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Lebanon's 2009 Parliamentary Elections

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Election fever has caught up with Lebanon as the country gears up for its June 7 parliamentary elections. The elections promise to be Lebanon's most competitive since the civil war with 587 candidates running for 128 parliamentary seats.^[1] Lebanon's two main political alliances, often referred to as March 8 and March 14 after the dates on which they organized massive protests in 2005, are using vast resources to mobilize their supporters and get them to vote.

Many commentators have described the elections as "historic;" and candidates have had countless press conferences and websites. But most candidates have remained vague about their electoral platforms, with general promises of promoting "sovereignty," "state building," "development," "moderation," and "justice," but without specifying their plans to achieve these objectives.

The Lebanese voters deserve a more substantive debate about issues that affect them, particularly with respect to candidates' platforms to ensure respect for human rights in Lebanon. Set forth below are Human Rights Watch's recommendations for the political parties and the candidates, which we hope they will adopt as part of their own platforms and ensure that the next parliament and government implements.

Human Rights Watch is encouraged by the fact that the Lebanese authorities have shown an increased willingness in the last few years to discuss human rights concerns. Ministers, members of parliament and security officials are in regular contact with human rights activists; a dynamic local media frequently covers human rights abuses in the country. While this openness is to be commended, the real challenge for Lebanon remains implementation of the laws needed to prevent such abuses.

For too long, Lebanon has enacted legislative reforms on paper without any follow through. It has ratified human rights conventions without taking any concrete steps to

implement them. While Lebanon's recurring bouts of instability, occupation, and war have often made implementation difficult, it is time for the Lebanese authorities to translate their legal commitments into a plan for implementation and enforcement. With the domestic situation at its most stable for years and the international community willing to fund reform efforts in Lebanon, Lebanese leaders have an obligation and an opportunity to show that they are serious about building a state that protects human rights.

This memorandum outlines some of Human Rights Watch's main areas of concerns. It makes concrete recommendations that build on existing efforts and are feasible in a short time frame. If Lebanon's political parties and parliamentary candidates are serious about their promises for reform, then now is the time for them to adopt these recommendations as part

of their official platforms.

1. Torture

Torture and ill-treatment remain a serious problem in Lebanese detention facilities and jails. Human Rights Watch has gathered testimonies from a number of detainees who reported being beaten and tortured during interrogation in a number of detention facilities. Documented cases range from security forces beating a janitor suspected of theft during his interrogation, to members of the intelligence services subjecting individuals, suspected of membership in violent Islamist groups, to systematic torture over many days. While Article 401 of the Lebanese Penal Code criminalizes the use of violence to extract confessions, the Lebanese judiciary rarely, if ever, investigates or prosecutes allegations of torture.

Since 2007, Lebanon has taken some steps to counter torture. In February 2007, it granted the International Committee of the Red Cross access to all Lebanese detention facilities, including those run by the Ministry of Defense. The Internal Security Forces then created on February 2008 an internal unit tasked with monitoring human rights violations by its members. However, the unit remains understaffed.

On December 22, 2008, Lebanon ratified the Optional Protocol to the Convention against Torture (OPCAT). One of the most important provisions in OPCAT requires Lebanon to set up a 'national preventive mechanism' to help prevent torture through visiting and monitoring places of detention. However, there are serious concerns that the fate of the OPCAT will be similar to that of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); Lebanon ratified the CAT in 2000, but has yet to comply with its provisions, including the submission of a report about steps taken to implement the convention, which is seven years overdue.

The real test for Lebanon is whether the authorities are willing to investigate and prosecute those responsible for torture. In this respect, Lebanon's record is abysmal. Human Rights Watch is aware of only one judgment since 2004 convicting a police officer on charges related to beating a suspect during interrogation. [2] Hopes were raised on August 6, 2008 when the Minister of Interior asked the General Inspectorate to investigate allegations of abuse occurring inside Lebanese prisons, following media reports of serious allegations of corruption and of ill-treatment of prisoners in Roumieh prison. However, the ministry never made public the results of the investigation and it is unclear whether anyone was charged.

Human Rights Watch urges candidates and parties to include as part of their platform a commitment that they will:

- Ask the Ministry of Interior to publish the results of the investigations it launched in August 2008 and specify what measures it has taken to combat ill-treatment and torture in Lebanon's detention facilities.

- Amend Article 401 of the Penal Code to criminalize all forms of torture and ill-treatment, including psychological torture; increase the penalty for the crime of torture from the current maximum of three years, commensurate with the severity of the crime.
- Urge the government to urgently submit its required initial report to the UN Committee against Torture, which was due in 2001, and comply with any recommendations of that Committee.
- Demand the government to adhere to article 22 of the Convention Against Torture, which would allow individuals in Lebanon to directly submit complaints of human rights violations to the UN's Committee against Torture
- Work to ensure that Lebanon complies with its obligations under the OPCAT to create or designate by December 22, 2009 a national preventive mechanism that would have wide powers to visit all detention facilities in Lebanon.[3]

2. The Disappeared

After years of official neglect, the Lebanese government pledged in its ministerial declaration on August 4, 2008 to take steps to uncover the fate of the Lebanese and other nationals who "disappeared" during and after Lebanon's 1975-1990 civil war and to ratify the International Convention for the Protection of All Persons from Enforced Disappearance. However, the government's mandate is nearing its end, and it has taken no steps to shed light on the fate of the disappeared.

The current joint Syrian-Lebanese committee, established in May 2005 to investigate cases of disappearances involving Syrian security forces, has yet to produce any concrete result or publish any of its findings.

Human Rights Watch urges each candidate and party to commit in its platform that it will:

- Request that the current Syrian-Lebanese committee immediately make public any information it has obtained since May 2005.
- Support the creation of an independent national commission consisting of representatives of the victims' families, civil society groups working on disappearances, independent judges, parliamentarians, government representatives, and international organizations with experience working on the issue of disappearances, such as the ICRC. The commission's mandate will be to resolve the issue of the missing and the disappeared in Lebanon, and those abducted from Lebanon and suspected of being detained beyond the Lebanese borders.

The new commission should have broad powers, including the power to (i) seek information from all official sources, including intelligence and security agencies, on missing individuals or the location of mass graves, (ii) compel testimony from security officials, former militia leaders and members who may have information on disappearances or transfer of detainees to Syria or Israel, and (iii) order the opening of mass graves and the identification of remains. The commission should regularly update the families of the disappeared about the progress of its work and findings and make these findings available to the public.

- Support the ratification of the United Nations Convention for the Protection of All Persons from Enforced Disappearances.

3. Women's Rights

Despite women's active participation in all aspects of Lebanese society, discriminatory provisions continue to exist in personal status laws, nationality laws, and penal laws relating to violence in the family. In particular, current Lebanese law does not allow Lebanese women to confer nationality on either their spouses or children. As a result, thousands of children born to Lebanese mothers and foreign fathers are denied full access to education, healthcare, and residency.

As a result of sustained efforts by Lebanese women's rights groups, the issue of amending Lebanese citizenship law to grant Lebanese women the right to confer nationality has gained momentum and has received the endorsement of many political leaders, including the current Minister of Interior, Ziad Baroud.

However, certain officials and politicians have suggested that any amendment to the citizenship law should exclude Lebanese women married to Palestinian men, pursuant to the Lebanese constitution's prohibition on the "nationalization" of Palestinians (ostensibly to avoid undermining their "right of return.") Such an exclusion would be discriminatory and would replace one form of discrimination (between Lebanese men and women) with another (between women married to non-Palestinians and women married to Palestinians).

Accordingly, Human Rights Watch calls on each candidate and party to adopt as part of its platform a commitment to introducing and supporting legislation that would:

- Amend the law on citizenship in a way that ensures that all Lebanese women, regardless of the nationality of their husband, can pass on their citizenship to their children and husbands.

4. Migrant Domestic Workers

An estimated 200,000 domestic workers, primarily from Sri Lanka, the Philippines, and Ethiopia, play an essential role in a large number of Lebanese households, yet remain unprotected by labor laws and subject to exploitation and frequent abuse by employers and agencies. The most common complaints made by domestic workers include non-payment or delayed payment of their wages, forced confinement to the workplace, no time off, and verbal, as well as physical, abuse.

Furthermore, Lebanese labor laws specifically exclude domestic workers from rights guaranteed to other workers, such as a weekly day of rest, limits on work hours, paid holidays, and workers' compensation. Immigration sponsorship laws tie a domestic workers' residency to a specific employer, making it very hard for a domestic worker to change employers, even in cases of abuse.

The restrictive *kafeel* residency system has direct implications on a domestic worker's ability to have recourse to the Lebanese justice system. Disputes between employers and migrant workers regularly take years to be adjudicated by courts. Since migrant workers lose their legal status in Lebanon if their sponsors terminate their contract or they leave their employers (even in cases where they have legitimate reasons to quit, such as non-payment of wages or abuse), they rarely file complaints because they fear detention on the basis of their illegal status.

If detained, migrant domestic workers face difficult conditions and frequently remain in detention beyond the terms of their sentence.

The migrants' difficult conditions in Lebanon have had deadly consequences. At least 45 migrant domestic workers died in Lebanon in 2008, a majority of whom committed suicide or died while trying to escape.

After years of inaction, the Lebanese government has started to tackle the issue of the rights of migrant workers, but its response is far from sufficient. In January 2009, the

Ministry of Labor finally introduced a standard employment contract that clarifies certain terms and conditions of employment for domestic workers, such as the maximum number of daily working hours, the need for a 24-hour rest period each week, and paid sick leave. While the standard contract is a step forward in establishing clear and healthy working relationships between Lebanese families and migrant domestic workers, Human Rights Watch is concerned about the lack of enforcement mechanisms for the contract as well as issues that the contract leaves vague or omits, such as a worker's right to leave the house where she works and to retain her passport.

Accordingly, Human Rights Watch calls on each candidate and party to adopt as part of its platform a commitment to:

- Urge the Ministry of Labor to create a labor inspection unit tasked with monitoring working conditions for migrant domestic workers.
- Amend the labor code to provide legal protection for domestic workers equal to that afforded to other workers, including provisions governing hours of work, payment of wages, rest days, paid holidays.
- Reform sponsorship laws that require the consent of the employer to change sponsors. Facilitate transfer of sponsorship by making temporary employment-based visas nonspecific about employer. In addition, grant migrant workers temporary visas (or an alternative to detention) while they have pending legal procedures.
- Enact legislation that sets up a quick and simplified dispute resolution mechanism to settle salary disputes between employers and migrant workers.
- Support efforts to implement judicial oversight of all detention, including that of foreigners, to ensure that no one is detained without legal basis or beyond their sentence.
- Ratify the convention on the protection of the rights of all migrant workers and members of their families.

5. Palestinian Refugees

The estimated 300,000 Palestinian refugees in Lebanon live in appalling social and economic conditions-most of them in crowded camps that lack proper infrastructure. The discrimination against Palestinians in Lebanon is by now well documented. Lebanese law denies Palestinian refugees the right to own property and restricts their ability to work in many areas.^[4] In addition, the inhabitants of some Palestinian camps still require authorizations from the army to bring building materials into the camp.

A particularly vulnerable group is the approximately 3,000 to 5,000 "non-ID" Palestinians, who live in Lebanon without any form of valid identification documents. The already-precarious situation of Palestinians was made worse by the destruction of Nahr al-Bared camp in the 2007 battle between the Lebanese army and the armed Fatah al-Islam group, which left around 30,000 refugees homeless.

The Lebanese government has taken some steps to acknowledge and improve the dire living conditions of Palestinians. In June 2005, the Ministry of Labor relaxed some of the work restrictions on Palestinian refugees, lifting the ban on around 50 professions but keeping an estimated 20 professions off-limits.^[5] In October, 2005, the Lebanese government created the Lebanese-Palestinian Dialogue Committee (LPDC), a working group composed of representatives from various ministries with a mandate that includes providing Palestinian refugees in Lebanon with better living conditions.

While the LPDC represents a welcome change in the government's approach to the Palestinian refugees, its actual impact has been limited. One of the more concrete achievements of the LPDC has been the issuance after August 2008 of approximately 750

temporary identity cards to Palestinians without legal papers. However, the process of issuing identification cards has stalled without any explanation.

Part of the problem is that while the government's stated policy is to address "the outstanding socio-economic, legal and security issues related to the presence of Palestinian refugees in Lebanon," the government's practice is to deal with the Palestinians mostly from a security angle.[6]

In addition, progress on reforms to end discrimination against the Palestinians is hampered by strong anti-Palestinian feelings in certain parts of the population and by an oft-heard argument made by politicians and echoed in the media that any improvement in the treatment of Palestinians will somehow dilute their right of return and lead to their permanent settlement in Lebanon (referred to as *Tawteen*).[7]

This argument is not convincing. The fulfillment of the basic human rights of Palestinian refugees in Lebanon does not in any way prejudice their right to return, which is guaranteed under international law. Lebanon needs to adopt a different approach and offer Palestinian refugees the rights they are guaranteed under international conventions signed by Lebanon. The Lebanese government and its people cannot now simply wish the Palestinians away, and it is hard to believe that a system of discriminating against them by keeping them unemployed and living in poverty will help preserve their rights as refugees.

Others argue that continued discrimination against Palestinians is necessary to avoid their full integration into the country, which would upset Lebanon's delicate confessional system. However, there are many concrete steps that Lebanon can take to improve Palestinians' lives in Lebanon, short of granting them full citizenship or voting rights. In particular, Lebanon should remove all forms of discrimination against Palestinians.

Accordingly, Human Rights Watch urges candidates and parties to include as part of their platform a commitment that they will:

- Amend legislation that restricts the ability of Palestinian refugees to own property, specifically Presidential Decree 11614 of 4 January 1969, as modified by law 296 of April 3, 2001.
- Lift any remaining restrictions on the entry of building and maintenance materials and equipment into Palestinian refugee camps.
- Remove restrictions on employment for Palestinians. Palestinian refugees should be given the same access to the labor market as Lebanese nationals.
- Make the rebuilding of Nahr al-Bared camp a priority and alleviate the conditions in which the refugees forcibly displaced from the camp live in.

[1] See official elections website, <http://www.elections.gov.lb/news/587-candidats-restent-en-lice,-115-abandonnent-la-.aspx>

[2] However, the police officer received a reduced sentence of 15 days in jail and a \$200 fine. Decision No. 204/2290, issued on March 8, 2007.

[3] According to the OPCAT, parties have one year following ratification to enact a national preventive mechanism.

[4] The restrictions on owning real estate are rooted in Presidential Decree 11614 of 1969, as modified by Decree 296 of 2001. The decree prohibits people who do "not carry a citizenship issued by a recognized state" from securing legal title to real estate in

Lebanon. Since most Palestinians are stateless, the decree's effect is to deny them the right to have legal title. With respect to employment, the Lebanese Labor Law of 1962 treats Palestinian refugees like other non-Lebanese and requires them to have a work permit. Rules for issuing work permits are subject to the principle of reciprocity, according to which Lebanon grants the right to work to nationals of other states whose countries grant Lebanese citizens the right to work. Again, since Palestine is not yet recognized as a state, Palestinians are excluded from many jobs.

[5] Ministry of Labour Memorandum (No. 67/1), June 2, 2005. However, the Ministry of Labor's decision to lift the ban on some jobs has not been passed into law and could therefore be reversed or amended at any time. In addition, professions such as law, medicine, and engineering are governed by professional associations that are protectionist and apply restrictions to non-citizens.

[6] For a statement of government policy, see Lebanese-Palestinian Dialogue Committee, "Partners in Responsibility," p. 9

[7] See for example, Lebanon's official justification of policies preventing Palestinian refugees from improving their homes in its periodic report to the UN Committee on the Rights of the Child. It noted that "Lebanese authorities forbid the construction of new camps, expansion of existing camps, renovation and reconstruction, in order to prevent the consolidation of the Palestinian presence in Lebanon and implicitly accept the forced resettlement and destroy the principle behind the right of return." Third periodic reports of States parties due in 2003 (CRC): Lebanon. UN Doc. CRC/C/129/Add.7, October 25, 2005, para 474.

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