

B R I E F I N G P A P E R

# CONFESSIONALISM AND ELECTORAL REFORM IN LEBANON

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## I. Executive summary

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Lebanon, a small Mediterranean state neighboring Syria and Israel, celebrated its 68th anniversary of independence in November 2011. A democratic republic, with a multi-confessional and pluralistic society, Lebanon has often been a fertile arena for internal strife and external interventions; it has paid a high price to maintain this colorful mosaic amidst extremely fundamentalist and totalitarian regimes.

Lebanon's president is elected every six years by Parliament, which in turn has legislative elections every four years. The next legislative elections are due to take place in June 2013 and the presidential elections in 2014.

After almost 15 years of Civil War (1975-1990), numerous Israeli invasions, and demographic changes and migrations, the Christian-Muslim ratio has been altered. Nevertheless, the Taif Agreement, which put an end to the armed conflicts in 1990, created a new constitution, one that treated Lebanon's population as a 50/50 parity—regardless of actual confessional figures and statistics. (No official census has been conducted in Lebanon since 1932.)

The rise of Shiite influence (due mainly to Hezbollah's armed resistance), Syrian hegemony over Lebanon (especially flagrant between 1990-2005), the Future Movement of Prime Minister Saad Hariri gaining power, and the repetitive assassinations of Christian leaders and ensuing emigrations have all led to the polarization of the political actors on the ground. At no time in recent history has Lebanon been so viscerally divided into two political camps: March 14 (which grew out of the Cedar Revolution in 2005) and March 8 (Hezbollah affiliated, pro-Syrian groups).

The Special Tribunal for Lebanon established in The Hague to investigate former Prime Minister Hariri's assassination has further accentuated this divide. The only hope for the majority of the people to get out of this labyrinth is to have free and fair elections that will ultimately alter Lebanon's political representation and yield new, young, and honest leaders.

Since 1926, during the French Mandate, the electoral system in Lebanon has been based on confessional representation. The composition of the Lebanese Parliament is based on the allocation of a specific number of seats to each of the various minority groups in Lebanon (confessions). Within each community, the candidate receiving the greatest number of votes ultimately represents that confession in the Parliament. The electoral districting used today to configure confessionals is based on five large governorates (*muhafazat*) that are subdivided into smaller constituencies (*qadaas*). These geographical districts have always been subject to the whims and the agenda of the political leadership. To eliminate an opponent's chances of being elected or to increase the probability of a partisan government, the Ministry of Interior gerrymanders and clusters districts accordingly. For example, the districting of Muslim-majority areas in Beirut, Mount Lebanon, Zahle in the Beqaa, Marjeyoun in the South, and Bsharre in the North, has a decisive influence on the outcome of the Christian polls (see Table I). This electoral practice is still in effect, and unfortunately it is likely to continue in 2013.

This paper presents three possible scenarios for the forthcoming 2013 legislative elections:

### 1. The Status Quo

Lebanon continues with the current 2009 election parameters: majoritarian vote, 26 circumscriptions, Beirut divided into three districts, 128 deputies, and a supervisory commission to monitor campaign and media finance as well as a voting age of 21 (see Table II).

### 2. The Boutros Commission Draft

Lebanon adopts the 2006 law drafted by the National Commission for Electoral Law (or Boutros Commission), which was flouted by most vulnerable parties threatened by its implementation.<sup>1</sup> The law proposes a mixed-electoral system (majority and proportionate; muhafazat and qadaas), a voting age of 18, an independent commission to supervise elections, pre-printed ballots, a gender quota, non-resident voting, and numerous logistical reforms.

### 3. The Charbel Proportional Proposal

Presented to Parliament by current Interior Minister Marwan Charbel, the proposal advocates for a proportionate system with 14 mid-sized constituencies (still undefined) and a gender quota. However, two measures—lowering the voting age to 18 and permitting non-resident voting—remain bones of contention among various bartering and belligerent lawmakers. In November 2011, the Parliament sent the draft back to Charbel for further clarifications and explanations, especially in regard to the implementation of a proportionate system within the confessional fabric.<sup>2</sup>

This paper argues that in light of the dawn of the Middle East's Arab Spring and in order for a modern, democratic Lebanon to be sustained as a viable state, the Boutros Commission Draft must be implemented. This could potentially take place in stages (over, say, three election cycles, or 12 years), culminating in the creation of a bicameral Parliament with a senate, ensuring confessional and civil-secular privileges.

It is very likely that without at least minimal reforms to the Lebanese electoral system, the 2013 legislative elections will not witness any major changes from previous elections and the majority voting system will be maintained. This will be a lost opportunity for Lebanon.

## II. Introduction

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The Independent Republic of Lebanon was established on November 22, 1943. At the turn of the 20th century, it first formed from part of the Ottoman Empire and later from part of the French Mandate in the Middle East. From these dual progenitors, Lebanon inherited the “millet system”—a pluralistic canon that defined the confessional status and beliefs of the non-Muslim communities in the empire—from the Ottomans and the seeds of “*liberté, égalité, et fraternité*” nurtured by dreams of a constitutional democracy from the French. Professor Fawwaz Traboulsi notes in his book, *A History of Modern Lebanon*,<sup>3</sup> “Two distinctive features have had a significant impact on the shaping of modern Lebanon: its sizeable Christian population on the one hand, and the country’s long exposure to the West.”

A democratic, Christian oasis surrounded by mostly monarchic, authoritarian or transitioning Muslim-majority regimes, Lebanon’s precarious status today sways between two realities: On the one hand, in order to retain the privileges of the 1943 National Pact, Lebanon clings to its confessional system, which guarantees the Maronite Christian presidency, Sunni premiership and Shiite Speaker of the House. On the other hand, this same confessionalism is the main cause of the country’s stagnation, which means that Lebanon in many ways is digging its own grave. How does a nation face this paradox and still survive as a modern 21st-century state? This is the greatest challenge facing Lebanon today.

In June 2013, Lebanon will be holding its next legislative elections, the sixth since the end of the Civil War in 1990. But despite holding elections for more than 20 years, to date (March 2012) there has neither been consensus on how the electoral system should work, nor has there ever been any understanding among all the different political parties as to what the forthcoming elections would mean in practice. Why this decades-long electoral inaction? What is the optimal electoral law for a healthy parliamentary representation? Unfortunately, none of the politicians in office today are likely to suggest any reform that may jeopardize their status within their constituency or distance them from becoming a minister. So how can Lebanon achieve a viable, fair, and just electoral law? This paper will address these questions, offer insight into the possible solutions, and suggest electoral reforms within the Lebanese confessional system.

### III. Political players on the ground

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To fully comprehend the actual political scene in Lebanon, it is important to be acquainted with the major players in the field. Since the February 14, 2005, assassination of former Prime Minister Rafic Hariri, the country has been polarized into two major camps:

#### 1. March 8 Alliance

Named after the pro-Syrian demonstration of 2005, the March 8 Alliance includes Hezbollah; the Shiite majority Amal Party, the leader of which is the speaker of Parliament Nabih Berri; General Michel Aoun's Change and Reform bloc; the Armenian Revolutionary Federation, or Tashnag Party; and a host of pro-Syrian/Iranian/Palestinian parties (the Syrian Social Nationalist Party, Baathists, etc.). The ideology of the March 8 Alliance revolves around the Syrian/Iranian resistance axis and is in support of armed struggle by Hezbollah against Israel; the alliance condemns the United Nations Special Tribunal for Lebanon, which has already implicated five Hezbollah members in the assassination of Hariri.

#### 2. March 14 Alliance

Named after the pro-independence Cedar Revolution of March 14, 2005, which forced Syrian military withdrawal from Lebanon following the assassination of Hariri. The alliance includes former Prime Minister Saad Hariri (son of Rafic Hariri), his Future Movement and its Sunni allies (including Islamic fundamentalists); Dr. Samir Geagea's Christian Lebanese Forces; the Phalangist Party, headed by former Maronite President Amin Gemayel; the liberal democratic Armenian Ramgavar Party; the social-democrat Hnchak Parties; as well as a number of Orthodox, Protestant, and other Christian minority groups. The principles of the March 14 Alliance are based on the values of democracy, freedom, the sovereignty and territorial integrity of the Lebanese state, and include a desire for freedom from external interference and a vehement stand against Syrian/Iranian military intervention in Lebanon. Its main priorities include providing political support to the Special Tribunal for Lebanon, disarming Hezbollah through national dialogue, building a strong Lebanese Army, and protecting Lebanon from becoming yet another theater for external conflicts.

In addition to the above, there are a few smaller parties and coalitions:

#### 3. Progressive Socialist Party

Led by Walid Jumblatt, this bloc of mainly Druze faith followers initially started as a pro-March 14 Alliance adherent before defecting to the March 8 Alliance in January 2011—and thereby playing a critical role in the fall of Prime Minister Saad Hariri's government. The Progressive Socialist Party currently flirts with both March 8 and March 14 with regard to domestic matters, but it has definitely aligned itself with the Syrian anti-Bashar Assad protestors, especially after the escalation of military assault on them.

#### 4. Prime Minister Najib Miqati's "neutral" partners

The prime minister, a powerful and wealthy Sunni businessman, accepted leadership of the post-Saad Hariri Cabinet. Although officially endorsed by the March 8 ministers, he nevertheless succeeded in securing funding for the Special Tribunal for Lebanon in December 2011. In certain labor reforms, he has also differed in opinion with Labor Minister Charbel Nahhas' suggestions, which led ultimately to the latter's resignation from the Cabinet. Hence, in a Cabinet composed of March 8 loyalists, he may at certain occasions swim against the current.

#### 5. President Michel Suleiman's neutral "partisans"

The president, known as a "binding buffer force" usually tries to draw supporters from all denominations.

The stakes for the 2013 elections in Lebanon could not be higher. With the five camps above in a tumultuous power struggle, Lebanon will witness heated campaigns. After all, nothing less than the nation's electoral system itself is on the line—and it will predict the future leaders of Lebanon.

## IV. Suggested electoral scenarios for legislative elections of June 2013

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Three options are currently available for the next legislative elections, tentatively scheduled for June 2013:

### **1. The Status Quo**

Keep the status quo and continue with the majority-voting system that has been in effect since 1943 and that was consolidated by the emergency Doha agreement following the May 2008 troubles.

### **2. The Boutros Draft**

Adopt the draft proposal submitted in 2006 by the National Commission on Electoral Law, also known as the Boutros Commission.

### **3. The Hybrid System**

Adopt the hybrid-system reform proposed by Interior Minister Marwan Charbel (as of March 2012).

It is vital to discuss the pros and cons of each of these systems. However, it is important also to note that—regardless of which option Lebanon adopts—one primary, essential reform will change the profile of the entire electoral process: the Ministry of Interior's introduction of a pre-printed ballot. Should the pre-printed ballot be implemented, Lebanese elections will immediately acquire a new face-lift. This single measure could put an end to a long and sordid history of bribing, corruption, and voter manipulation.

**A. Option 1: Keep the Status Quo**

Since its inception, Lebanon has been a hostage of its confessional fabric. A mosaic of Christian-Muslim minorities, today it officially acknowledges 18 different denominations—each of which assures its followers that it alone is their sole ticket to parliamentary representation. Since Lebanon’s unwritten National Pact of 1943, the president, who is elected by Parliament and not the people, is required to be a Maronite Christian; the prime minister is required to be a Muslim Sunni, and the Speaker of the House, a Shiite Muslim.

The electoral system in Lebanon has always been based on a unicameral majority system; that is, winner takes all. One of the greatest bones of contention with this system has been the districting issue. This small country of just 10,452 square kilometers (4,036 square miles) is divided into five administrative districts, or provinces, which are the traditional five governorates: North, Mount Lebanon, South, Beqaa, and Beirut. Those districts are then further subdivided into nearly 30 *qadaas*, or counties. Often these districts are clustered, grouped, or annexed together depending on who is promoting what law and which parties are supporting them. Until 1972, Parliament consisted of 99 members, elected every four years, of which 54 were Christians and 45 Muslims. However, the candidates selected during the elections of 1972 served four consecutive four-year terms due to the Civil War, which erupted in 1975 and lasted until 1990, when a peaceful settlement was finally reached through the consensus of all parties in Taif, Saudi Arabia, in what is commonly known as the Taif Agreement.

The Taif Agreement<sup>4</sup> proposed the following electoral reforms:

- The number of members of Parliament shall be increased from 99 to 108, shared equally between Christians and Muslims.
- The electoral district shall be the *muhafazah*, or province.
- Until Parliament passes an election law *free of sectarian restrictions*, the parliamentary seats shall be divided equally between Christians and Muslims, proportionately among the denominations of each sect, and proportionately among the districts.
- With the election of the first Parliament on a national, non-sectarian basis, a senate shall be formed and all the spiritual families shall be represented in it. The senate powers shall be confined to crucial issues.

This last clause was the most difficult to achieve in the Taif Agreement—a kind of catch-22. How can one create a

Parliament free of sectarian restrictions and then establish a subsequent bicameral Parliament with a senate representing the spiritual families? Why would Lebanon want to reinstate confessionalism after it succeeded in implementing a non-sectarian electoral law?

It seems like those who drafted the Taif Agreement lost sight of the logical sequence of transitional events that were necessary for the realization of this plan. Namely:

1. First, establish a bicameral parliamentary system, a senate with confessional representation, and a Parliament free of sectarian restrictions.
2. Next, after a transitional period of, say, three consecutive terms (12 years), Parliament will gradually move into a new system, free of religious representation.

Putting the cart before the horse led to the impossibility of implementing the Taif Agreement electoral reforms. On one hand, the equal representation of Christians and Muslims became a sacrosanct matter for Lebanon’s diminishing Christian presence (the Civil War had led to mass emigrations), who cleaved to this reform in order to avoid the tyranny of the majority. On the other hand, many of the Taif articles quickly became obsolete. As Professor Hassan Krayem of the UN Development Programme (formerly at the American University of Beirut) remarked: “The dilemma of the post-Taif state results from the fact that a national and non-sectarian form of representation cannot be carried out by sectarian forces, within a sectarian structure, and under a system which is based on a confessional power-sharing formula. *Such change needs new forces and a different political and civic culture.*”<sup>5</sup>

Under Syrian tutelage, the number of Parliament candidates was further revised in 2000. It was raised to 128 members—including the addition of new seats to some Muslim denominations (Alawites) and new Christian seats in the Beqaa and the North governorates—leading to 64 Christian members and 64 Muslim members to be elected by a majority system in five *muhafazat*. However, this majority vote in large constituencies led to a problem: Christians complained that most of their members were elected to office through Muslim—not Christian—votes and thus it was an “artificial equality.”<sup>6</sup> The elected Parliament was no longer a true reflection of the will of the people.

For example, in Beirut, Armenian representation was traditionally elected through the Tashnag Party, usually in coalition with the Phalangist Party. But, from 1996 onward, through a strong coalition with the Future Movement, the Armenian candidates from the rival Hnchak and Ramgavar parties eclipsed the Tashnag candidates and occupied the seats designated for Armenian members. The grassroots constituencies felt that their representatives in Parliament were no longer concerned with their communities' needs and that they fulfilled other agendas. This dissatisfaction continues today—especially now that an ever-increasing fear of Muslim fundamentalism in the region makes Christians uneasy about the 2013 elections. As a rule, the Maronite Christians prefer to have elections in the smallest constituency (*qadaa*) by a majority vote.

Recently, other voices began questioning the system as well: The Orthodox community, which met on September 13, 2011, issued a communiqué protesting its marginalization within the Christian community (of the 64 Christian seats, 37 go to the Maronite Christians, including the presidency) and seeking to reclaim a more fair and balanced Christian representation. Meanwhile, many others are demanding that the Christians elect their own members and allow the Muslims to elect theirs. Former Parliament Deputy Speaker Elie Firzli has offered a proposal:

- Make all of Lebanon *one* electoral district.
- Allow each confessional denomination to elect its own members.
- Adopt the proportionate system.
- Keep the current districting.

Unfortunately, sentiment for this proposal is rapidly gaining ground (more below in Option 3).

The main question that needs to be addressed about the status quo option is: Will the majority voting system and the smaller constituencies form the electoral formula for 2013? If so, will this protect the Christian interest in Lebanon—a concern that has intensified since the recent developments and fears in the region? Or will Lebanon euthanize itself with outdated precepts? What is certain is that so far the current system has demonstrated a complete inability to create a modern, democratic, viable electoral model in Lebanon.

## B. Option 2: The National Commission on Electoral Law’s “Boutros Commission” Draft

A second option for the 2013 elections in Lebanon would be to adopt in to the draft law of the National Commission on Electoral Law, also known as the Boutros Commission.

In an unprecedented step in the history of Lebanon, the Council of Ministers—presided over by Prime Minister Fouad Siniora—decreed, in August 2005, the formation of a 12-member commission to work on and propose a draft of a new electoral system in Lebanon. The National Commission on Electoral Law (with a ratio of 11 men to one woman) was led by former Minister Fouad Boutros and included members from the various religious denominations as well as individuals from judicial, legal, and academic circles.<sup>7</sup>

On May 31, 2006, after diligently working for nine months, the commission submitted a draft of the new proposed law—which was slated to be studied by the Cabinet and then sent to Parliament within a month. To date, the draft has not been ratified.

From its initial meeting, the commission drafted its own internal bylaws, including an understanding that any new electoral law had to conform to the Taif Agreement (as its mandate stipulated), provide accurate representation of the Lebanese demographic situation, and also provide a fair political representation of all groups and generations. In addition, the commission had to safeguard Lebanon’s multicultural plurality of coexistence; respect and preserve the unity of Lebanon’s land, people, and institutions; and endeavor not to alienate any large portion of any denomination. Furthermore, the proposed law had to be in harmony with international standards of free and fair elections and modern, civilized electoral systems.<sup>8</sup> Needless to say, it was a big task, and the commission recorded their suggested reforms in detail.<sup>9</sup>

Among the most prominent changes proposed by the commission are (see Table II):

- Reduce the voting age from 21 to 18.
- Create an independent electoral commission to monitor campaign and media financing.
- Grant women a 30 percent quota on electoral lists.
- Grant expatriates the right to vote.
- Disallow ministers currently in office to run for Parliament.
- And the boldest innovation of all: Implement a mixed electoral system.

It is important to elaborate further on some of these proposed changes, such as the non-resident voting, the media and finance monitoring, and, most importantly, the mixed electoral system:

### Non-Resident Voting

Although the actual population of Lebanon is estimated to be around four million, the number of Lebanese all over the world surpasses ten million. Most of these emigrants are holders of dual citizenship. In its proposed Boutros Draft law, the National Commission on Electoral Law introduced for the first time in the history of Lebanon the notion of non-resident voting. It is worthy of noting that this was not a proposal for diaspora voting (i.e., granting the right of all emigrants of Lebanese origin to participate in their native country’s elections). Nor did it consider adding new deputies to the current 128 to represent the diaspora in Parliament (a suggestion put forth by numerous parliamentarians). The proposal was restricted only to “citizens who are still holding their Lebanese nationality and who fulfill the voter’s conditions, as their names appear on the voter rolls regardless of their place of residence. Accordingly, the debate over people of Lebanese origin and immigrants who no longer hold citizenship for different reasons remains outside the scope of the Commission’s mission.”

In short, the commission included all Lebanese citizens who reside abroad and who are eligible to vote had they been physically present in Lebanon on the date of elections. This proposal aimed merely to facilitate a distant-voting mechanism, or absentee ballot. It was suggested that all non-residents desiring to participate in the legislative elections will be able to do so if they register early at Lebanese consulates.

Critics and parties opposed to this article commented that the Lebanese residents in nations like North America, Brazil, or Mexico are not all clustered around the cities where embassies or consulates are located. Furthermore, some countries do not allow their nationals to participate in the elections of other countries (Mexico). Other critics expressed the fear of foreign intelligence services interfering in these “offshore” elections. This debate is ongoing, although Lebanon’s 2009 Parliamentary Elections Law stipulates, “Every Lebanese individual who has attained the legal age stipulated in the constitution, whether or not resident on the Lebanese Territory, shall be entitled to vote” (Law No. 25, Article 3).

Parliament never did implement the legislation in 2009, but the government has claimed it will implement it for the 2013 parliamentary elections.

### Media Regulation

The Boutros Commission proposed several provisions to regulate and monitor campaign media and advertising during the electoral campaigning. Although the Lebanese media laws are quite comprehensive and clear, the enforcement of these laws on the ground has always been slack with no strict sanctions. That is why the task of electoral monitoring in this proposed law was handed over to a Supervisory Commission on the Election Campaign (SCEC) to ensure fairness and equality among the candidates, on one hand, and to monitor the audiovisual outlets and the press on the other.

During the 2009 legislative elections, one of the most successful roles of the SCEC was the very sophisticated media-monitoring outfit that it developed and trained. Special instructions were published concerning media broadcasting and advertising. Regulations regarding billboards and posters were issued. The use of public space for campaigning was clearly defined and, accordingly, candidates were penalized for infringements. In fact, out of the 300-page final report the SCEC published in December 2009, 210 pages were dedicated to the unique, extremely detailed, and well-documented media reporting.

### Finance Control

Similarly, the proposed Boutros law stipulated for the first time clear rules and regulations over the financing of electoral campaigning and expenditures. For instance, the draft proposed that each candidate open a special electoral campaign bank account through which all donations would be paid and expenditures withdrawn through checks.

The SCEC witnessed this new financial monitoring for the first time on the ground during the 2009 elections. Although the financial monitoring was executed in a more timid way than the media monitoring due to its more limited mandate, the greatest merit of the exercise lay in the fact that for the first time in the history of Lebanon, the banking secrecy law was lifted. This new policy, however, was applied to only one account where money related to campaigning would be monitored. All other accounts of the candidate are subject to bank secrecy.

In addition, strict provisions relating to electoral campaign spending were issued, defining limits on the campaigns' expenditures as well as the amount of contributions they could receive. The SCEC also oversaw the appointment of official registered auditors and the submittal of detailed final reports with balance sheets. The SCEC commissioners (including the author of this paper) visited the banks on numerous occasions and did random checks on candidates' elections accounts. Still, in spite of all that, it was very difficult for the SCEC to actually monitor all of the parallel expenses and contributions undertaken by candidates' family members (which, with the breadth of extended families in the Middle East, could often include a few hundred people), political partisans, and expatriates (especially their transportation costs from abroad).

Furthermore, the SCEC did not have the mandate to inflict any direct penalties nor impose fines on the transgressors. Its main role (not being an independent commission but an arm of the government) was to delegate this matter to the Constitutional Council. According to Article 19 of the Lebanese Constitution, the function of the Constitutional Council, which is composed of ten members (five appointed by the Council of Ministers and five elected by Parliament), is "to review the constitutionality of laws and to adjudicate on challenges to the results of presidential and parliamentary elections."<sup>10</sup>

By December 2009, all electoral infringements, violations, and contestations were sent to the Constitutional Council from the SCEC. Other than one newspaper, which was fined for use of foul language, no penalties were imposed on any of the candidates who had failed to submit their audited reports or on any of the candidates who had miscalculated on their balance sheets. (Not surprisingly, no candidate had reported any "overspending" beyond the allocated budget.)

### Mixed Electoral System

After numerous interviews and meetings, the Boutros Commission discovered that Lebanon's salvation lies neither in its majority system nor in the proportionate system. It also discovered that a simple, democratic electoral law based on numbers would not work in a country that is a collage of minorities. Hence, the commission's proposed mixed system.

The mixed system combines both the small-constituency, majoritarian model (*qadaas*) and the large-constituency, proportional model (*muhafazat*). It is worth noting that

both the majoritarian and proportional systems have many advantages. This is also the case with large and small constituencies. Accordingly, the mixed system—an amalgam of these elements—has been hailed by contemporary political science experts like Matthew Shugart and Martin Wattenberg as the best of both worlds.<sup>11</sup>

In the mixed system, some parliamentary seats would be elected on a majoritarian basis with small constituencies (*qadaas*, or electoral units) and the remainder on a proportional basis with large constituencies (i.e., six constituencies comprising the five historical constituencies—the Mount Lebanon constituency would be divided into two constituencies given its exceptional size). The system also calls for elections to be held on one day in order to guarantee the proper representation of the Lebanese people.<sup>12</sup>

Why wasn't this proposal adopted for the 2009 elections? In July 2006, the Israeli invasion of Lebanon and the ensuing troubles led to the shelving of the draft. The polarization between the March 8 Alliance (Hezbollah and allies) and the March 14 Alliance (Future Movement and allies) was aggravated by the siege of the Prime Minister's office—the Grand Serail—and culminated in May 2008 with a Hezbollah armed attack on Beirut, its suburbs, and the Chouf Mountains. During the ensuing emergency reconciliation meeting sponsored by the Emir of Qatar Hamad Bin Khalifa Al Thani in Doha, a compromise electoral law was cooked up at the eleventh hour for the 2009 elections. The plan reverted all the way back to the pre-Taif Agreement 1960 law—thus bypassing the Boutros Commission's draft law and all the recommendations of parliamentary committees, civil society, and non-governmental organizations.

The 2008 Doha Agreement adopted the smaller-district model in conformity with the 1960 law.<sup>13</sup> Accordingly, Beirut was divided into three districts that ensured that certain Christian candidates would be elected to office (see [Electoral Map](#)).

Between May and November 2008, Parliament committees met to draft a new electoral law based on the Doha Accord. Then-Interior Minister Ziyad Baroud, a prominent lawyer, civil society activist, and former member of the National Commission on Electoral Law, battled in vain to get most of the Boutros reforms implemented. But the Doha agreement gave the Boutros Draft its final blow. Although Minister Baroud then called the new proposed electoral law a “cup half full,” civil society activists were outraged. Many feared this would be the one and only chance to accomplish electoral reform. Still, most were determined to continue their demands and “bring public pressure to bear on the

recalcitrant political establishment to change this before the 2013 elections.”<sup>14</sup>

Despite the activists' outrage, they would have to make it through the June 2009 elections with the new Doha electoral law (see [Table II](#)), which was barely recognizable to the Boutros Commission advocates. The only nods to the Boutros reforms for the 2009 elections were a measure to hold the elections on one day (rather than on four consecutive Sundays) and the new law creating the SCEC, which would operate under the auspices of the Ministry of Interior and be headed by Minister Baroud directly. The ten-member commission (later reduced to nine when one of the members resigned) was appointed in December 2008 to monitor the June 2009 elections. But the SCEC did not actually start to function properly until March, when finally—thanks to the support and guidance of the European Union—it managed to create a mission, train 50 media monitors, and hold regular meetings. The SCEC's mandate was not complicated: Monitor the media and the financial expenditures of the candidates. Despite this limited mandate, the pilot experiment was quite a success, providing a strong precedent for all candidates to refrain from corruption. Unfortunately, when the 2010 municipal elections were held the following May, the SCEC was not invited to supervise the process. More recently, a new Cabinet decision seems to have dropped the idea of forming any kind of independent electoral-monitoring commission completely.

In 2009, Parliament also agreed to adopt the proposed out-of-country voting measure and allow some 300,000 expatriates the right to vote in 2013. It is worth reiterating that these are not Lebanese immigrants, but rather expatriates—Lebanese nationals who will be eligible to vote on Election Day. At a conference sponsored by the Ministry of Interior to debate this matter in October 2010,<sup>15</sup> the Ministry of Foreign Affairs made it perfectly clear that it was neither equipped nor interested in pursuing expatriate voting. The director of the Ministry of Foreign Affairs said, “We asked all our embassies and consular sections if they can undertake the task of having out-of-country voting, and they all answered negative.” With that, the matter was simply dismissed. When models of such voting from Iraq and other Arab countries were successful, the naysayers still dug in their heels, claiming there were more important reforms to introduce first—like reducing the voting age.

The voting age isn't as trivial an issue as it might at first

seem; in fact, it is rather contentious. Despite widespread support to lower the voting age to 18 (a common standard around the world), many Christians fear the reform will disproportionately favor Muslims, asserting that Muslim communities contain most of the nation's youth between the ages of 18-21, and thus Muslims will topple the already delicate status quo. Unfortunately, this perception doesn't rely on demographic facts: After all, no official census has taken place in Lebanon since 1932.

And so, though some progressive measures were made back in 2009, Lebanon is still mired in electoral turmoil. As Middle East expert Benedetta Berti put it: "Although Lebanon's 2009 parliamentary elections were undeniably a significant step forward in the evolution of transparent and credible democratic institutions, they also illustrated that both poles of the country's multifarious governing elite are prepared to resist the kind of transformative electoral reforms long advocated by civil society activists."<sup>16</sup>

Clearly, the National Commission on Electoral Law deserved to have been more seriously studied. The mixed system was quickly dismissed by the parliamentary sub-committees as "too complicated"—and yet it was the only option offered that would have overcome the status quo (Option 1) before totally plunging into the unpredictable proportional system (Option 3). Furthermore, the mixed system could have established a pre-bicameral model that would eventually do away with the outdated religious-confessional model.

Why didn't the Boutros Commission propose a bicameral

Parliament? Why didn't it directly recommend a senate with religious privileges and a Parliament elected through free democratic representation? Because this would have been a direct violation of the Taif Agreement—with its catch-22 stipulation that a bicameral system should only come *after* the first Parliament free of religious elections. Parliament members tried assiduously to avoid any proposal that would have led to an immediate dismissal of the whole accord—and any reforms it included—on a technicality, or being "not as mandated." Hence advocates for the mixed system stayed at least partially out of the chaos of the majority vote.

### C. Option 3: Interior Minister Marwan Charbel's Proposed Proportionate Electoral Law (2011)

The general rhetoric these days in Lebanon leans toward an electoral law in favor of the proportionate system rather than the majoritarian one. From the president to the speaker of the House, many politicians sing the praises of the proportionate system. After the fall of Saad Hariri's National Unity Government and the establishment of the new March 8-dominant Najib Miqati government, the champion of electoral reform and Interior Minister Ziyad Baroud was replaced by an older, more conservative security officer, Marwan Charbel, who recently proposed a proportionate electoral law.<sup>17</sup>

The strongest opponent to the proportionate system is the leader of the Socialist Democratic Party, Walid Jumblatt, who systematically rejects Charbel's model, claiming that all ethnic minorities would be diluted in the proportionate system, which advocates larger district boundaries—*muhafazat* rather than the smaller *qadaas*. Meanwhile, Maronite circles for the moment publicly praise the proportionate system and privately pray that it will never be implemented—also for reasons of districting and the number of candidates elected in each district. On a daily basis, every newspaper article, talk show, and conference focuses on the debate over the merits of different electoral systems.

On October 11, 2011, Interior Minister Marwan Charbel presented his draft for a new electoral law to be implemented in the 2013 legislative elections. "Salvation in Lebanon lies in its proportional presentation," he said. "It would allow minorities to be properly represented and encouraged to participate in polls."<sup>18</sup> He added that the draft law he wrote is "not similar to any other law, neither in form nor in content ... and all its [articles] can be applied."<sup>19</sup>

In this new draft law, Charbel proposed to:

- Create a proportionate system of voting that does away with voters selecting only a single slate or list of candidates. Instead, voters can choose two top candidates individually. This first vote determines the candidates who will be on the lists, and a second vote based on proportional shares of a given district will determine who among them will take office.
- Ensure each electoral list is complete and includes all of the candidates' seats in that particular district.
- Create an 11-member committee to supervise the parliamentary elections in coordination with the Ministry of Interior; any contested decisions would be brought before the State Council.

- Allocate a gender quota so that at least 30 percent of the candidates are women.
- Introduce pre-printed ballots prepared by the Ministry of Interior that feature the name of the list as well as photographs and names of candidates.
- Divide Lebanon into 10 to 14 *medium*-sized districts. These would be larger than the 26 *qadaas* and smaller than the 5-6 *muhafazat*.
- Map out a detailed system that enables Lebanese expatriates to participate in the polls.
- Allow people with special needs to cast their ballots.
- Prepare a schedule setting deadlines for candidacy, withdrawal from contest, and joining lists.
- Provide equal opportunities for all candidates.<sup>20</sup>

Charbel hopes that the draft will be passed in three months (after ratification through Parliament). He has also suggested creating political entities within each district that are in tune with similar political groups in other confessions. There is no doubt that if all the Charbel reforms are properly implemented, it will be a quantum leap in the history of Lebanese elections. After all, the proposal does adopt most of the reforms suggested by the Boutros Commission. (The most notable absence from Charbel's plan is a reduction of the voting age to 18 years old—a measure the Christians seriously oppose.) However, there are three Swords of Damocles hanging over Charbel's proposal:

1. The proportionate vote
2. The non-independent supervisory commission and its limited mandate
3. The new districting based on the mid-sized constituencies.

This last measure opens a Pandora's box of questions. How will these districts be carved out? Which *qadaas* will be annexed to one another? How many candidates will there be in each district? All of these unknowns will provide enough material to keep the legislators busy and at each other's throats until 2017 (i.e., the elections after the forthcoming ones). When the Boutros Commission was meeting, the entire reform package was completed in three months—but it took another six months to get 12 members to agree on the geographical districting and the electoral map. This is the most difficult aspect of Lebanese elections by far; districting may lead the country to war, to stability, or to no elections.

What will the fate of this proposal be? As previously mentioned, Walid Jumblatt will oppose it, as will Christians of the March 14 Alliance. Christians in the March 8 Alliance generally prefer each confessional to elect its own denomination; they claim that in the current system Christians actually only elect 34 out of their 64 members. During a Maronite summit held in Bkerke under the aegis of the Patriarch Bechara Rai last September, four major political leaders—the Change and Reform bloc’s General Michel Aoun, the Christian Lebanese Forces’ Dr. Samir Geagea, the pro-Syrian Marada Party’s Suleiman Frangieh Jr. (also the grandson of former President Suleiman Frangieh), and President Amin Gemayel—met to discuss the electoral system. In addition, former Interior Minister Ziyad Baroud, members of Parliament, and other national political figures attended. The official published communiqué of the summit stated: “The Christians believe in the Lebanese state and its institutions, and they believe that an electoral law is the correct way to revitalize their role in the country.”<sup>21</sup>

As for the off-the-record discussions that took place during the Maronite summit, leaks to the press claim that another electoral proposal—this one from the Orthodox Elie Firzli, former deputy speaker of the House—was considered by many as quite attractive. Firzli’s plan would consider all of Lebanon one circumscription, include a proportionate vote, implement a one-man-one-vote system, and have each confessional vote for its own members. What other dissenting voices cropped up during this meeting is unclear, but the next day the pro-Hezbollah *Al Akhbar* newspaper reported, “Geagea killed the proportionate and Firzli buried it.”

## V. Recommendations and conclusions

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If Lebanon were a small country in South America, chances are the voices clamoring for electoral reform would have long ago gained ground, and much of the current election technology available would have been implemented by now. However, Lebanon is not a small country in South America. It was artificially created by the French to house and shelter a large Christian minority in the Middle East.<sup>22</sup> Today, with the Christians in the Arab states becoming more and more of an “endangered species”—the Chaldeans of Iraq are seeking refuge in Lebanon and even the 11 million Copts in Egypt are uncertain of their future in the land of their Pharaonic ancestors—confessionalism in Lebanon is no longer considered a racist, anachronistic system but the nation’s *raison d’être* for many Lebanese. It is even true that most Lebanese Muslims would feel safer with a Christian neighbor than with the “wrong” Muslim one.

And yet, the Christian Maronite presidency is not accepted very well by other Christian denominations. Many agree the presidency should be held by a Christian, but why a Maronite? Why not an Orthodox, an Armenian, or a Protestant? Similar sentiments are sometimes voiced in Parliament as well: Some say it’s good that the speaker of the House is a Shiite, but does it always have to be the same kind of Shiite? Can a Shiite have the freedom to be anti-Hezbollah in Lebanon? Many agree that if political confessionalism is removed, the greatest winners will be the Shiites: Their numbers are increasing, they have a military presence (with arms from Hezbollah), and they have the support of neighboring countries (Syria and Iran). Hence, even other Muslims, like the Sunnis, would prefer to have a Christian president under confessionalism rather than a Shiite president under some new system.

Ever since the assassination of Prime Minister Rafic Hariri, the Sunnis feel that their Golden Age is coming to an end. All of the Arab revolts across the region have toppled Sunni dictatorial regimes (Tunisia, Egypt, Libya, Yemen), and the Sunnis’ greatest ally, Saudi Arabia, is hardly a role model of democracy. Compared with Saudi Arabia, a country where women cannot drive and even the private worship of Christians is condemned, Lebanon remains the safest haven for all denominations.

The Lebanese multicultural tapestry truly has the potential to become, as Pope John Paul II once said, not merely a country but a *lesson*, a message of cohabitation for all humanity. If only each denomination would stop protecting its own corrupt followers; if only administrative reform could be implemented without religious reprisals or uproars. For example, if a government employee is fired after being caught accepting bribes, members of that employee’s denomination will often

assume they are being persecuted and blow the whole incident out of proportion, rather than cope with corruption in its ranks. Members of the employee’s denomination will rise up against opposing communities, assault presumed foes, protest in the streets, and close down shops—until, that is, the dismissed employee is reinstated. This is the Lebanese disease. Not only can religion be a ticket to Parliament, but religion is also often manipulated, used as an excuse for breaking the law and hiding behind religious leaders to escape punishment. This situation grows more acute when the economy is bad and the prevailing mood is one of mistrust and alienation. Limited jobs create competition, but when many jobs are ear-marked for a particular denomination, then it can be extremely frustrating and disillusioning to once-motivated young graduates—many of whom eventually emigrate to Gulf countries and then later to greener pastures in the United States.

During the Lebanese Civil War in 1980, Thomas Friedman, in his book *From Beirut to Jerusalem*, described Lebanon as a Hobbesian state of nature, where force and fraud prevail. Although major improvements have taken place in the past three decades—such as an official government, security forces, and a regular army—what Lebanon truly lacks is competent leadership at the highest levels of government, and, in order to do that without fear or coercion, it needs a fair electoral law.

Most likely neither the mixed system nor the proportionate system will be implemented in 2013. The most plausible alternative we can hope for at this late date is to keep the majority vote within the small districts, but still introduce all the other reforms on the table—namely the pre-printed ballot, scanned vote-counting, a supervisory commission that monitors the entire electoral process and not merely the campaigns, and a quota for women. Of course, in a majority system, it is difficult to implement a gender quota in addition to a confessional quota. In a country that is 53 percent female, to have less than 3 percent representation in Parliament is scandalous. Lebanese universities boast that as many as 80 percent of their honor lists are composed of women, yet when it comes to the political parties, the public sector, or official directorates, women are almost absent. A late female activist and reformer, Laure Moghaizel, once commented that the only women who enter the Lebanese Parliament wear black—to replace a deceased father, husband, brother, or son. As for reforms like a presidential trade-off between the Christians and Shiites, expatriate voting rights, and lowering the voting age to 18, unfortunately 2013 seems premature for these steps—even though the House recommended them back in 2009.

When Christians vote for Christians and Muslims vote for Muslims, the Parliament does end up reflecting some true representations of the candidates and their constituencies; but if this like-voting-for-like system is implemented, it should only be for one term. The lasting side effects of such a system would be truly detrimental to the nation:

- The Lebanese Constitution states that a Parliament member is a member of the nation. Nowhere does it say that the member will be representing only his own small, narrow community. Allowing this to go on permanently would reduce national legislative elections to the status of municipal and parochial ones.
  - Mixed lists encourage multicultural discourse and inter-sectarian dialogue, forcing people to think out of the box, leave their comfort zones, and exercise some empathy toward the “other side.” When candidates are voted in by their own denomination, however, they put on blinders and focus only on their petty confessional needs, rather than any national aspirations.
  - The race between rivals of the same sect or denomination in small villages accentuates conflicts among longstanding feudal families and could lead to violent internecine clashes.
- However unlikely, the National Commission on Electoral Law’s draft needs to be enacted. Such a complete electoral law, balanced and well-studied, deserves to have a proper chance at implementation. The commission’s reforms will also pave the way for a non-sectarian Parliament in the long run.

To reach consensus on a well-balanced electoral law in Lebanon, all political parties, stakeholders, and religious leaders must understand that there is no perfect solution, no win-win situation for any one of them. Everyone must make concessions, give up fringe benefits, and meet opponents halfway. Thinking only of individual rights and privileges will never build a strong nation; it will keep Lebanon lurking in a state of nature. It is only when all parties agree to form a new social contract, based on concessions and compromise, that a strong Lebanon will eventually emerge. Then Lebanese citizens across the country can together proudly sing their national anthem, “*Kuluna lil Watan*”—“We Are All for the Nation.” Otherwise, Lebanon will continue to be an arena for foreign interventions, domestic conflicts, and a nation of continually missed opportunities.

## VI. Endnotes

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- <sup>1</sup> Many of the deputies then in Parliament had succeeded through a majority-vote system and felt that a shift to the untested proposed mixed electoral system would jeopardize their current status of absolute success.
- <sup>2</sup> The greatest opposition to this proposal comes from Druze leader Walid Jumblatt, head of the Progressive Socialist Party, since he fears that such a system will shake his absolute supremacy among the Druze in the Chouf mountains.
- <sup>3</sup> Fawwaz Traboulsi, *A Modern History of Lebanon*. Ann Arbor, MI: Pluto Press, 2007, p. vii.
- <sup>4</sup> Krayem Hassan, *The Lebanese Civil War and the Taif Agreement*. Available at: <http://ddc.aub.edu.lb/projects/pspa/conflict-resolution.html>.
- <sup>5</sup> Krayem, *ibid*.
- <sup>6</sup> No official census has been held in Lebanon since the mid-1930s. The modus vivendi has been a 50/50 Christian/Muslim split despite the lack of actual numbers—although analysts whisper that 70 percent of the country is now Muslim.
- <sup>7</sup> The members of the Boutros Commission were: H.E. Fouad Boutros, NCER chair and former minister of justice, education, and foreign affairs; Dr. Nawaf Salam, NCER secretary, chair of political science and public administration at the American University of Beirut, and Lebanon's current ambassador to the United Nations; Dr. Abdel Salam Cheaib, lawyer and professor of sociology at the Lebanese University; Dr. Fayez Hajj Chahine, dean of faculty of law at St. Joseph's University; Dr. Michel Tabet, professor of constitutional law at St. Joseph's University; Dr. Zuheir Chukr, professor of constitutional law at the Lebanese University and former president of the Lebanese University; Dr. Paul Salem, professor of political science at the American University of Beirut and currently the president of the Carnegie Endowment Foundation in Lebanon; Dr. Ziyad Baroud, lawyer, professor of law at St. Joseph's University, and former interior minister; Dr. Ghaleb Mahmasani, lawyer and professor of law at St. Joseph's University; Ghassan Abou Alwan, former president of the Court of Cassation and former chair of the SCEC; Khaldoun Naja, head of the Tripoli lawyers syndicate; and Dr. Arda Ekmekji, dean of arts and sciences at *Haigazian* University and a former member of the SCEC.
- <sup>8</sup> Richard Chambers, country director of the International Foundation for Electoral Systems in Lebanon, described the basic components of a modern, just, and fair election in a lecture titled "Promoting a Culture for Free and Fair Elections: An International Perspective on Electoral Reform in Lebanon" at Haigazian University, Beirut, Lebanon, on January 24, 2008.
- <sup>9</sup> The detailed reforms suggested by the commission can be found on the commission's website: [www.elections-lebanon.org](http://www.elections-lebanon.org).
- <sup>10</sup> Available at: <http://www.conseilconstitutionnelliban.com>.
- <sup>11</sup> Matthew Soberg Shugart and Martin P. Wattenberg, *Mixed-Member Electoral Systems: The Best of Both Worlds?* Oxford: Oxford University Press, 2003.
- <sup>12</sup> Until 2009, elections were conducted on four consecutive Sundays and often the results of one area affected the campaigning and elections of the forthcoming ones.
- <sup>13</sup> The *cazas* of Marjayoun-Hasbaya, Baalbek-Hermel, and West Bekaa-Rachaya remained as a single electoral constituency each. Beirut, however, was divided: The first district included Achrafieh, Rmeil, and Saifi; the second district included Bachoura, Medawar, and the Port; and the third district included Minet al-Hosn, Ain al-Mreisseh, Al-Mazraa, Mousseitbeh, Ras Beirut, and Zoqaq al-Blat. (See the Electoral Map at end of this paper.)
- <sup>14</sup> Doreen Khoury, "Lebanon's Election Law: A Cup Half Full," *The Daily Star*, October 10, 2008.
- <sup>15</sup> The author of this paper was a panelist in the debate.
- <sup>16</sup> Benedetta Berti, "Electoral Reform in Lebanon," *Mideast Monitor*, July-August 2009, vol. 1:4. Available at: [http://www.mideastmonitor.org/issues/0907/0907\\_4.htm](http://www.mideastmonitor.org/issues/0907/0907_4.htm).
- <sup>17</sup> The Lebanese elections are managed and supervised by the Ministry of Interior. The Boutros Commission proposed that an independent commission undertake this task instead, but the idea was turned down in 2009 and instead the SCEC was created.
- <sup>18</sup> *Draft Parliamentary Elections Law for the Elections of 2013*. Proposed by the Minister of Interior and Municipalities Gen. Marwan Charbel, September 2011. Translated by the International Foundation for Electoral Systems and printed with the support of the UN Development Programme and with the contribution of the Norwegian Government. *The Daily Star*, "Charbel Presents Draft Electoral Law," October 11, 2011, p. 1.
- <sup>19</sup> *Ibid*, p. 2.
- <sup>20</sup> *Annahar*, Lebanese daily newspaper, October 11, 2011.
- <sup>21</sup> *L'Orient-Le-Jour*, September 24, 2011.
- <sup>22</sup> During the Ottoman Empire, although Mount Lebanon enjoyed autonomous rule, the North and South of Lebanon were affiliated with Syria or Palestine. The current map of Lebanon was drawn by the French Mandate and has only enjoyed these borders since 1920.

## VII. Annexes

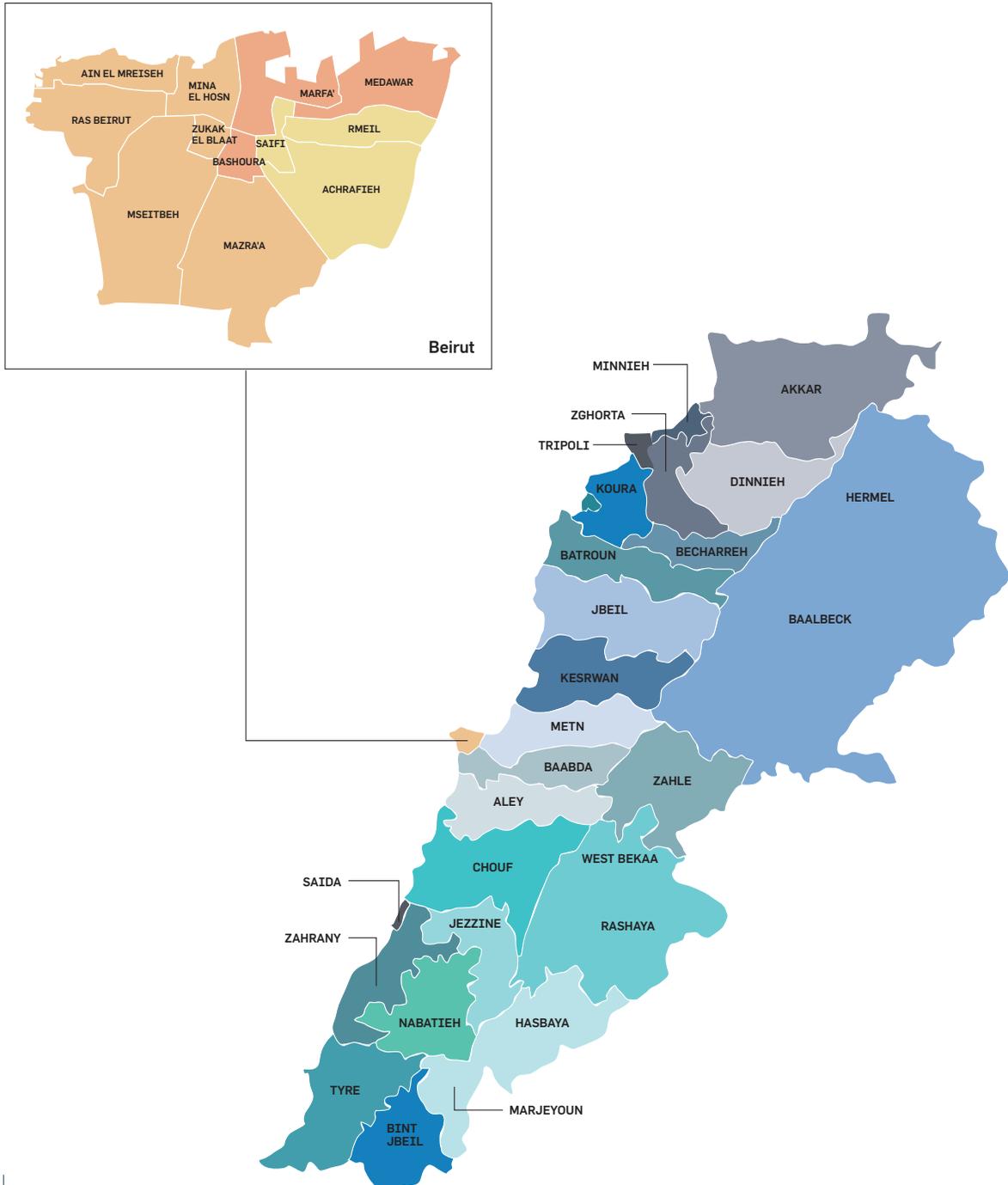
**Table I**  
**Electoral districts and deputies**

MUHAFAZA	QADAA	DEPUTIES	MARONITE	SUNNI	SHIITE	ORTHODOX	ARMENIAN ORTHODOX	ARMENIAN CATHOLIC	CATHOLIC	PROTESTANT	ALAWITE	DRUZE	MINORITES
<b>NORTH</b>	TRIPOLI	8	1	5		1					1		
	MINYE - DINNIEH	3		3									
	AKKAR	7	1	3		2					1		
	ZGHORTHA	3	3										
	BSHARRE	2	2										
	KOURA	3				3							
	BATROUN	2	2										
<b>MT. LEBANON</b>	JBEIL (BYBLOS)	3	2		1								
	KISIRWAN	5	5										
	METN	8	4			2	1		1				
	BAABDA	6	3		2							1	
	ALEY	5	2			1							
	SHOUF	8	3	2					1			2	
<b>SOUTH</b>	SAIDA	2		2									
	ZAHRANI	3	2						1				
	SOUR (TYRE)	4			4								
	JEZZINE	3	2						1				
	NABATIEH	3			3								
	MARJAYOUN	3			2	1						1	
	HASBAYA	2		1									
	BINT JBEIL	3			3								
<b>BEQAA</b>	ZAHLE	7	1	1	1	1	1		2				
	BAALBEK - HERMEL	10	1	2	6				1				
	WEST BEQAA	6	1	2	1	1						1	
<b>BEIRUT</b>	ACHRAFIEH - RMEIL	8	1			1	3	1	1				1
	MAZRAA	7		4	1	1						1	
	RAS BEIRUT	4		2	1					1			
<b>TOTAL</b>		<b>128</b>	<b>36</b>	<b>27</b>	<b>25</b>	<b>14</b>	<b>5</b>	<b>1</b>	<b>8</b>	<b>1</b>	<b>2</b>	<b>7</b>	<b>1</b>

**Table II**  
**Comparative Chart**

<b>BOUTROS DRAFT LAW (2006)</b>	<b>2009 LEGISLATIVE ELECTIONS</b>	<b>CHARBEL PROPOSED LAW 2011</b>
Mixed voting system (majority & proportionate)	Majority vote	Proportionate system with 2 preferential votes
18-year-old vote		
Independent supervisory commission	Supervisory commission monitoring finance & media	Supervisory commission monitoring finance & media
Pre-printed ballot		Pre-printed ballot
Non resident voting (local and expatriates)		Non resident voting (local and expatriates)
30% quota for women on electoral lists		30% quota for women on electoral lists
Elections in all Lebanon to take place in one day	Elections in all Lebanon to take place in one day	
6 Muhafazat / 26 Qadaa	26 Qadaa (smaller districts)	14 districts (larger than Qadaa)
Facilities for handicaps	Facilities for handicaps	Facilities for handicaps
Electronic counting of ballots		Electronic counting of ballots
Not to allow ministers to run for office		

**Electoral Map**







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