabled access, election observation and improvements to the transparency of the election administration.

In addition, it is also possible for Parliament to vote for specific amendments to the 2000 election law.4 These exceptional laws could be used to introduce improvements to key areas in the current law where reforms are necessary if it is not possible for a full new election law to be adopted. Thus, preparations should be made to identify the key reforms that could be addressed by exceptional laws, such as: guaranteeing secrecy of the vote through ballot papers and amendments to voting and counting procedures; remedying gerrymandering through amendments to problematic electoral boundaries, etc. An exceptional law could be used to lower the voting age from 21 to 18 years but this would also require a constitutional amendment.

Identifying and supporting other means to improve the electoral process

There are a number of areas where the conduct of elections in Lebanon can be improved without the need for legislative reform. In 2005, for example, there was no training of polling officials and voter education was inadequate. In addition, election observers were under-resourced and there was no political will to comply with codes of conduct for campaigning and media coverage. A key problem in Lebanon is that very few women participated as candidates. Stakeholders should focus on ensuring that these key areas — which can strengthen an election process without the need for legislative change — are addressed and reinforced ahead of the 2009 elections.

Improving voter registration

European Union elections observers in 2005 described the voter registration process as “antiquated, unreliable, non-transparent and in need of urgent reform”. No steps have so far been taken to improve voter registration. The annual update of the voter register will start on 15 December 2007, and this process should be monitored closely to assess if reforms can be introduced — either by law or by regulation — to improve the voter register for 2009.

Ensuring compliance with the law

A major shortcoming of the 2005 elections was the failure to enforce against breaches of the law, while there were opportunities provided for electoral actors to have effective remedies against violations of the electoral rights. The Lebanese authorities should be encouraged to take steps to ensure that whichever election law applies, it will be properly enforced. To this degree, the Constitutional Council, which has the formal responsibility “to arbitrate on conflicts that arise from parliamentary elections”, must be ready to function in this role.5

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3 See Election Law 2000 Article 73: “Details for the implementation of this law shall be fixed by decrees to be taken by the Cabinet upon proposal of the Minister of Interior.”

4 See, for example, Law 676 of 28 April 2005, which introduced exceptional amendments to the Election Law 2000.

5 See Constitution Article 19
Annex A: The Legislative Process in Lebanon

Outline of legislative process ahead of a draft election law (DEL) in Lebanon

Prime Minister informs Council of Ministers that a Draft Electoral Law (DEL) is included in planned legislative agenda

Required by Constitution Art. 65

Council of Ministers votes by a ⅔ majority to submit DEL to the President to propose to Parliament.

Up to ten Deputies may submit DEL to parliament as a ‘proposed law’
(See Article 101, Parliamentary By-Laws)

Required by Constitution Art. 35

President proposes the DEL to Parliament

DEL is received by Parliamentary Bureau and submitted to parliamentary committees for review

See Parliamentary By-Law Art. 38

Parliamentary committees review DEL and submit report within one month

See Parliamentary By-Law Art. 42

Parliamentary Bureau consolidates reports and places DEL onto agenda of the current/next session. Draft bills are prioritised in order of their date of submission

Parliament in session debates the DEL in general and then discusses and votes on each individual article

Required by Constitution Art. 34

Parliament in quorum votes on whether to adopt the full draft

Required by Constitution Art. 34

Prime Minister signs the adopted Election Law and sends to President

Required by Constitution Art. 34

President countersigns and promulgates new Election Law. The President may veto the law and submit it for reconsideration by Parliament.

See Constitution Arts. 31, 36 and 37

New Election Law is published in the Official Gazette

Lebanon’s Legislative Process

This chart provides an outline of the legislative process ahead of the adoption of a draft election law by the Lebanese parliament. These steps are outlined in the Constitution and the Parliamentary By-Laws.

Parliamentary Sessions

Parliament has two sessions a year:
- Spring March 15 – May 31
- Fall October 15 – December 31

Fall sessions must prioritise discussion of the annual budget. Parliament can also meet in an extraordinary session upon the joint request of the President and the Prime Minister. (Constitution Arts. 32 and 33)

Parliament has not met in legislative session since November 2006 and three annual budgets (2006-08) have not yet received parliamentary approval.

Composition of Parliamentary Bureau

The Parliamentary Bureau consists of the Speaker and Deputy Speaker of Parliament, two secretaries and three delegates. The secretaries and delegates are Deputies from different blocs elected on 15 October 2007. The Bureau, which also includes the Secretary-General of Parliament, steers the activities of parliament in accordance with its By-Laws.

Parliamentary Committees

There are 15 cross-party committees in the Lebanese parliament. The following committees are likely to be involved in reviewing a draft law on elections:
1. Finance and Budget
2. Administration and Justice
3. National Defence, Interior and Municipalities
4. Information and Communication
5. Foreign Affairs and Emigrants
6. Human Rights
7. Women and Children

Where a draft law needs to be considered by more than one committee, the Speaker may establish a Joint Committee which may review and report on the draft law or which may discuss and consolidate the reports of the different committees. Committees usually work in closed session.

Parliamentary Sessions

Parliament must have an ‘absolute majority’ quorum to open a session and to vote upon adopting a law. No quorum is needed when parliament is discussing individual articles. Voting is done by acclamation.