

**Report of the
National Commission
on Parliamentary Electoral Law Reform**

Submitted to

**His Excellency
Prime Minister Fouad Siniora**

May 31st, 2006

The National Commission on Parliamentary Electoral Law Reform created by virtue of Decision no 58 dated 8/8/2005 of the Council of Ministers, has the honor to submit to Your Excellency the report mentioned in Clause 7 thereof.

First: Appointment and tasks of the National Commission on Parliamentary Electoral Law

In an initiative unprecedented in modern Lebanese history, the Council of Ministers decided, on 8/8/2005, to appoint the "National Commission on Parliamentary Electoral Law Reform"^[1]. Indeed, the new Government^[2] made good on its promises stated in its ministerial statement that "it would, after its confirmation, appoint a national commission that would draft a new electoral law securing, under the umbrella of the Taef Agreement, a fair representation of the Lebanese people within the democratic parliamentary framework (...)". It also undertook to "subsequently refer the appropriate draft law within one month to Parliament for discussion by Parliamentary committees and by the General Assembly".

Indeed, the Council of Ministers appointed such a Commission chaired by former minister Fouad Boutros and made up of eleven members whose names are (in the same order as in the Appointment Decision): Ghaleb Mahmassany, Michel Tabet, Zouheir Shokr, Ghassan Abou Alwan, Ziyad Baroud, Nawaf Salam (appointed by the Commission as Secretary), Abdel Salam Sheaib, Fayez Hajj Shahine, Paul Salem, Khaldoun Naja, and Arda Ekmekji.

As per the Appointment Decision, the mission of the Commission is:

"to propose means to reform the electoral system in Lebanon pursuant to the provisions of the ministerial statement by preparing a new Parliamentary Electoral draft law in accordance with the principles of the Constitution and the Taef Agreement. The aim of such a draft law is to achieve as much fair representation and equality among candidates and voters as possible, and to provide the necessary conditions for free electoral competition and for the impartiality of the administration of the electoral process by the competent authorities".

Second: Work and meetings of the Commission

The Appointment Decision determined the procedural tasks of the Commission as per the following timetable:

- The President of the Commission shall invite all Lebanese political parties, movements, forces and personalities to present to the Commission their proposals and to appoint their representatives, within one month- at the latest- of the publication of the invitation in the official gazette.

Indeed, the invitation was published- in three languages- in local newspapers and in the official gazette (Vol 34, p 4000) issued on 18/8/2005. Upon the expiry of the one-month deadline on 19/9/2005, the Commission had received 122 proposals varying between complete draft laws and specific proposals for the electoral system, the distribution of constituencies, or other election-related issues.

- Within one month of receipt of (1) the proposals submitted to it, (2) those that were already submitted to the Ministry of Interior and Municipalities and (3) the report of the European Union on the last elections in Lebanon referred to it by the Ministry of Foreign and Emigrant Affairs, the Commission reviewed the proposals and made them available to whomever might be interested among political parties, movements, forces and personalities. The Commission listened separately to each of the representatives of such bodies during special hearings where representatives explained their proposals and answered the Commissioners' questions in this regard. The Commission requested these representatives to fill in questionnaires about certain parliamentary election-related issues^[3].
- On November 26 and 27, 2005, the Commission held, in its headquarters at the Grand Sérail, plenary sessions for the representatives of the political parties, movements and forces, run by the Commission's Chairman. The topics of these sessions were the following:
 - The authority in charge of preparing for, administering and supervising the electoral process,
 - Election-related media regulations,
 - Regulation and supervision of campaign finance,
 - Enhancement of youth and women's representation,
 - Out-of-country voting,
 - Electoral systems and districting.
- During all this period, the Commission held periodic plenary meetings (72 meetings in all) in addition to sub-commission meetings (formed by the Commission from among its members) to tackle specific detailed issues.
- In parallel, the Commission listened to Lebanese and foreign election experts, benefiting from technical support provided for this purpose by the United Nations Development Programme (UNDP) in accordance with a Memorandum of Understanding with the Lebanese government.
- The Commission was granted a five-month deadline under the Cabinet's decision, to achieve its mission. However, as the Commission needed more time, the Council of Ministers decided, during its session of 26/1/2006, to extend the Commission's deadline up to the end of February 2006, and then decided, in its session of 16/3/2006, to extend it again until the end of May 2006. The Commission complied with this deadline and submitted the present report to His Excellency the Prime Minister.

The Commission ratified, during its first meetings, its Rules of Procedure^[4] that governed its procedural tasks, organized its meetings and deliberations, and determined the required quorum and majority to take decisions. Furthermore, the said Rules provided for an obligation of discretion on the part of Commissioners in order to protect the confidentiality of deliberations.

Third: General principles Adopted by the Commission to Elaborate the Draft Law

- (a) Methodology:

The Commission examined the electoral systems prevailing in many countries for comparative purposes, keeping in mind that the electoral law to be developed for Lebanon should respond to the realities of the Lebanese socio-political structure with all its characteristics and complexities. From the beginning, it was clear to the Commission how closely its work was intertwined with the realities of Lebanese society whether in terms of that society's political and historical heritage or as to its citizens' ambitions and future expectations. It was also clear to what extent technical and political issues were interlaced in most of the aspects of the required reform.

(b) Objectives:

The Taef agreement sets forth in Clause C, Chapter 3, Title 1, the objectives that should be achieved under the electoral law, as follows:

- Safeguarding of coexistence
- Fair political representation of all groups and generations
- Effectiveness of representation
- Preservation of the unity of land, people and institutions

Therefore, the Commission endeavored that its draft law constitutes the best legal means to achieve such objectives. It does not pretend that the proposed law is the only one capable of achieving the said objectives. But after reviewing a large number of texts and draft laws designed to achieve these objectives, it found that its proposal comes closest to achieving the desired objectives.

One cannot talk absolutely about an ideal solution as to the objectives of the electoral law in general, and particularly in Lebanon where concepts and criteria, and even data and figures, are often subjects of dispute and political or confessional altercations.

(c) Grounds:

The Commission opted for rules deriving from the preamble and provisions of the Constitution, and from political criteria of fundamental nature.

(1) Principles deriving from the preamble and provisions of the Constitution

The Commission complied with the following constitutional provisions:

Clause B of the Preamble reads:

"Lebanon is Arab in belonging and identity. It is an active and founding member of the Arab League and is committed to the league's charter. It is an active and founding member of the United Nations Organization and is committed to its charters and to the Universal Declaration of Human Rights. The state of Lebanon shall embody these principles in all rights and fields, without exception".

Clause C of the Preamble reads:

"Lebanon is a democratic parliamentary republic founded on respect for public liberties, especially the freedom of expression and belief, on social justice, and on equality in rights and duties among all citizens, without discrimination or preference".

Clause D of the Preamble reads:

"The people are the source of authority. They are sovereign and shall exercise their sovereignty through the constitutional institutions".

Clause I of the Preamble reads:

"No authority violating the coexistence charter shall be legitimate".

Article 7 of the Constitution reads:

"All the Lebanese are equal before the law. They enjoy equal civil and political rights and are equally subjected to public charges and duties, without any distinction whatever".

Article 21 of the Constitution reads:

"Any Lebanese citizen aged 21 who meets the conditions of the electoral law is entitled to vote".

Article 24 of the Constitution reads:

"Parliament is composed of elected members; their number and mode of election are determined by the electoral laws in force.

Until Parliament draws up an electoral law outside of the confessional registry, parliamentary seats shall be distributed as follows:

- a- in equality between Muslims and Christians
- b- proportionally among the confessional subgroups
- c- proportionally among the regions"

Article 27 of the Constitution reads:

"The Chamber member represents the entire Nation. No imperative mandate may be given to him by his electors".

Article 29 of the Constitution reads:

"Cases of MP's incompetence are determined by law".

In addition, it was essential for the Commission to also conform to criteria and rules set forth in the landmark Decision of the Constitutional Council no 4/96 dated 7/8/1996, that reads:

"Whereas these rules provided for in Article 24 of the Constitution lose their real meaning and import in the event of non-adoption of a sole criterion that is implemented equally in all Lebanese regions, the Muhafazat would then be the electoral constituency in all regions, or the caza in all Muhafazats. Any other delimitation of electoral constituencies would be adopted if, at the legislator's discretion, such delimitation is to fulfill the provisions of Article 24 of the Constitution, provided that only one criterion governs the delimitation of constituencies. Equality of constitutional electoral rights among voters, and equality among candidates as to the charges they would incur pending the establishment of a ceiling for electoral expenditure, would then be secured"^[5].

By complying with these provisions and constitutional principles, the Commission guarantees, inter alia, the protection of the future electoral law against the possibility of annulment on the ground of unconstitutionality of provisions.

(2) Fundamental Political Criteria

In addition to the Commission's compliance with the objectives set forth in the Taef agreement and with the aforementioned constitutional provisions, the Commission adopted the following fundamental political criteria:

a- To move away from formulae that might lead to a permanent consolidation of sectarianism. The Commission considered the confessional issue on the basis of Clause 2 of Article 24 and Article 95 of the Constitution, in such a way that its draft law would not be an obstacle to the achievement of the objective of gradually abolishing political sectarianism. The Commission paid particular attention to the establishment of an "electoral law outside of the confessional registry", and to the "creation, at the same time, of a senate where all religious communities shall be represented" according to Article 22 of the Constitution after the formation of "the national council in charge of examining and proposing the means capable of abolishing sectarianism".

b- To seek to give the draft law a constructive dynamism that would make, with time, the national discourse prevail over the religious or sectarian one, and encourage the Lebanese, voters and candidates, to get involved in political life from a national perspective. Accordingly, they will be able to exercise their democratic rights under the electoral law through lists of candidates from different religious and sectarian communities, competing rather on the basis of political, economical, and social programs instead of family, regional, sectarian, or religious belongings.

c- To protect any Lebanese community from the danger of being dominated by another one; which might deprive any of the communities of participating in public life, based on the fact that the coexistence charter should imply the participation of all Lebanese in political decision-making.

Fourth: Chapters of the draft law

The draft law is made up of the following nine chapters:

Chapter 1: Eligibility of voters and candidates

Chapter 2: Independent Electoral Commission

Chapter 3: Electoral constituencies, voting system and number of deputies

First: Number of deputies
Second: Electoral constituencies
Third: Voting system

Chapter 4: Pre-Election tasks

First: Voter rolls
Second: Calling of elections
Third: Candidacy filing

Chapter 5: Regulation of electoral competition

First: Campaign Spending
Second: Campaign Advertising

Chapter 6: Voting process

First: Voting of Lebanese residents
Second: Out-of-country voting

Chapter 7: Counting of votes and announcement of results

Chapter 8: Incompatibility between parliamentary membership and other offices

Chapter 9: Miscellaneous provisions

The provisions of the said chapters bring the following new features:

Chapter 1: Eligibility of voters and candidates

First: To bring every citizen's right to vote or to run as candidate to the same level of fundamental rights with constitutional force, in order to make the legislator abide by these two rights at the risk of challenging constitutionality.

The draft law has consolidated these two rights under a number of provisions which, gathered all together, formed a charter called by the Commission "Charter of voters and candidates' rights". The Commission suggested including it in the Constitution instead of Article 23 abrogated since 1927, as follows:

- "a- Each Lebanese shall be entitled to periodic, free, proper and fair elections.
- b- Democratic accountability shall be the voter's right and obligation.
- c- Elections shall be held by secret ballot, with the guarantee that the participation of voters in the electoral process will be facilitated.
- d- Elections shall be held by virtue of a law guaranteeing equality among voters and candidates, and under the umbrella of a government of non-candidates.
- e- The electoral law shall be ratified by absolute majority of all members legally constituting the Chamber of Deputies. The electoral law shall not be amended within the year preceding the expiry of Parliament's mandate.
- f- Each Lebanese shall be entitled to run as candidate, provided he/she meets the conditions set forth in the electoral law.
- g- On an exceptional and provisional basis, each list shall include a minimum number of women candidates. Their number and candidacy filing process, along with the deadline of such exception effectiveness, shall be determined under the electoral law".

The inclusion of the said charter in the Constitution requires a constitutional amendment. The Commission was therefore driven to elaborate a constitutional draft law along with its rationale (Hereto attached as Exhibit 4).

Second: To enable non-resident Lebanese to vote. The Commission considered that acknowledging the right to vote of non-resident Lebanese was no more than consolidation of a prevailing constitutional right that should be implemented regardless of any technical issues whatsoever. The out-of-country voting is restricted, within the limits of the electoral law, 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.

The Commission included in the draft law provisions that would enable the Lebanese living abroad but meeting the voter's conditions, to vote from his/her place of residence for the candidates of his/her electoral constituency as per his/her place of record. This is in line with the practice of more than 88 United Nations member states.

Third: To lower the voting age from 21 to 18. This has long been in Lebanon a demand of youth groups and most of civil society organizations. The Commission decided on the lowering of the voting age from 21 to 18, as 18 is considered to be the age of legal maturity in Lebanon. Furthermore, most democracies in the world currently award the right to vote to those who reach this age, knowing that some of these countries, as is the case in Great Britain, are even debating whether to lower it to 16. Whereas such an issue requires a constitutional amendment, the Commission included the said amendment in the above-mentioned constitutional draft law.

It is to be noted, in this context, that the Commission considered also the lowering of candidacy age from 25 to 23 or 21, but decided to retain the currently adopted age^[6].

Fourth: To reserve a quota for women at candidacy level; each list must include a minimum set number of women candidates. The rationale for this obligation is that, on the one hand, women have not yet had a fair chance to participate fully in the political life of the country for many reasons, mainly social and cultural ones, despite the recognition of their right to vote and run for office since more than 50 years. As a result, Lebanon is ranked 125th out of 136 on the women's parliamentary representation list in the world. On the other hand, such a quota will comply with the Convention on the Elimination of all Forms of Discrimination against Women to which Lebanon adhered under Law no 572 dated 24/7/1996 and under the 1995 Peking agreement approved by Lebanon and recommending that women's representation be 30% minimum by 2005.

The Commission believes that the quota system is a positive discrimination aiming at counterbalancing the existing imbalance in society. It decided, therefore, to opt for this system, on an interim basis, for three successive elections, with a 30% quota at candidacy level, i.e. on the electoral lists within the constituencies subject to the proportional system. Quota at candidacy level would be much more in harmony with the voter's freedom than a quota imposed on seats, and would not be an additional burden to the electoral system already loaded with quotas for religious communities and regions. In the proposed mixed system, the quota system cannot be imposed on the seats elected by majoritarian vote, but only on the seats elected according to the proportional system with closed lists.

However, the adoption of women's quota, even though at candidacy level, might constitute a breach of the principle of equality among all citizens. The Commission established, therefore, a constitutional text authorizing the quota temporarily. The Constitution should then be amended in accordance with the constitutional draft law attached hereto.

In compliance with the Taef agreement which stipulates that “all factions of the people” must be represented, the Commission made a recommendation that the “National Council” entrusted, under Article 95 of the Constitution, with the task of “examining and proposing the means capable of abolishing sectarianism”, consider, after its formation, the representation of Lebanese who do not wish to belong to a particular religious community.

Chapter 2: Independent Electoral Commission

In order to implement well the principle of neutrality and fairness of elections and to move the electoral process away from political authority influence, it was agreed to establish a “National Independent Commission”. It shall be an administrative body that shall be given judicial status. It shall enjoy administrative and financial autonomy and be in charge of preparing for, administering, and supervising parliamentary elections. In addition, it shall work for the development of democratic culture and for the promotion of electoral awareness. It is worth mentioning, in this context, that most proposals submitted to the Commission stressed the need for an independent body to administer and supervise the elections, which is in line with the increasing tendency of all democracies around the world.

It is to be noted that this proposal goes along with the proposal for setting up a government of non-candidates during the parliamentary election period in order to promote the principle of neutrality.

- (a) The proposed commission shall be made up of ten members as follows:
- A presiding judge of the Court of Cassation, selected from a list of three presiding judges appointed by the Higher Judicial Council (as President)
 - A presiding judge from the Council of State, selected from a list of presiding judges appointed by the Council of State bureau (as Vice-president)
 - A presiding judge from the National Audit Office, selected from a list of three presiding judges appointed by the National Audit Office (as member)
 - Former head of the Beirut Bar Association, selected from a list of three former heads of the Beirut Bar Association appointed by the Beirut Bar Association board (as member)
 - Former head of the Tripoli Bar Association, selected from a list of three former heads of the Tripoli Bar Association appointed by the Tripoli Bar Association board (as member)
 - Member of the National Media Council, selected from a list of three names appointed by the National Media Council (as member)
 - Member of the Press Syndicate, selected from a list of three names appointed by the Press Syndicate (as member)
 - Three PhD-holding experts with expertise in election-related matters such as political science, administrative affairs, social sciences, statistics, or demography.
- (b) The President, vice president and members of the commission shall be appointed by virtue of a decree issued upon the approval of the Council of Ministers and initiated by the Prime Minister.
- (c) The commission shall be in charge of all parliamentary election-related issues, namely:

- Supervise the good preparation and rectification of voter rolls.
- Appoint the members of registration and counting committees, and supervise their work.
- Determine the polling station places and appoint the heads of such polling stations and their assistants.
- Receive and decide on the requests for candidates' registration in accordance with the prevailing rules and regulations.
- Monitor electoral finances.
- Monitor the compliance of lists, candidates, and media with rules and regulations governing electoral advertising.
- Supervise the administration of the electoral process in accordance with rules and regulations thereof; receive and decide on the complaints thereabout.
- Supervise the vote counting and tallying process, and announce results.

In order to enhance the role of this commission, it was given the power to impose penalties on defaulting parties. The principles of *Inter Partes* process and of "two-stage litigation" should be respected in this regard.

In addition, civil society agencies were given the right to monitor the elections under specific terms.

Chapter 3: Electoral constituencies, voting system and number of deputies

The issues of electoral constituencies and voting systems were considered and debated over many meetings held by the Commission and sub-commissions. It is to be noted, in this context, that the Commission's discussions were fully transparent, as all issues were raised clearly and candidly.

After much prolonged debate over the different models of the voting system and electoral constituencies that could be adopted, the Commission unanimously settled on considering that the mixed system - which takes into consideration at once two levels of electoral constituencies and combines the majoritarian system at one level with the proportional system at another - is the best of the possible options in the current Lebanese situation in order to achieve the expected objectives of the new electoral law as per the Taef agreement (i.e. as aforementioned: Guarantee of coexistence, fair political representation of all people's factions and generations, efficacy of representation, preservation of the unity of soil, people and institutions).

The Commission considered that this choice constituted an advanced step towards implementing Clause C/Chapter 3/Title I of the Taef agreement stipulating that "Parliamentary elections shall be held in accordance with a new law on the basis of provinces (Muhfazat)". This shall be done after "reviewing [by the competent authorities] the administrative division within the context of unity of the people, the soil and the institutions"; which has not been achieved yet.

It is to be noted, in this context, that each of the majoritarian and proportional systems has many advantages. This is also the case of large and small constituencies. Accordingly, the mixed systems - an amalgam of these elements - were called by contemporary political science experts such as Matthew Shugart and Martin Wattenberg "The best of both worlds".

The mixed system combining both the small constituency majoritarian model and the large constituency proportional model

In the mixed system, some parliamentary seats are elected on a majoritarian basis with small constituencies (cadas or electoral units) and the remainder on a proportional basis with large constituencies (i.e. six constituencies composed of the five historical constituencies after the division of Mount Lebanon constituency into two constituencies given its exceptional size compared to the other constituencies^[7]). Such elections shall be held on one day in order to guarantee the proper representation of the Lebanese people, reflecting, at one and the same time, their different regions and confessions along with their political choices separate from confessional or geographical considerations. This shall be done pursuant to the provisions below.

Electoral constituencies

There are two types of electoral constituencies: large constituencies (such as Muhafazat) including small ones (cadas, or electoral units). They are as follows:

The constituency of Beirut subject to the proportional system, and including the following electoral units themselves subject to the majoritarian system:

First area of Beirut composed of Ashrafieh, Saifi, Rmeil and Mudawar.

Second area of Beirut composed of Mazraa, Mousaytbi and Bashoura.

Third area of Beirut composed of Ras Beirut, Dar al Mreissy, Mina al Hosn, Zkak al Blat and the Port.

The constituency of the Bekaa subject to the proportional system and including the following cadas and electoral units themselves subject to the majoritarian system:

Zahle, western Bekaa/Rashaya and Baalbek/Hermel⁸

The constituency of the North subject to the proportional system and including the following cadas and electoral units themselves subject to the majoritarian system:

Tripoli, Akkar*, Dinniye/Minye, Becharre, Zghorta, Koura and Batroun

The constituency of the South subject to the proportional system and including the following cadas and electoral units themselves subject to the majoritarian system:

Saida, Zahrani, Jezzine, Tyr, Nabatiye, Bint Jbeil, Marjeyoun and Hasbaya.

The constituency of northern Mount Lebanon subject to the proportional system and including the following cadas themselves subject to the majoritarian system:

Metn, Kesrwan and Byblos.

The constituency of southern Mount Lebanon subject to the proportional system and including the following cadas themselves subject to the majoritarian system:

Chouf, Aley and Baabda.

The number of seats allocated to each constituency and to sectarian communities within it, is determined according to the attached table (Exhibit 8).

The 128 parliamentary seats were distributed between cadas and electoral units subject to the majoritarian system, and large constituencies subject to the proportional system, according to the following objective criteria:

1- The seats are divided equally between the small constituency (with majoritarian system) and the large constituency (with proportional system) when the number of seats for a given confession in the cada (or electoral unit) is even. (e.g. Maronite seats in Batroun or Jezzine, Shiite seats in Baalbeck/Hermel, or Sunni seats in Saida).

2- More seats are given to the small constituency (with majoritarian system) than the large constituency (with proportional system) when the number of seats for a given confession in the cada (or electoral unit) is odd. (e.g. Sunni seats in Tripoli, Greek orthodox seats in Koura, Maronite seats in Keserwan and Zghorta, or Shiite seats in Nabatiye).

3- In the event of there being only one seat for a given confession in a cada (or electoral unit), it shall remain in the small constituency (with majoritarian system), provided that the number of voters of this confession within this constituency is not less than half of the electoral quotient (electoral quotient defined as the aggregate number of voters registered in the constituency divided by the number of seats related to this constituency).

(e.g. the Greek orthodox seat in Tripoli shall go to the small constituency [with majoritarian system], while the Maronite seat shall go to the large constituency [with proportional system]. Furthermore, the seats of the Greek Catholic and the Minorities in Beirut shall go to the small constituency [with majoritarian system], while both seats of Druze and Protestants shall go to the large constituency [with proportional system]).

4- In the event of two seats reserved for a given confession in a large constituency (with proportional system) but for two different cadas (or electoral units), the seat with the highest ratio of voters of that confessional group to the aggregate number of voters in the cada shall go to the small constituency (with majoritarian system). (this rule applies, for example, to the two Alawi seats in the North, the two Catholic seats in the South, or two Greek orthodox and two Shiite seats in Beirut).

Candidacy

Candidates running for office in the constituencies subject to the proportional system must nevertheless specify which seat (cada and confession) they are running for, according to the relevant confessional distribution of seats. Candidacy in these constituencies shall be made on the basis of lists.

Candidates running for office in the constituencies subject to the majoritarian system must also do so according to the relevant confessional distribution of seats. Candidacy in these constituencies shall be made on an individual basis.

The candidate must choose to run for election between the constituency subject to the proportional system or the constituency subject to the majoritarian system; he/she shall not be entitled to run for both at the same time.

Lists

Formation of lists in Proportional Representation constituencies must respect the distribution of seats within the cadas (or electoral units) according to the relevant confessional distribution.

Lists must be closed and must have a name. They may be complete or incomplete, provided they include no less than four members. In the event the deadline for lists registration expires and a particular seat has no candidate in any of the lists, then, each of the candidates running for this seat and not belonging to any list shall be deemed a list and allowed to compete for the seat.

Each list shall include a minimum 30% quota of women. Fractions amounting to or exceeding one half shall be rounded upwards.

Voting system

Each voter shall be entitled to vote:

1- in the constituency subject to the majoritarian system which he/she belongs to, for a number of candidates equal to the number of seats allotted to this constituency according to the relevant confessional distribution.

2- in the constituency subject to the proportional system which he/she belongs to, for only one of the competing lists.

In order to rank the candidates on the list of his/her choice, the voter shall be entitled to two preferential votes for two different cadas (or electoral units) awarded to two candidates from this list. The Commission opted for "preferential voting" as it secures greater freedom to the voter while choosing his/her candidates. Consequently, the voter would not be restricted to pre-ranked lists where pre-ranked candidates are imposed by dominant list heads and parties.

Voting shall take place in the same polling station by means of two envelopes; the first reserved for the constituency subject to the majoritarian system and cast in the ballot box relevant to this constituency, the second reserved for the constituency subject to the proportional system and cast in another ballot box relevant to this constituency.

Counting system

1- For constituencies with proportional system:

Votes obtained by each list are counted regardless of preferential votes going to the candidates of this list, in order to determine the number of seats for each list. Preferential votes are counted for each candidate in order to determine his/her rank on the list according to voters' preferences.

2- For constituencies with majoritarian system:

Votes obtained by each candidate are counted in order to determine the winning candidates.

Determination of lists results

Each list gets a number of seats proportional to the total number of votes it received, calculated as follows: the number of votes within each PR constituency shall be divided by the number of seats within the same constituency in order to determine the electoral quotient. Then, the number of votes received by the list shall be divided

by the said electoral quotient in order to determine the number of seats this list should get. In case of a vacant seat, it shall go to the list with the highest remainder.

e.g. If, in a given constituency, the number of votes is 100,000 and the number of seats is 10, the electoral quotient will then be $100,000/10 = 10,000$. Supposing that the number of votes received by each of three competing lists in this same constituency is 50,000, 30,000 and 20,000 respectively. The number of seats awarded to each of the lists shall then be: $50,000/10,000 = 5$ seats for the first list; $30,000/10,000 = 3$ seats for the second; and $20,000/10,000 = 2$ seats for the third.

Usually, the number of list votes divided by the electoral quotient is not a whole number. As a result, some seats will remain undistributed. According to the "highest remainders method", the undistributed seats shall go to the lists with the highest remainder in decreasing order of magnitude.

e.g. let's consider the same above-mentioned example but with 47614, 32215, and 21171 votes for the first, second and third lists respectively. The first list would initially get 4 seats with a remainder of 8614 votes, the second three seats with a remainder of 2215 votes, and the third two seats with a remainder of 1171 votes. Consequently, one seat will remain undistributed. This seat will go to the first list since it has got the highest remainder of votes. If there had been two seats remaining, the second seat would go to the second list because it has the second highest remainder, and so on.

In case there are still undistributed seats left over after the distribution of seats by remainder, they remaining seats shall go to the qualified lists starting from the strongest list to the weakest. The Commission considers that each list that does not obtain a number of votes equal to the electoral quotient within its constituency, is to be deemed as "unqualified" and deserves no seat.

As for the number of deputies, it is determined according to the mixed system, as follows:

- 77 deputies elected according to the majoritarian system within the relevant constituencies;
- 51 deputies elected according to the proportional system within the relevant constituencies.

Determination of winning candidates

1- Within PR constituencies

Candidates would be declared winners, starting with the candidate with the highest number of preferential votes no matter what list he/she belongs to, then the candidate with the second highest number of preferential votes, and so on, until candidates of qualified lists fill all the lists' deserved number of seats within the constituency. The candidate whose turn is to be considered but meets one of the following conditions shall be eliminated and replaced with the candidate who comes directly after him/her in terms of number of preferential votes.

- He/she is a candidate for seat(s) of a confessional community within a given cada/electoral unit that has/have already been filled;

- He/she is a candidate from a list that has already taken its deserved share of seats.

2- Within majority vote constituencies

Candidates with the highest number of votes for each seat shall be declared elected.

Potential criticism of this system

Some might think, at first sight, that such a system would lead to the establishment of two categories or classes of deputies. The Commission sees therefore that it is important to clarify the following points:

a- The big difference between votes obtained by proportional vote and those obtained by majority vote shall not constitute a discriminatory factor among elected deputies. In fact, candidates within PR constituencies win thanks to votes obtained by their list as a whole and not owing to votes obtained on an individual basis, as is the case in Majority vote constituencies.

b- Different countries that adopted similar systems such as Germany, Japan, Italy, Mexico, Korea, Senegal and New Zealand, do not suffer from "two classes" of deputies.

In fact, the number of these countries is increasing, as the Mixed System has been adopted by many new democracies in East Europe and Central Asia (such as Russia, Ukraine, Armenia, Georgia, Azerbaijan, Kazakhstan, Tajikistan, Albania, and Hungary) and in nascent states (such as the Palestinian National Authority).

It is worth mentioning, in this context, that the commission in charge of reforming the French electoral system and made up of a group of jurists and representatives of all blocs and headed by the noted jurist Vedel in 1992, recommended in its report dated 3/2/1993 that a mixed system be adopted by virtue of which a number of parliamentary seats are to be elected by proportional vote within a single national constituency in addition to all MPs elected in smaller constituencies by majority two-round ballot.

More importantly, given the firmly established simple majority system in Britain, it is to be noted that the report of the independent commission on electoral systems known as the Jenkins Report and submitted to the British Parliament in November 1998, also recommended that, in order to remedy the "continuous disorder" besetting the simple majority system based on single-member constituencies, a mixed system be adopted. It proposed to elect 15-20% of the deputies (as top-up seats) on the basis of large provinces according to one of the PR methods, namely the Alternative Vote method.

c- All deputies, whether elected within small or larger constituencies, are equal in rights and obligations before the law and the constitution. In all cases, irrespective of their election mode (majoritarian or proportional) and of the constituency size (small or large), the "Chamber member represents the entire Nation. No imperative mandate may be given to him by his electors" as per article 27 of the Constitution.

After much debate over this issue, the report of the above-mentioned French commission headed by Vedel read verbatim as follows (page 46):

« La coexistence de députés élus selon des modalités différentes ne paraît pas soulever d'obstacle constitutionnel, dès lors qu'est respecté le principe d'égalité tant entre les électeurs que les élus: la voix de chaque électeur pèse d'un même poids dans chacun des deux scrutins; les députés disposent d'un statut et de prérogatives identiques, quel que soit leur mode d'élection ».

"The coexistence of deputies elected by means of different models does not seem to give rise to any constitutional obstacle as long as the Principle of Equality is respected among voters and elected candidates: the vote of each voter has the same power in each of the electoral systems; as for deputies, they enjoy the same status and prerogatives, whatever the mode of election".

Chapter 4: Pre-election tasks

The proposed draft law implies, in general, a big amount of updating of the electoral process and practices in order to contribute to providing the best circumstances for the voter to vote.

- The authority for the preparation of electoral rolls is now vested in the Independent Electoral Commission.
- An office called "Office of voter's registers" is created within the Directorate General of Civil Status. It shall be in charge of updating (inclusion of new data, modification, deletion, rectification) of electoral rolls on a periodic basis under the supervision of the Independent Electoral Commission.
- Publication of electoral rolls on the Independent Commission website along with the release of CD-ROMs with these lists, in order to make them easily accessible to voters and candidates.
- Each voter shall be entitled to ask the competent registration committee to move his/her voting place to his/her place of residence, provided he/she shows evidence of his/her place of residence via a certificate from the Mukhtar (selectman). It is to be noted, however, that this voter still votes in favor of candidates of the constituency where he/she was originally registered.
- The Lebanese Consul abroad is entrusted with the same powers granted to the Muhafez (governor of a Muhafazat), Caimaqam (administrative head of the cada), and Mukhtar (selectman) pertaining to the electoral rolls, in application of out-of-country voting.

The Commission also suggested that elections be compulsorily run on one day in all constituencies.

Chapter 5: Regulation of electoral competition

(a) Campaign spending

The draft law included important and new restrictions on electoral expenditure in order to secure fair competition and equality among candidates by limiting the power of money and its detrimental consequences on the voting process and on voters' freedom.

For this purpose, the draft law specifies in detail what would be considered electoral expenses and distinguishes between legitimate expenses subject from now on to a

specific ceiling that cannot be exceeded by the candidate/list during the electoral campaign period, and illegitimate expenses that are forbidden and deemed as a bribe punishable by the current criminal law.

The draft law also regulates funding sources by forbidding some of them and establishing a ceiling and limits for the remaining ones in order to secure funding soundness and transparency.

In order to secure the implementation and efficiency of these regulations, the draft law makes it compulsory for each candidate/list to open a special bank account called "Electoral campaign account". All contributions and expenses should be exclusively made through this account which is not protected by banking secrecy law. In addition, the draft law requires each candidate/list to appoint one financial officer exclusively in charge of managing and operating the said account, and an auditor to review campaign finances.

The draft law instituted controls over electoral funding and expenditure vested in the Independent Electoral Commission. Candidates/lists must submit to it periodic notes of expenses, contributions, and obligations related to the electoral campaign, as well as a comprehensive detailed account statement lodged after the end of elections with the totals of income and settled or due expenses for the electoral campaign. The said statement should be accompanied by all supporting documents. The Independent Commission shall be responsible, according to the draft law, for auditing the electoral campaign accounts so that it ratifies, revokes or amends them.

In case the provisions of electoral finances are breached, various penalties are to be applied, ranging between criminal penalties such as imprisonment and/or fines, electoral penalties such as the announcement of the defaulting candidate's ineligibility for one year and the possibility of pronouncing the candidate's invalidity by the Constitutional Council in case the said candidate's election has been challenged before it, and finally financial penalties such as payment of a fine amounting to three times the amount exceeding the campaign expenditure ceiling, and that payment should go to the Treasury.

(b) Campaign advertising

The draft law regulates electoral audio-visual media advertising and distinguishes for this purpose between electoral advertisements and electoral information.

In terms of electoral advertisement, the draft law authorizes paid ads in the audio-visual media. The Independent Electoral Commission shall regulate it and determine advertising spaces. It shall also adhere to the principles of equity and respect candidates' right to equal media access.

As for electoral information, the draft law entitles candidates/lists to use the public audio-visual media for free in order to present their electoral programs. The Independent Electoral Commission shall be in charge of determining the air time schedule and distributing these amounts of free air time to all candidates/lists on an equitable and fair basis in respect of the rule of Equal Opportunities. The draft law also provides for impartiality of public media during all stages of the electoral process.

The draft law also includes many provisions for advertising regulation of private audio-visual media, securing the freedom of expression for all trends of thought and opinion in the programs of the said media. The Independent Commission shall have the power to give binding directives and instructions that it deems necessary in this regard, in order to secure justice and balance between the candidate and his/her competitors, and impartiality towards candidates/lists.

In order to prevent any attempt of evasion or creation of confusion in this respect, the draft law expressly stipulates that the concerned programs include all political and public information programs, including the news, discussions, interviews, talk shows, etc.

It forbids any information medium to support any candidate/list and binds it to distinguish in all its programs between facts and realities on one hand and opinions and comments on the other hand.

In addition, the draft law specifies some criteria and rules to follow, such as refraining from any act of defamation, triggering of religious/confessional sensitivities, misleading information, and broadcasting of electoral ads under the guise of information.

Use of public places and houses of worship for electoral advertising purposes is prohibited. Furthermore, the draft law regulates the handling of posters and opinion polls.

Electoral advertising is to be suspended on polling day and the two days immediately preceding it: distribution of ballot papers, flyers, or any other documents in favor of a list or a candidate near or outside polling stations on polling day is prohibited. The draft law prohibits any electoral advertisement and interviews with any candidate as of the 24 hours preceding polling day, and also prohibits the publication or broadcasting of opinion polls within the week before polling day.

In general, the Independent Electoral Commission shall have the authority to monitor the adherence of audio-visual media to the electoral advertising provisions, and to impose on the defaulting mass media sanctions such as warnings, giving the wronged candidate the Right to an Answer, financial fines, partial closure for three days maximum or total closure until the closing of ballot boxes on polling day.

In order to guarantee the right of defense, the draft law stipulates that the commission's decisions may be appealed to the Court of Cassation within five days of their pronouncement.

Chapter 6: Voting process

(1) Voting of resident citizens

- The commission determines the polling centers, including centers designed for the voters who choose to vote outside their place of record.
- The commission organizes, within each electoral constituency, on the Friday immediately preceding polling day, a voting process for the civil servants in charge of running the polling stations.

- Voting is done by means of official ballot papers produced by the commission for each electoral constituency and exclusively available in the polling station. Voters are bound to use these papers and no other ones.
- Voting is confirmed by the voter's signature on the voter rolls and by inking his thumb with a special indelible ink provided by the commission for all polling stations. The said ink should last 24 hours at least in order to prevent the inked voter from voting again.
- The commission should take into consideration the needs of disabled persons while organizing the election process and facilitate all measures allowing them to exercise their right to vote with no obstacles. It should also put in place a relevant exhaustive implementation code after consulting with Disabled Persons organizations and Service Providing organizations set forth in the Law on Rights of Disabled Persons no. 220 dated 29/5/2000.

(2) Voting of non-resident citizens

- Each Lebanese embassy or consulate abroad or any other center appointed by the commission in coordination with the Ministry of Foreign Affairs and Emigrants shall be deemed as polling station.
- Every non-resident Lebanese citizen wishing to exercise his/her right to vote may register with the accredited Lebanese consulate in his/her country of residence.

Chapter 7: Counting of votes and announcement of results

- Primary counting of votes shall not take place in the polling stations as previously, but in front of the competent registration committee that receives all ballot boxes and polling stations records falling within its competence.
- Votes are counted with a scanning machine connected to a programmed computer and to a wide screen where results are displayed, in addition to any other devices ensuring a sound automation of the electoral process.

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The numerous amendments to the successive electoral laws since the establishment of the Republic of Lebanon, mainly tackled the size of electoral constituencies and the number of seats in each one of them, within the scope of the majoritarian system itself. The Commission would like, however, to stress the major characteristics of proportional representation to be included- at least partially- in the new electoral law. These characteristics are as follows:

- In general, the proportional system provides more accurate representation, as it allows sound representation of the public opinion tendencies, whatever their social movements and interests. It is fairer than other electoral systems because it does not allow any of the political minorities to become marginalized, but represents it proportionally to its size as reflected by the ballot boxes. As a result, political stability in the country would be enhanced.
- It contributes to modernizing and rationalizing political life as it reduces personalized political choices through competition of lists that are supposedly formed on the basis of different programs.

- It promotes the involvement in public life through parliamentary elections because it guarantees that all votes will be represented no matter what list voters had voted for.

- It encourages the establishment of fronts and coalitions based on political programs, and promotes party development. Furthermore, it enables new political elites and growing social forces to enter into Parliament. PR proposals are often dismissed for the reason that there are no developed parties in Lebanon. However, the relationship between PR and parties is not one-way; it is all about a reciprocal connection: as developed parties usually push towards PR, PR can similarly lead to the establishment of well-organized political parties and fronts and to the promotion of public life relying on such groupings, as demonstrated by renowned expert Maurice Duverger about 50 years ago.

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Finally, during its work, the Commission experienced how delicate and controversial the election-related matters were. It tried to approach the issue of electoral reform in Lebanon based on the importance given by Lebanese citizens to an electoral system that would produce a situation where everybody would be truly represented, and that would express how rich and diversified Lebanon is, while preserving its unity.

After nine months of team work, the Commission would like to thank his Excellency the Prime Minister for his confidence, hoping that its output contributes to a better future based on a democracy sought by free people and on a freedom protected by democratic citizens, under the umbrella of law and human rights.

President:

Fouad Boutros

Members:

Nawaf Salam (Secretary)	Ghaleb Mahmassany	Michel Tabet
Zouheir Shokr	Ghassan Abou Alwan	Ziyad Baroud
Abdel Salam Sheaib	Fayez Al-Hajj Shahine	Paul Salem
Khaldun Naja	Arda Ekmekji	

- Annexes mentioned in Exhibit 9 are attached to the present report.

List of Attached Annexes

- Proposals submitted to the Commission for the amendment of parliamentary electoral law (Vol. 1-4)
- Detailed summary of the proposals submitted to the National Commission (Vol. 5)
- Proposals referred by the Ministry of Interior (Vol. 6-8)
- Out-of-country Voting (Vol. 9)
- Voting Process and the Lowering of Voting and Candidacy Ages (Vol. 10)
- Enhancing Women's Representation (Vol. 11)
- Independent Electoral Commission (Vol. 12-13)
- Mixed Electoral Systems (Vol. 14)
- Regulation and Supervision of Electoral Expenditure (Vol. 15)
- Electoral Media Regulation (Vol. 16-17)
- Electronic Voting (Vol. 18)
- Electoral Laws since 1920 (Vol. 19)

^[1] Decision no 58 a copy of which is hereto attached- Exhibit 1

^[2] Formed on 19/7/2005 in accordance with Decree no 14953 and headed by his Excellency Premier Fouad Siniora (Official gazette, Supplement to Vol. 30/2005, p.3)

^[3] A copy of the questionnaire is hereto attached (Exhibit 2).

^[4] Hereto attached as Exhibit 3.

^[5] Official gazette, Vol. 36, p 2197

^[6] Some Commissioners made the following comments: 1- Lowering the voting "maturity" age to 18 implies the lowering of the candidacy age for "legislation harmony" purposes. 2- The 7-year difference between voting age and candidacy age is not justifiable when it comes to exercising political rights, specially that voting is much more influential than candidacy. 3- Candidacy age ranges from 21 to 23 in most of the countries around the world.

^[7] The historical Mount Lebanon constituency comprises 35 seats while the average of seats in all other constituencies is 23. In fact, the number of seats in each of the two created constituencies in Mount Lebanon, which is respectively 19 and 16, will be closer to the said average than the currently prevailing number if the historical Mount Lebanon constituency remains one unique constituency according to the proportional system. **Commissioner Me. Ziyad Baroud filed an objection in this regard under the letter hereto attached as Exhibit 5.**

* The Commission decided to make a recommendation that cadas be created within both newly created Muhafazats of Baalbek/Hermel and Akkar, according to the demographic size and surface of each one of them in addition to the change in their administrative status. **Commissioners Dr. Zuheir Shokr and Dr. Paul Salem both filed a detailed proposal in this regard. See attached Exhibits 6 and 7.**