

Joint submission for the Universal Periodic Review on:

“The Rights of Periodic Elections and Reform of Electoral Law”

I. Background and framework

A. Scope of international obligations

1. Elections constitute one of the major pillars of any democracy. To ensure fair representation during the electoral process, it is necessary to ensure the basic political rights of individuals and groups, especially the freedom of expression, political freedom, right to free vote, and periodic elections.

2. In 2008, significant progress was made in electoral reforms in Lebanon through the adoption of the parliamentary electoral law № 25/2008. The Lebanese civil society has played a significant role in introducing the concept of electoral reform to political life, particularly influencing general discussions held about the reform of the parliamentary and municipal electoral law back then.

3. Moreover, civil society organizations were able to put enough pressure to push towards the adoption of a good number of reforms in the parliamentary electoral law of 2008 based on which the elections of 2009 were organized.

4. Many reforms were introduced to the elections' legal framework including holding the elections in one day, organizing electoral media and advertising campaigns, organizing electoral spending, non-resident citizens voting, measures to facilitate voting of people with disabilities and many other procedural reforms.

5. Nevertheless, and while the general periodic elections were supposed to be held in June 2013, on May 13 2013, the Parliament resorted to extending its mandate of one year and five months. This step was justified by the failure to reach a consensus over a new electoral law, and under the pretext that the security situation does not favor holding the elections. On November 5, 2014, the parliament resorted to extending its mandate again, thus cancelling the parliamentary elections under a law in effect as of November 16, 2014. This is a blatant violation of the Lebanese Constitution, of international covenants and treaties ratified by Lebanon, and of the basic principles of democracy. This led to the cancellation of the whole electoral process.

6. After the first and second extension, Lebanon entered a critical and dangerous phase of its history as it is without a president of the republic since deputies failed to elect one. On May 24, 2014, at the end of the mandate of the twelfth president of the Lebanon entered in a phase of political and constitutional void of which no one can even foresee a way out, neither predict the time needed to surpass this phase, nor be aware of all its implications.

7. Furthermore, politicians deliberately thwarted the quorum of the Constitutional Council in 2013 to prevent it from examining the appeal against the first extension of mandate. Lebanese politicians in power are aware of the express and confirmed jurisprudence of the Lebanese Constitutional Council which decided that the right to vote and the principle of periodic elections are constitutional principles that may not be violated. In 2014, they resorted to exerting pressure on the Constitutional Council either directly or through threatening with absolute void in all state institutions in order to reject the appeal submitted before it against the legality of the second extension law despite expressing expressly that this law is in blatant violation of the Constitution provisions.

B. Institutional and human rights infrastructure

8. **The Independent Electoral Commission (IEC):** To ensure that elections are free, fair and reflect the true will of votes, the fairness of the electoral process is required by making sure that political authorities are impartial and cannot influence the results. Consequently, civil society organizations called for the creating of an independent electoral commission to organize the elections and replace the Ministry of Interior in this task. Despite that the commission, in charge of monitoring electoral campaigns, is mentioned in the law № 25/2008, its prerogatives remain limited. Moreover, it continues to work under the supervision of the Minister of Interior. Its prerogatives were limited to monitoring electoral spending, advertising and media. This is in contradiction with Paragraph 2 of Article 25 of ICCPR which stipulates expressly that the free expression of the will of the electors should be guaranteed.

Recommendations:

9. **A completely independent and permanent commission in charge of managing elections is required, and the prerogatives of the Ministry of Interior must be transferred to this commission;**
10. **Establish a commission to monitor electoral campaigns at most six months prior to the election date to allow it to perform its mission to the fullest.**

II. Promotion and protection of human rights on the ground:

Implementation of human rights obligations:

i. Respecting the periodicity of elections and the right to vote

11. It is now clear that the failure to elect a new president and the non-constitutional second extension of the Parliament's mandate are significantly dangerous indicators of the deterioration of the democratic process in Lebanon and of the loss of the Lebanese people of one of their major political rights which is the right to vote and periodic elections protected by international

covenants ratified by Lebanon, particularly the International Covenant on Civil and Political Rights (ICCPR) issued by the United Nations General Assembly on December 16, 1966. Article 25 of ICCPR stipulates that “all signatory countries shall guarantee that their citizens have the right to take part in the conduct of public affairs, directly or through freely chosen representatives, and to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors”. Despite the fragile security situation in Lebanon and the region, returning to the democratic path and abiding by the law remains the only way to restore security and stability, and to activate accountability mechanisms.

Recommendations:

- 12. Fully respect the deadlines stipulated by the Constitution and laws related to the election of the President of the Republic and of the Parliament;**
- 13. Respect the principle of periodic elections and the right to vote considering that they are constitutional principles and basic political rights in any democracy in compliance with the standards defined by international covenants;**
- 14. Add a clear and express article to the Lebanese Constitution that determines the mandate of the Parliament;**
- 15. Introduce to the parliamentary electoral law an article prohibiting the discussion of any new electoral law after calling on the electorate;**
- 16. Introduce an article to the parliamentary electoral law, stipulating that any amendment to the electoral law made during the year of the elections may not be applied to the current elections but to the subsequent one.**

ii. Political rights to citizens in light of the political and security turmoil:

17. The exceptional security situation used as a pretext by political authorities, to justify the first and second extension laws cannot cancel the basic political rights of the citizens. The authorities should protect the political rights of the citizens even under critical security situations to ensure their safety and constitutional and legal deadlines should be respected.

Recommendations:

- 18. Define and determine the standards based upon which circumstances are defined as exceptional. The executive power should base their assessments of the situation on clear and transparent reports from the competent security apparatuses so that it is subject to monitoring and assessment of the judicial power and not only based on political estimations;**

- 19. Define the standards determining the end of exceptional circumstances by setting a timeframe that allows for periodic reconsideration to verify whether these circumstances persist or ceased to exist;**
- 20. Develop legal and administrative mechanism to organize the parliamentary election immediately upon the end of exceptional circumstances and not waiting until the end of the extended mandate;**
- 21. Determining exceptional circumstances should remain a prerogative of the executive power thus subject to the monitoring of administrative judicial power attributed to the State Council.**

iii. Reform of the Lebanese Constitutional Council to protect elections:

22. The Constitutional Council is an independent constitutional institution of judicial status. Its mission is to make sure laws and other legal texts are constitutionally sound. It also decides on litigations and appeals arising from presidential and parliamentary elections.
23. Despite that this institution plays a crucial role in ensuring compliance to the constitution, after twenty years of work, in practice the prerogative given to the Constitutional Council are not enough to provoke real change in political life, to manage the operations of constitutional institutions in the framework of the Constitution, or to deter the other powers which do not respect rights, justice, and do not protect human and citizens' rights, from violating the provisions of the Constitution.
24. The Constitutional Council creation law granted the members of the Council legal guarantees to protect the Council's operations from pressure or influence and thus ensure its neutrality and immunity. Nevertheless, attempts aiming to influence and pressure it did not cease. All kinds of intimidation methods and threats were used to prevent it from conducting its duty impartially. This significantly affected its reputation, status and integrity, during specific phases of its work.

Recommendations:

- 25. Expand the prerogatives attributed to the Constitutional Council to play a deterrent role against authorities violating the Constitution;**
- 26. Grant the Council the prerogative to interpret the Constitution and take it from the Parliament members;**
- 27. Develop legal and administrative mechanisms to protect the Council from political interferences;**
- 28. Develop legal and administrative mechanisms to put an end to the obstruction to the work of the Council;**
- 29. Grant the President of the Republic the right to appoint Constitutional Council members, to fulfill the role of President of the Republic attributed by the Constitution**

as head of state, symbol of the nation's unity and protector of the Constitution and laws;

30. Seek the mechanisms that allow for the submission of popular appeals by the citizens before the Constitutional Council and expand the scope of its prerogatives.

iv. Electoral Law Reform:

31. The cancellation of parliamentary elections through the first and second extensions thwarted the process of reforms started in 2008. After long discussions over the importance and need to reform the parliamentary electoral law in Lebanon, Lebanon lost its periodic elections. The first priority of concerned civil society organizations thus became to limit the loss of political rights and work to maintain achievements made over the last years, instead of fighting to obtain additional rights. While civil society organizations still seek to change the electoral laws and maintain periodic elections at the same time, many electoral reforms remain hidden in the drawers of Parliament deputies. The major reforms of the electoral law should tackle the following:

a. Electoral system:

32. According to the current law, Lebanon is divided into 26 electoral districts. These districts are inhomogeneous in terms of size and do not ensure equality among the Lebanese citizens. It is currently based on a majority election system with multiple seats in each district and that does not ensure accurate representation and equality among Lebanese citizens. Consequently, the civil campaign for electoral reform adopted the proportional electoral system and divided Lebanon into medium-size electoral districts.

33. According to experience, adopting the proportional electoral system encourages the formation of alliances between political parties and groups which limits the level of fanaticism in political discourses, and of personalism in the electoral process. The proportional system also contributes to transforming the elections from a vote for individuals to a vote for ideas and political programs. We noted that the larger the electoral districts are the higher becomes the chance of small group to win seats in the parliament compared to small or single-member districts. Moreover, the proportional system also limits political clientelism.

Recommendations:

34. Adopt the proportional electoral system.

b. Participation of women in political decision-making:

35. The participation of women in political decision-making remains weak despite that Lebanon legally recognized women's political rights in 1953. Women's representation remains

unequal and weak, whether in legislative or executive powers, or political parties. This results in the lack of support to women within political parties.

36. The adopted electoral law (the majority election system) is an additional obstacle facing the establishment of a legal and effective participation while the proportional system encourages participation and ensures a better representation of women.

Recommendations:

37. End all kinds of gender discrimination;

38. Develop programs and plans of action that aim to encourage and ensure women's participation in public affairs;

39. Adopt a 33% quota system for four consecutive electoral cycles as quotas are a positive temporary measure that could be taken to increase women's participation in political life.

c. **Emigrants voting:**

40. Article 104 of the Electoral Law of 2008 stipulated that Lebanese citizens not residing on the Lebanese territory are entitled to vote at the Lebanese embassies and consulates as per the provisions of this law provided that this right is implemented in the 2013 elections. Although this could be considered a step forward in terms of guaranteeing the right of non-resident Lebanese citizens to vote in their country of residence, experience showed that there is a need to identify and examine the reasons that led to the exclusion significant numbers of registered citizens thus depriving them of their right to vote. In fact, the narrow interpretations of legal texts which led to denying thousands of Lebanese people their right to participate in the elections in their current countries of residence should be abandoned.

Recommendations:

41. Interpret the articles relevant to the voting of non-resident citizens in a way to serve the interest and right of voters to practice their electoral right in their country of residence.;

42. Raise the level of coordination between the Ministry of Foreign Affairs and the Ministry of Interior about the preparations to be made for the non-resident electors;

43. The embassies abroad should work on disseminating information about the elections within a reasonable period of time prior to the elections, so that citizens may know all of the technical and logistical details one day before the elections;

44. Make the voting of non-resident automated and modernized to ensure the largest and most effective participation of non-residents, particularly those living in countries where no embassies or consulates are available.

d. **Participation of youth in the political process:**

45. The Lebanese Constitution and electoral law determined the legal age at 21 for voters and 25 for candidates. This is actually a violation of the basic political rights of citizens between 18 and 21 years of age especially that this age group enjoys all of their civic rights and duties but are denied their right to participate in political life through elections. As a result of this reality, the youth distanced themselves from active participation in volunteering work, political life and

public affairs. Their current participation is limited to working as representatives of candidates or as observers of the electoral process within associations specialized in observing elections.

Recommendations:

46. Amend the constitution should to lower the legal voting age from 21 to 18 according to the internationally accepted standards in the UDHR and ICCPR adopted by the vast majority of countries around the world where civic adulthood is the same as political adulthood;

47. Lower the legal age required to run for elections from 25 to 22. This measure could encourage the young elites to seek reaching power as the young citizen would have participated at the age of 18 as a voter and then in subsequent elections as candidate.

e. **Political participation of people with disabilities:**

48. Article 92 of the electoral law stipulates that the Ministry of Interior shall take into consideration the needs of people with disabilities when organizing the elections and shall take measures to allow them to exercise their right to vote without any impediments. The law also stipulates that the Ministry shall survey the opinions of people with disabilities associations and services associations stipulated in People with Disabilities Law № 220 issued on May 29, 2000. Based on this law, the Minister of Interior at the time issued nine binding circulars to state departments, local authorities, and presidents of municipalities, to urge them to implement the law and thus to facilitate the voting process, and call on municipalities to ensure the best facilities for that matter. Despite the issuance of these circulars, the rights of large numbers and groups of people with disabilities are still not respected and that leads to their marginalization and exclusion from the electoral process which constitutes a serious violation of their basic political rights protected by local laws and international covenants.

Recommendations:

49. Amend article 92 of the parliamentary electoral law 25/2008 and Article 83 of the municipal electoral law to ensure that the right of people with disabilities is fully respected and that they are treated as equals;

50. Equip all electoral centers as required by the relevant scientific studies, based on the minimum requirements stipulated in Section 4 of law 220/2000;

51. Set comprehensive standards to include people with visual impairments, hearing impairments, or mental deficiencies taking into consideration the related requirements;

52. Use polling stations equipped with the specifications stipulated by law which should allow people with disabilities to independently exercise their right.

f. **Electoral spending:**

53. Controlling electoral spending is one the main requirements needed to ensure the fairness of elections with regards to candidates having equal opportunities. Moreover it guarantees the

right of citizens to choose their representatives freely by preventing any sort of political or financial influence. The electoral law organizes electoral spending without that being enough to completely ensure fairness of elections.

Recommendations:

- 54. Set a variable spending limit that reinforces equality in terms of spending among candidates; i.e. setting the limit value according to the size of the districts and number of seats instead of approving a fixed and unified value for all districts;**
- 55. Separate the parliament and cabinet of ministers to guarantee the integrity of the ministries' work during electoral campaigns and to make sure that public facilities and state departments are not used for personal interests;**
- 56. Publish the financial reports of all candidates and lists and make them accessible to citizens based on the right of access to information;**
- 57. Take into consideration the 2009 IEC comments and remarks with regards to controlling spending outside the official budget of candidates.**

g. Electoral media and advertising:

58. The electoral law organized the issue of electoral media and advertising by imposing a number of restrictions. These restrictions require from all media outlets to respect the freedom of expression of different opinions and ideological currents in TV talk shows during the election campaign, to ensure fair, balanced and impartial treatment among candidates and lists. Despite the importance of including these clauses in the electoral law, the experience in the 2009 parliamentary elections and 2010 municipal elections showed that media outlets did not abide the legal and professional conditions. Media impartiality was not respected and there was a lack of transparency regarding electoral advertising.

Recommendations:

- 59. Amend the electoral law to ensure equal treatment of all candidates in their media appearances;**
- 60. Monitor the electoral advertising in a more efficient way to prevent discrimination among candidates and protect the rights of independent, non-funded independent candidates;**
- 61. Call media outlets to abide by the law through respecting the freedom of expression of different opinions and ideological currents in talk shows of private TV and radio channels during the election campaign, to ensure fair, balanced and impartial treatment among candidates and lists.**