

Statement of Preliminary Findings and Conclusions

POLITICAL BACKGROUND

The June 7, 2009, parliamentary elections in Lebanon follow four years of intense conflict and political instability. After the closure of parliament and the end of former President Émile Lahoud's term in 2007, Lebanon underwent its worst period of political upheaval since the end of the civil war in 1990. The Doha agreement of the 1920s (with the exception of a hiatus between 1975 and 1990 during the civil war). The most recent elections in 2005, which were regulated by the 2000 election law, were characterized by a lack of competition.

¹ Following the elections, the Council of Ministers appointed the National Commission on Parliamentary Electoral Law (also known as the "Boutros Commission") to revise electoral legislation in Lebanon. This commission submitted a draft law to the Prime Minister in 2006, some aspects of which were incorporated into the new electoral law which was adopted by Parliament in September 2008² following the election of President Michel Sleiman and the formation of a new multi-party government under the Doha agreement.

The results of the election have been accepted by both sides. They should provide an acceptable basis for consultations regarding the formation of a broad-based government. In addition, the 2009 electoral process provides an important foundation for additional electoral reforms to which a broad spectrum of civil society and political leaders have already committed.

The Carter Center also commends the political factions for participating in the process of national dialogue that has unfolded since 2006. Although The Carter Center recognizes the difficulty of reaching consensus on several key issues, the dialogue has provided a useful forum for parties to debate questions critical to the nation. In the immediate pre-election period, a national dialogue was held that focused on the elections with parties calling for calm. This was widely perceived as an important contribution to the process.

LEGAL FRAMEWORK

The Carter Center has based its observations and preliminary findings on Lebanon's domestic legislation and political commitments relating to the electoral process, as well as its international human rights obligations. This preliminary statement details the degree to which Lebanon has upheld its commitments and provides initial recommendations for future electoral processes.

against Women.⁴ Additionally, Lebanon is signatory to the Convention on the Rights of Persons with Disabilities.⁵ The obligations found therein are reflected in Lebanon's legal framework.

Compared to the 2000 Electoral Law, the 2008 Parliamentary Electoral Law (PEL) includes significant improvements aimed at promoting transparency and deterring voter fraud. Elections are to be held on a single day instead of over four consecutive weeks. In addition, the ballot boxes are transparent;⁶ observation by domestic and international observers is explicitly provided;⁷ polling staff and candidates' representatives are able to ensure ballot boxes are empty prior to voting;⁸ and indelible ink is used to mark the thumb of voters.⁹ The Carter Center notes the positive addition of specific provisions regarding the voting of disabled persons to the electoral law.¹⁰

Equal Suffrage - Although notable, the changes in the 2008 PEL do not change the electoral system itself but did alter the delimitation of boundaries. This delimitation does not align with international obligations for equality of suffrage and the right of citizens to vote.¹¹ As agreed in Doha, the 2008 electoral law divides Lebanon into 26 electoral constituencies (*qadas*) which vary significantly in population size and seat allocation and therefore result in inequalities in the weight of votes across constituencies.¹² Boundary delimitation for future elections should address this disparity to promote greater equality in suffrage.

Right to Vote - In addition, the right to vote appears subject to unreasonable restrictions. Specifically, citizens naturalized for less than ten years, and non-retired security personnel are forbidden to vote.¹³ While reasonable restrictions on the right to vote are recognized in international law,¹⁴ those found in Lebanon's electoral law appear overly restrictive and should accordingly be reconsidered. In addition, the failure to accommodate voters who are housebound by illness or age, are hospitalized, or are detained through a lack of provisions for voting outside polling stations leads to their effective disenfranchisement.

Secrecy of the Vote – Official, standardized, pre-printed ballots are not required by law which is of particular concern to The Carter Center mission. Instead, voters could cast their vote using a pre-printed ballot provided by political coalitions which they can cast as is, or could cross out the pre-printed names of candidates from the list and write in their own choice. These ballots vary greatly in size and there are no standard requirements regarding font and format for the ballot. Alternatively, voters could write their preferences in pencil on a blank piece of paper provided inside the voter booth.¹⁸ In practice, the pre-printed ballots are so small, that it can be difficult for a voter to replace a candidates name with his or her choice.

The lack of an official, pre-printed ballot, when combined with the use of the family code, undermines the right to secrecy of the ballot. When registered, voters are assigned a code by family name. In addition, the lack of standard ballot format potentially allows political coalitions to design ballots with unique formatting for specific groups of voters, including families. The family code, coupled with the potentially identifiable ballots, can hypothetically allow candidates' representatives to tie ballots to a specific family during the counting process. In addition, the lack of non-standardized ballots increased concerns regarding potential vote buying in the days before the elections because of the ease with which ballots could be tied to a group of voters. In order to better protect the fundamental rights of citizens, The Carter Center recommends that official, standardized, pre-printed ballots be used in future elections.

ELECTION ADMINISTRATION

An independent and impartial electoral authority that functions transparently and professionally is internationally recognized as an effective means of ensuring that citizens are able to participate in a genuine democratic election, and that other international obligations related to the electoral process can be met.¹⁹

Elections in Lebanon are organized by the MOIM, through governors (Muhafez), district commissioners (Qaimmakam), and poll workers. The MOIM has broad authority over electoral operations and the allocation of election materials. In addition, it has an advisory role in the adoption of government decrees on the implementation of electoral law, registration of candidates, and voting day operations. The MOIM is generally perceived as competent and committed to holding elections in line with legal deadlines and requirements. Carter Center observers noted that, during the pre-election period, almost all necessary election preparations were made on time and most polling boards were prepared and well equipped.

The largely successful conduct of the 2009 elections is widely perceived to be a result of the Minister of the Interior and Municipalities, Ziad Baroud's personal commitment to a transparent electoral process. An independent and impartial election authority would help to ensure that future elections are equally well administered.

Electoral Preparations - The Carter Center commends the MOIM for conducting intensive poll worker trainings for the more than 11,000 polling officials employed on election day, publishing reference manuals for poll workers and observers, and establishing a 'hotline' to respond to the queries of polling officials and voters on May 15, 2009. The hotline appears to have been well-publicized and used. For example, two weeks before election day the hotline received 1,023 calls (an average of 205 call a day). Carter Center observers noted that on election day the hotline appeared to be effectively employed and operators largely

responsive to the issues raised by voters and poll workers when a connection could be made. This represents an important step in ensuring poll workers are aware of their responsibilities and are adequately prepared to effectively implement polling-station-level procedures that are critical to the exercise by citizens of their electoral rights.

ID Cards - In order to cast a ballot, voters have to prove eligibility by presenting their identification document (ID card) or a valid Lebanese passport. While Lebanese authorities embarked on a large-scale effort to provide voters with ID cards prior to the election, a significant number of voters were refused ID cards due to incorrect fingerprinting procedures at *Mukhtar* level. Due to the high number of errors and subsequent rejected applications, the MOIM extended the deadline for corrections and issuance of ID cards until May 23, 2009 (two weeks before election day). The MOIM has also introduced digital fingerprint scanning kits and 27 temporary ID issuing centers to ensure all eligible voters were provided with the necessary identification documents.

In the days leading up to the election, reports of fake IDs being issued to voters and concerns about fraud were rampant. Carter Center observers did not report any cases of fake IDs being used on election day.

VOTING

The voting process is the cornerstone of the obligation to provide the free expression of the will of the people through genuine, periodic elections. Certain participatory rights must be fulfilled in order for the voting process to accurately reflect the will of the people. Foremost

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Center observers visited polling stations that were both gender specific and mixed-gender polling stations. In general, women seemed to exercise their franchise in equal if not higher numbers than men. In addition, female party agents were observed at a majority of polling places visited by Center observers.

Participation of Disabled Voters – States are obligated to ensure persons with disabilities may exercise all political rights on an equal basis with others, including the right to vote and be elected.²⁵ All citizens are to have equal access to the election process, which should enable blind (including citizens with limited sight) the deaf or those with disabilities to cast a secret ballot.

On May 13, 2009, the Lebanese Government issued a decree regarding accessibility for disabled voters,²⁶ the first attempt to improve disabled persons' access to the polls. These include adding architectural features to polling stations and centers that will facilitate access to polling stations by disabled persons, and trai

faces several challenges beyond its control, including banking privacy laws which undermines the SCEC's ability to fully regulate campaign finance by making it possible to open a bank account without providing personal information.

The SCEC has attempted to improve control and reporting of campaign expenditures, such as clarification of how to allocate spending to the different candidates³² and preventing the use of prohibited facilities (such as

may be limited based on objective and reasonable criteria,⁴⁶ a media should not be held responsible for a candidate's statements that it unknowingly disseminates.⁴⁷

VOTER REGISTRATION

Sound voter registration processes which ensure an accurate and complete voters' list are a principal means of ensuring that universal suffrage and the right of every citizen to vote are fulfilled.⁴⁸

Voter registration is conducted by the General Directorate of Personal Status of the Ministry of Interior and Municipalities. Voters lists are permanent in nature and updated once a year on the basis of the civil registry. Administrative changes to people's status are introduced by *Mukhtars* on the basis of death and birth certificates or religious marriages.⁴⁹ The Carter Center notes that the absence of a central electronic database requires book-keeping in 47 Registration Offices, a potentially burdensome practice that could be counteracted by the creation of an automated database at the national level.

The provisions of the 2008 Parliamentary Election Law dealing with voter registration have shortcomings, most notably, that revisions to the list may only be made during specific updating periods. This practice excludes those who come of age between March 30 of an election year and the election day from the register. This could be addressed by allowing those whose birthdays will fall within that period to register during the updating period despite not yet reaching the age of majority.

In a positive step not explicitly required by the PEL, the General Directorate of the MOIM extended the verification period by requesting that the heads of regional registration offices begin the process prior to the official December 5, 2008 start date. According to the authorities, the process of checking and verifying data on the voter register resulted in the deletion of approximately 40,000 double entries. Some 45,000 citizens newly eligible to vote were included in the current voter register. In total, 3,258,572 citizens were registered to vote in the June 7 elections.

However, the system does not register voters according to their "actual residence" in the civil registry. Instead, citizens are registered in the place of their family's origin, which, in many cases, differs from their current domiciles. This neglects the existing demographic map and causes unnecessary inconvenience to voters who must travel specifically to vote on Election Day, as well as potentially disenfranchising voters with limited mobility or who are unable to travel away from their place of residence. This, coupled with the one-day election, led to concerns that traffic throughout the country would be heavy and might delay voters from reaching their constituencies. Carter Center

law as an important means of ensuring that an informed electorate is able to effectively exercise their right to vote.

According to the election law civic education programs were to be broadcast three hours a week;⁵¹ the locations of the polling stations were published in the official gazette at least 30 days before polling day;⁵² and, the voters' register and polling stations locations were published on the website of the Ministry of Interior and Municipalities.⁵³ In April, the MOIM launched nationwide voter education radio and TV programs (seven public service announcements on the television and three documentaries). Voter education programming was broadcast on both public and private outlets. The MOIM, supported by the United Nations Development Program (UNDP), conducted national voter education and awareness campaigns informing voters where, when and how to register and to vote.

MOIM voter education efforts included a focus on cooperation with the 'Lebanese Council of Women,' a network of approximately 170 non-governmental organizations based in six Lebanese districts.⁵⁴ The UNDP organized roundtables with participation of women's NGOs and candidates, in which women have the opportunity to ask the questions and discuss relevant topics with the candidates.

ELECTORAL DISPUTE RESOLUTION

Efficient electoral dispute mechanisms, including, as necessary, the provision of a fair and public hearing before a tribunal, are essential to ensure that effective remedies are available for the redress of violations of fundamental rights related to the electoral process.⁵⁵

One of the major shortcomings in the Lebanese electoral law is the lack of provisions on complaints and disputes resolution. While most complaints during the electoral campaign were filed with the SCEC, the legal mandate of this body is limited to media and campaign finance matters⁵⁶ making the degree to which it can resolve other electoral complaints unclear.⁵⁷ In addition, the 2008 Parliamentary Electoral Law does not make any provision for lodging complaints on polling day,⁵⁸ and the means by which the MOIM will process and resolve electoral complaints is uncertain.

The Constitutional Council remains the only institution with jurisdiction over challenges to the electoral results.⁵⁹ However, five of the ten Council members were only appointed on May 26, 2009, even though a majority (seven of ten members) is needed to rule in electoral cases.⁶⁰ The appointment of the Council members is evidence of the state's commitment to provide citizens with an effective system of redress for the violation of electoral rights. The Center urges all electoral stakeholders to pursue complaints through their appropriate channels of resolution. Carter Center observers will remain in Lebanon in the post-election period to monitor the resolution of disputes.

The Carter Center notes that the 2008 electoral law requires that ballot papers be retained for three months before burning, an increase from previous legislation which destroyed ballots upon the announcement of results. This provision is an important improvement which may substantially increase the efficacy of dispute resolution by retaining ballots for any necessary recounts. Also notable is the legal provision that ballots be retained securely beyond the three month deadline if they are subject to a challenge before the Constitutional Court.⁶¹

³² It is supposed to balance the difference in maximum amount to be spent per candidate in each district. The maximum amount a candidate can spend is in Baalbek-Hermel (1,172,548,000 LBP, i.e. USD 781,738) and the lowest is in Becharre (335,636,000 LBP, i.e. USD 223,789). See PEL Article 57 on the flat amount, Decree no. 1655 of April 4, 2009 defining the variable ceiling of the maximum that each candidate can spend during the electoral campaign, published on April 9, 2009, as well as the SCEC resolution available at: <http://www.elections.gov.lb/SCEC/Campaign-Finance-Regulations/>- - - - -
.aspx.

³³ The SCEC resolutions and statements are available at: <http://www.elections.gov.lb/SCEC/Campaign-Finance-Regulations.aspx>; or in the newspapers.

³⁴ Direct and indirect foreign funding is explicitly prohibited in PEL Article 56(3).

³⁵ See prohibition under PEL Article 59.

³⁶ ICCPR, Art. 19

³⁷ Source: Democracy Reporting Intern