

***The Role of Parliaments in Conflict and Post-
Conflict Situations***

Comparative Study of Five Arab Countries

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Introduction and methodology

The present study aims at assessing the role of parliament in preventing, managing and resolving conflict. The assessment builds on field research conducted in four selected countries: Iraq, Lebanon, Sudan and Yemen. The selected countries have suffered from conflicts of either short or longer periods of time. In addition to the four cases of field research, the role of parliament in Algeria, a country that has faced internal instability for more than a decade, has been included to demonstrate the effectiveness of parliament there in preventing, addressing the conflict and in resolving it.

The methods used by the field researchers include interviews of members of parliaments, parties and civil society as well as the research based on available documentation. In some instances additional secondary sources have been used in the present study to complement field findings.

On the basis of the findings various trends in the development of Arab parliaments can be established and conclusions be drawn on ways to improve parliament's role in preventing or solving conflict.

The following gives an outline of the political situation in each of the selected countries preceding the conflict. Special emphasis is put on the state of governance. This section is followed by an analysis of parliaments in the phase during and after the conflict.

The present study concludes with a summary of the major insights and trends, followed by an overview of suggested interventions to strengthen the role of parliaments in preventing and resolving conflict. Additional sources are included for further reference.

Arab Parliament in the pre-conflict period – the country-specific context

Algeria

The situation prior to the conflict in Algeria was characterized by rapid economic and political transformation, which brought about a social crisis. The inability of the existing political establishment to address this crisis resulted in increased social tension in the second half of the 1980s. Under the pressure of rising levels of social unrest the presidency of the country adopted pluralism and allowed in February 1989 under a new constitution the formation of political parties and organizations and the development of a relatively free press.¹

¹ Entelis, John P. "Islam, democracy, and the State: The reemergence of Authoritarian Politics in Algeria", in *Islamism, and secularism in North Africa*, John Ruedy (ed.), (New York, St. Martin's Press), pp. 219-251.

Equally important was the explicit separation of the executive, legislative and judiciary authorities expressed in the new constitution. This had an immediate affect on parliament as reflected in its larger role in discussing government programs and government oversight. Several investigation committees for example were created for this purpose.

Following the introduction of pluralism in the constitution of 1989 first local elections were held in 1990, in which the Islamic Salvation Front (Front Islamique du Salut - FIS) obtained a victory. This encouraged it and other opposition forces to demand the holding of legislative and presidential elections.

In 1991 the government of Mawould Harmouche announced a new electoral law which set the date for legislative elections for June 1991. The FIS rejected this law on the grounds that it would favor rural areas where the government party had a stronghold. In the first round of the elections which were postponed to December 1991, the FIS emerged as the unexpected winner.²

Following the results of the first round of elections, the army cancelled the second round of fear that the FIS would gain a majority in parliament. The army forced the resignation of President Benjedid and parliament was declared as suspended, without that the speaker of parliament or its members were informed.³

Political authority was then transferred to the President of the Constitutional Council, in accordance with constitutional provisions. He, however, refused to carry out his responsibilities and a four-member High State Committee (HCE) was created which declared the state of emergency in February 1992 and banned the FIS in the following month. In addition to the state of emergency the HCE created special jurisdictions to fight subversion. This was answered by a violent reaction by FIS and led to violence and turmoil. The conflict that emerged subsequently was essentially between the Algerian army and a diverse range of armed Islamist groups and had been further complicated by struggles within and between different armed groups.

In addition to the HCE, a National Consultative Council was created which replaced parliament and operated until the Transitional National Council, a non-elected legislative institution, was created at the Conference on National Understanding in January 1994.⁴ The National Council consisted of 180 seats divided on the basis of a quota system between government, trade unions, professional, social and cultural associations and political parties. Only groups close to the government took part in the Transitional Council.

Thus, in Algeria the beginning of democratic practice initiated by the new constitution of 1989 was halted by military intervention and parliament which constitutes a potentially crucial avenue for solving conflicts was dissolved.

² 49 parties and 1021 independents participated in the elections of 1991.

³ The Algerian Crisis: Not Over Yet. International Crisis Group Africa Report, NO. 24, Algiers/Paris/London/Brussels, 20 October 2000.

⁴ The Transitional National Council was dissolved in 1997.

Iraq

Prior to the toppling of Saddam Hussein in March 2003, the Iraqi regime was for more than three decades characterized by centralized power, a heavy reliance on the army and by an extensive security apparatus to repress any regime opposition. The Baath Party⁵ played a central role in providing the ideological foundation of the regime and in infusing society with the Baathist doctrine. Moreover, from 1968 on party institutions were created that served as parallel structures to state institutions to shadow and control all national institutions and non-governmental organizations. Thus, for each state institution a parallel party organization was created that held the real key to power. This process of party control over the state was completed in 1977 when the Baath Regional Command⁶ was merged with the Revolutionary Command Council and all members of the Regional Command became state ministers.

Saddam Hussein's role was central in the development of the Iraqi regime as he held absolute control over the security apparatus.⁷ After his succession to Ahmad Hassan al-Bakr as head of state in April 1979, Saddam Hussein could expand his power and by 1982 Saddam Hussein accumulated the titles President of the Republic, Prime Minister, Commander in Chief of the Armed Forces, Chairman of the RCC and Secretary of the Baath Regional Command. State institutions, such as parliament, the cabinet, judiciary and the military were transformed by Saddam Hussein in support of his rule.

Saddam Hussein could further consolidate his power through direct access to wealth generated by Iraq's oil resources which after the rise of oil prices in 1973 grew enormously. He allocated and distributed dividends from oil revenue and could thus use the state economy to foster allegiance and support for his regime. The Shiite population in the South and the Kurds in the North of Iraq were in comparison to other groups of population left out of this process.

The war with Iran from 1980 until 1988 marked a turning point in the development of the Iraqi regime. While it resulted in a further accumulation of Saddam Hussein's personal power it also, due to the high price of the war, led to an economic crisis. The latter was among the reasons that prompted Saddam Hussein to invade Kuwait in 1990 which resulted in the first Gulf War. The defeat in Kuwait was the result of miscalculations of the Iraqi leadership and for the first time since the Baath Party had assumed power the regime faced serious domestic challenges, reflected in uprisings in both the North and the South of Iraq in 1991. The Shiite uprising in the South was crushed by

⁵ The Baath Party, which was equally active in Syria, sought to revive the glory of the Arab past and called for Arab unity on the basis of socialism and nationalism. It appealed to the largely lower middle class intellectuals and ethnic-religious minorities.

⁶ The Regional Command in Iraq was created in 1964 by the Baath Party's Syrian National Command and Saddam Hussein was designated as its Secretary.

⁷ Saddam Hussein was authorized by the Baath Regional Command to set up an independent security apparatus. Its task was to eliminate rival intelligence organizations and others who could form an opposition.

Saddam Hussein's Republican Guard. In the Kurdish North the rebellion was suppressed and by March 1991 all Kurdish cities had fallen to the government. Following the war international sanctions were imposed and a protected zone established in North Iraq. In addition, the international community required Iraq to open to a United Nations inspection team all sites that are suspected of producing chemical, biological and nuclear weapons.

Despite the sanctions the regime could through its continued access to resources and allocation of rations increase its ability to reward loyalty and punish dissent. It could further maintain its grip on power through its security apparatus and the use of violence and terror.

Following the non-compliance with UN resolutions on the inspection of sites, a US-led coalition of several countries invaded Iraq in March 2003 and toppled the regime of Saddam Hussein.

Lebanon

Since its independence in 1943 Lebanon has had a parliament which over time has strengthened considerably in both its oversight and legislative functions. The expansion of its legislative function is reflected for example in the increase of number of bills introduced between 1953 and 1972, which totaled 4,157.

The parliament that had existed before the outbreak of the civil war in 1975 and continued to exist during it was elected in 1972. These elections were considered the most competitive ones since independence. The elections themselves experienced increasing voter participation and a decreased level of electoral fraud and governmental interference. The composition of the 1972 parliament although considered to have included a broadened social base of the elite was yet dominated by traditional social forces.

Despite its broadened base, however, the parliament of 1972 was not viewed as representative. This is particularly true for the Muslim population who felt underrepresented. The unrepresentative character of the parliament was due to the electoral law which stipulated a representation on the basis of a ratio of 6:5 for the Christian and Muslim communities, respectively.

In addition to the under-representation of Muslim communities, lack of elite circulation set the framework for political conditions in the country. On the socio-economic level, Lebanon was characterized by a situation of imbalanced social and economic development, which led to migration to the large cities and the development of slums on their outskirts, in particular around the capital Beirut. The Palestinian armed presence added a new dimension to the political conditions of the country and altered the balance of power between the Lebanese communities.

In this context there were demands for change of the political system, as expressed by the National Movement⁸. On the other hand, this was challenged by the leaders of the Phalangist Party who saw themselves as a major defender of the existing status quo.

In these heightened political conditions parliament was unable to address the above issues that had eventually led to the outbreak of the civil war in April 1975.

Sudan

Since its independence in 1956 **Sudan** has experienced two civil wars. The conflict has its roots in the unequal development of North and South Sudan and the marginalization of the latter by the Arab dominated regime. When in June 1989 Omar al-Bashir overthrew the democratically elected government of Sadiq al-Mahdi, the Sudanese regime pursued, in order to consolidate its power, a policy of Arabization and Islamization that has affected the South.⁹The regime has also intensified its war against the South.¹⁰

The conflict evolved over time.¹¹ While it started as a conflict between a mainly Arabized, Islamic North and a non-Muslim African South, it developed into one between a fundamentalist Islamic movement and an alliance that included a diversity of political groups in both the North and South of Sudan. The latter is led by the Sudan People's Liberation Army (SPLA) under the leadership of John Garang and its political wing, the Sudan Peoples Liberation Movement (SPLM).¹²

Al-Bashir replaced the government of al-Mahdi with the Revolutionary Command Council for National Salvation (RCCNS), consisting of 15 military officers, which rule through a civilian government.

The Revolutionary Command Council, which Bashir chaired, suspended the transitional constitution of 1985, severely restricted freedom of speech and assembly and disbanded all political parties and trade unions. Furthermore, leaders of student groups, unions, professional associations and parties faced arbitrary arrests.

Until 1996 when it was dissolved, the Revolutionary Council for National Salvation performed both executive and legislative functions. A Transitional Assembly, whose members were appointed by the President, was created by decree in 1993.¹³

⁸ This is a coalition of Arab nationalist parties and factions, led by Kamal Jumblat..Petran, Tabitha, *The Struggle over Lebanon*, New York: Monthly Review Press, 1987, p. 122-125.

⁹ In 1991 Islamic law was introduced.

¹⁰ Lesch, Ann Mosely, "Sudan: The Torn Country", *Current History*, May 1999,.pp. 218-222.

¹¹ Connell, Dan, *Peace in Sudan Doubtful*, Middle East Report Online 19 July 2002.

¹² The SPLA/SPLM is a member of the National Democratic Alliance (NDA), an umbrella of rebel groups

¹³ The Transitional Assembly was in power from 1991 to 1995 and was replaced by an elected National Assembly (al-Majlis al-Watani) in 1996.

Al-Bashir's rule was authoritarian and characterized by the Islamist-military rule of the National Islamic Front (NIF), the hegemony of the security apparatus and a high concentration of power: Omar Bashir was head of state, chairman of the Revolutionary Command Council for National Salvation (RCCNS), Prime Minister, Minister of Defense and Commander-in-Chief of the armed forces. Hassan al-Turabi, the leader of the National Islamic Front (NIF) provided the ideological foundation for the regime.¹⁴

Yemen

The unification of South and North Yemen, the People's Democratic Republic of Yemen and the Yemen Arab Republic, respectively, was a process directed largely by the elites of the two countries. Two agreements shaped the unification process: the Aden Accord of 1989 and the Sana'a Accord of April 1990. The Aden Accord envisaged unification in three stages, the approval of the constitution by both legislatures, a referendum on the constitution and finally the election of a new parliament. The Aden Accord was replaced by the Sana'a Accord, which sped up the unification process and determined a 30-month transitional period, during which a referendum and parliamentary elections would be held. The constitution would be valid upon unification. Between the unification and legislative elections a transitional parliament composed of the two parliaments of North and South Yemen would exist. A special commission from both legislatures would elect a Presidential Council for the interim period and a referendum on the constitution would be held no later than November 1990.

The draft constitution that was approved following the unification is largely influenced by the legacies of the two Yemen and constitutes a pragmatic approach that dealt with short-term issues in that it merged the, in some instances, diverging views of a future Yemen in one common vision of a new unified state. Concentrating on short-term issues, the constitution left out the exact details on the structure of the political system and only stated that Yemen be democratic and composed of three branches, the executive, legislative and judiciary. One issue that was also left out or that was postponed until after a new national assembly was elected is, for example, the merging of the two separate armies, a fact which had facilitated the outbreak of the civil war.¹⁵

Based on an unwritten agreement between the leaderships power sharing between of the two countries was roughly equally distributed, although South Yemen has only 20% of the population of the two Yemen. While North Yemen assumed that this formula would be temporary, the South assumed that this

¹⁴ Korbett, Justin and Paul Murphy, The heart of the peace agreement for Sudan: an analysis of the three contested areas *IRIN* 8 April 2003

¹⁵ Baaklini, Abdo, Guilain Denoeux, and Robert Springborg, *Legislative Politics in the Arab World. The Resurgence of Democratic Institutions*, Boulder, CO: Rienner, 1999, pp. 206.

arrangement would be permanent. This misunderstanding was not resolved and was one of the factors contributing to the civil war.¹⁶

A positive feature of the unification was the swift creation of national institutions. A joint unicameral National Assembly, was created, which was composed of the former parliaments of North and South Yemen, in addition to 31 members appointed by the president from tribal groups and political parties. A Consultative Council consisting of 45 members from dignitaries from South and North Yemen, who were appointed by the President, aimed at providing representation of additional societal groups. A Presidential Council consisting of 5 members was created.

The interim period which lasted until a new national assembly was elected in April 1993 saw the formation of many political parties, features of a pluralistic order and the development of a relatively free press,

From its inception the political system was characterized by a strong executive, as reflected in the fact that the President nominates both the Prime Minister and the Members of the Cabinet.

Despite internal weaknesses and the dominance of the executive the parliament of 1990 could, compared to succeeding parliaments, a relatively high degree of autonomy from the executive. This was for example revealed in the fact that parliament was prepared to withdraw confidence from the government in 1991 for raising diesel prices.

The relatively high level of autonomy parliament had enjoyed is largely due to the fragmented nature of the executive. Prior to the legislative elections of 1993, the executive was characterized by the competition between the former ruling party of South Yemen, the Yemeni Socialist Party, (YSP) and the former ruling party of North Yemen, the General People's Congress (GPC).

The high degree of autonomy of parliament could however not be translated into its strength. In many instances it was the executive that promulgated laws by decree rendering parliament in these cases to a rubber-stamp legislative.¹⁷ Following the unification until the legislative elections of April 1993 a large number of laws were decreed by the executive. Some of the laws dealt with important issues, such as the administrative structure, jurisdiction and procedure of the judicial branch. In addition to its subordinate position, parliament suffered from the absence of a viable opposition and the imbalance of resources between it and the executive. The resulting generally weak position of parliament was exacerbated by the fact that it had relied on the executive for funding and staff.

¹⁶ Baaklini, Abdo, Guilain Denoeux, and Robert Springborg, *Legislative Politics in the Arab World. The Resurgence of Democratic Institutions*, Boulder, CO: Rienner, 1999, pp. 208-210.

¹⁷ While the constitution empowered the Presidential Council to decree laws when parliament is not in session, these laws had to be reviewed later by parliament within thirty days of its reconvening. During Ramadan 1991, 31 key laws decreed by the Presidential Council (among them Law 1 which established the administrative structure, jurisdiction and procedure of the judicial branch). Baaklini, Abdo, Guilain Denoeux, and Robert Springborg, *Legislative Politics in the Arab World. The Resurgence of Democratic Institutions*, Boulder, CO: Rienner, 1999, pp. 206.

The elections of 1993 have altered the balance and power-sharing formula between the GPC and the YSP, with the YSP on the third position, after the Islah Party. To maintain a united Yemen, the three parties agreed to form a coalition government.

In the view of the YSP, the election results of 1993 undermined the informal agreement upon which unification has been achieved. The South believed that power sharing should be more equally divided, even after these elections. Election results led to the perception of the Southern leadership that the unification had been unfair and that it had not been adequately represented.¹⁸

The results of the 1993 elections have marginalized the Southern YSP.¹⁹ This was clear in the first parliamentary debates of 1993 which revolved around constitutional amendments concerning the new institutional formula for a unified Yemen, including the abolishment of the Presidential Council and the creation of a second chamber of parliament (the Consultative Council).²⁰ It was in particular the initiative by the GPC in August 1993 to amend the Constitution and to abolish the principle of collective leadership. During this conflict the parliament attempted to mediate by creating a committee but was unable to prevent the outbreak of a civil war in May 1994.²¹

In all the selected countries parliaments have been unable to prevent conflict. This was largely due to a combination of several factors: their unrepresentative character, their internal capacity constraints, their marginal role in the face of a dominant executive authority and their restricted oversight role.

¹⁸Baaklini, Abdo, Guilain Denoeux, and Robert Springborg, *Legislative Politics in the Arab World. The Resurgence of Democratic Institutions*, Boulder, CO: Rienner, 1999, pp. 206.

¹⁹ Islah won 62 seats, the YSP 57 and the GPC 123 seats

²⁰ Joseph Kostiner: *The Tortuous Quest for Unity: 1990 – 1994*, The Royal Institute of International Affairs, Chatham House Papers, London, 1996, pp. 57-66.

²¹ Carapico, Sheila, "From Ballot Box to Battlefield. The War of the two Alis," *Middle East Report No. 190* (September - October 1994), pp. 24-27.

Parliaments during conflict

In **Algeria**, parliament was dissolved shortly after the first round of the legislative elections. Despite the fact that no elected parliament existed following the cancellation of the elections and the dissolution of several institutions, a number of parliamentarians of the previously elected parliament and those who had participated in the 1991 elections played an important role in meetings calling for the resumption of elections. The most significant of those meetings was one held in St. Egidio in November 1994.²² This meeting was also attended by the president of the Algerian League for Human Rights Defense and by parts of the FIS, who had moved abroad. The Saint' Egidio Agreement concluded at this meeting which pledged an end to violence and the state of emergency, sought an agenda for the return to the multiparty democratic process and stipulated the rehabilitation of the FIS as a fully-fledged political party. The agreement, however, was never applied as the Algerian regime did not recognize it.

Furthermore, political parties and personalities did not refrain from delivering suggestions for ending the crisis. These suggestions were voices with the media and publications, mostly abroad.

Following the dissolution of parliament, transitional institutions were created, which to a limited extent provided a forum for existing, mostly pro-government, forces. In 1992, High State Council was created, which had ruled Algeria since the cancellation of the elections, as well as a National Consultative Council. The latter was replaced by the Transitional Consultative Council in 1995. The Transitional Council was created in the context of a moderate return to political stability following the holding of Conference on National Understanding.

The importance of the Transitional Council, which had also included some of the political forces that had participated in St. Egidio, lies in the fact that it included many political forces and parties which for the first time in Algeria's history worked together in one body. The Transitional Council had some legislative functions but can be considered more a rubberstamp legislature in that it implemented orders from the government. Its members were appointed.

Other important developments that indicated the return political stability was the holding of presidential elections in 1995. The election of Zeroual in 1995 had laid the ground for solving the conflict as he had appealed for dialogue with the Islamist parties. He undertook several steps to this end.

In 1995 he introduced an amnesty law, which was endorsed by the Transitional Council. The amnesty law constitutes the first legal documents dealing with the implications of the crisis.

²² The Algerian Crisis: Not Over Yet. International Crisis Group Africa Report, NO. 24, Algiers/Paris/London/Brussels, 20 October 2000.

A further step was undertaken in holding legislative elections in June 1997. These constitute the first legislative elections since January 1992 and the first multiparty ones in the country's history. Although the major winner was the government party, the National Democratic Rally, a significant fact was the inclusion of moderate Islamic parties in the parliament. Furthermore, the participation of the Saint Egidio opposition groups was supposed to legitimize the Algerian regime and bring an end to the conflict in the country. In addition, the two parties representing the Amazigh, the Socialist Forces Front and the Rally for Culture and Democracy, were also included. The parliament which emerged from the elections was relatively representative. A weakness in terms of representation was the low percentage of women in the 1997 parliament, with only 3.4 %.²³

These elections reflected the formal return to civilian rule, although the army continued to play a dominant role behind the scenes. The restoration of the civilian political sphere had been a necessary though not sufficient condition of a resolution of Algeria's crisis. A serious weakness of the parliament remained the dominance of the ruling party.

The legislative elections of June 1997 were followed by local elections in October 1997 and the appointment of members of the second chamber, the Majlis al-Umma,²⁴ in December 1997. Following the elections however two parliamentary committees were created: one to investigate the results of the local elections and in particular fraud and the second one related to the immunity of MPs, a fact which reflected an improved oversight role of parliament.

Despite a noticeable increase in parliament's performance following 1997, parliament was used only to a limited extent to address the issues that had led to the conflict and that had sustained it. The conflict continued to be played out between the different factions outside of parliament, rather than using the context of an elected institution. For example, in February 1998, the 1997 large-scale massacres provided the opportunity for collective cooperation among MPs to question government on the security situation. While the President delivered a report on the situation stating official figures for the first time, government dealt with the security situation following the massacres by creating the Legitimate Defense Groups (GLD), which typically went far beyond their self-defense remit.

The short period of the revival of parliamentary life was interrupted with the resignation of President Zeroual in September 1998 as a result of the deteriorating security situation. This surprising decision confirmed the fact that parliamentary life is weak.

²³ "Half a cheer, if Algeria doesn't cheat" Economist 5 May 1997, Volume 343, Issue 8019. Academic Search Premier

²⁴ Constitutional amendments of 1996 have created a second chamber, the Majlis al-Umma, which has 144 members of whom one third are appointed by the president and two thirds are elected by municipal and provincial councils.

In contrast to Algeria, parliament in **Lebanon** assumed a vital role during the conflict. It continued to exist as the only national institution that remained unified despite the fact that many of its members were subjected to pressure from various political forces outside of parliaments and from militias.²⁵ In some instances pressure took the form of threats, attacks and even assassinations. It remained an important national political institution that constituted a forum for discussion and meetings. Although some of its members were involved in the civil war either through their militias or through their indirect support, parliament remained largely outside of the conflict.

Parliament had adapted to the difficult conditions dictated by the war. Throughout the war parliament continued to function and convened in different locations and legislated despite all odds. It also was able to perform some of its functions, such as electing a president in 1976, 1982, the unsuccessful attempt in 1988 and in 1989 and the passing of the Agreement of 17 May 1983 between Israel and Lebanon and its subsequent abrogation on 21 May 1987 as well as the abrogation of the Cairo Agreement.²⁶ In 1978 parliament voted on the UN Resolution 425 which foresaw the withdrawal of Israeli troops which had invaded Lebanon in 1978, and the establishment of an international force that would monitor the implementation of the Resolution.

Given the difficulties to convene and to reach the quorum the role of parliamentary committees was enhanced and from 1984 onwards principal decisions were taken there.

During the war, parliament has even assumed some executive functions. After the fall of the government of national unity in 1986, parliament had assumed some executive functions, such as changing the law of the municipal taxes in 1988 and maintaining relations with foreign parliaments.

The role of parliament evolved during the war. In the initial years following the outbreak of the civil war and 1985 parliament was considered as incapable of addressing the issues that had marked the conflict. Parliament was also characterized by fragmentation and shifting alliances between parliamentary blocs which furthered its inability to reach consensus on crucial issues related to the resolution of the conflict. The creation of a National Committee for Dialogue in 1976 outside of parliament underlined the inability of parliament to resolve the conflict in the initial years of the war.

From the mid 1980s onwards parliament faced new challenges: a fragmented government that was unable to convene between 1986 and 1988, a vacant presidency and two governments between the years of 1988 and 1989 of Salim Hoss and General Imad Aoun.

²⁵ As no elections could be held the parliament was extended by its amending the electoral law, which was signed into law.

²⁶ According to the Cairo Agreement, which was concluded in 1969 between the PLO and a Lebanese Army delegation, the Palestinian armed Struggle Command was granted the right to establish for itself posts and armed units in the various refugee camps in Lebanon (Kamal S.Salibi: Crossroads to Civil war, pp. 42-43)

In **Sudan** while political authority remained concentrated in the executive, a modest return to parliamentary life and democratic rule was achieved with the legislative and presidential elections in 1996, announced by a presidential decree. Modifications of the existing electoral law were introduced which stipulated that the president be directly elected by the Sudanese people. Furthermore, the law foresaw a National Assembly which would assume legislative functions. It consisted of 275 members elected in districts and of 125 members elected through a National Convention. The composition of the National Assembly allowed the representation of both the traditional forces, such as representative from tribes and religious figures, and representatives from newly emerged social classes.

The first presidential and parliamentary elections of 1996 replaced the Transitional National Assembly, which had ruled from 1991 until 1995.²⁷ An important event in 1996 was also the abolishment of the Revolutionary Command Council for National Salvation (RCCNS) that had ruled Sudan since the 1989 coup.²⁸

Legislative elections of 1996 produced a parliament that lacked legitimacy as political parties were not allowed to participate. Elections were also boycotted by the opposition parties and described as influenced by government through laws and security measures.

The new parliament of 1996 was dissolved in December 1999 by presidential decree following a power struggle between the President and the Speaker of Parliament, Hassan al-Turabi in 1999. Al-Turabi had introduced a bill that would reduce al-Bashir's presidential powers by creating the post of a prime minister, elected by the parliament. The parliament also proposed that state governors be elected directly by the people, instead of being selected by the President. Two days before parliament was to vote on the bill al-Bashir dismissed al-Turabi, dissolved the parliament by presidential decree in December 1999, suspended the constitution and declared the state of national emergency in December 1999. Al-Turabi was arrested in February 2001, and charged with being a threat to national security and the constitutional order.²⁹

In addition to the state of emergency government amended the National Security Act to allow extra-judicial detention for indefinite periods without charge or trial. Further restrictions introduced by government include the restrictions to the press law and the introduction of internal security editors into the publishing houses as well as the banning of public demonstrations and rallies.

²⁷ Bashir won the elections with 75.7% of the votes. Voter turnout, however, was low with only 7 to 15 percent of eligible voters in Khartoum going to the polls.

²⁸ In addition, the ruling National Islamic Front changed its name into the National Congress Party.

²⁹ Sudan: Towards an Incomplete peace, ICG Africa Report No. 73, Nairobi/Brussels, 11 December 2003.

The significance of this event is that the Parliamentary Group of National Conference Members (Hay'a al-barlamaniyya li nuwwab al-mu'tamar al-watani) opposed Bashir's order and asked for the cancellation of his decision. This was the first time that parliament had rejected a presidential order, which signifies a modest improvement of its capabilities.

The Role of Parliament in resolving the Conflict

In the process of finding a solution to the conflict, the role of parliament ranged from being the major engine of this process to one in which parliament was reduced to a forum of debating and elaborating the results of conflict-ending negotiations, which had been conducted outside of parliament.

In **Lebanon**, several initiatives have preceded the conclusion of the Ta'if Agreement to end the conflict. Following the Israeli invasion of Lebanon in 1978 a parliamentary committee of 13 members of all sects prepared a proposal on the question of the liberalization of Lebanon. Discussions also involved the issue of the Palestinian military presence in Lebanon. For the first time since the Cairo Agreement of 1969 both Christian and Muslim MPs worked on an agreement regarding the Palestinian presence. The reached consensus included, in addition to the application of the UN Resolution 425, which foresaw the withdrawal of Israeli troops from Lebanese territory, the termination of armed Palestinian activities, the withdrawal of all foreign troops, the extension of Lebanese law throughout the territory and the formulation of an economic development policy. The produced document was unanimously adopted by 74 MPs and signals the first step to realize national understanding among Lebanese on national unity and territorial integrity.

The need to address and resolve the conflict also found expression at many conferences and meetings held under international auspices, such as that of Lausanne (1984) and Geneva (1983), as well as regional conferences, such as in Tunis. In addition, debates involving spiritual leaders and intellectuals as well as other crucial personalities of the country were held to elaborate on ways to end the conflict. Furthermore, committees were specially created for dialogue and reform, such as the National Committee for Dialogue.

In addition to the above attempts to address the conflict, it was the initiative of parliament that laid the foundation of a break-through to end the war. The vital role of parliament in bringing about an end to the conflict was reflected in the production of a first version of the *Principles of National Understanding* in March 1985, adopted by parliament.³⁰ This process was, however, halted by an uprising in the eastern mainly Christian sections of the country and was resumed in 1987 following the re-election of Hussein Husseini as Speaker of Parliament. El-Husseini assumed a leading role in formulating a Document on National Understanding. His succession in 1984 to Kamel Asaad made the parliament more dynamic, more consensus-based and more pro-active in finding a solution to the conflict.

The Tripartite Committee formed at the Casablanca Conference in May 1989 invited the Lebanese parliamentarians to a meeting at Ta'if, Saudi Arabia.³¹ The Tripartite Committee issued a document which put reforms as a priority and re-assigned to parliament a central role for dialogue.

³⁰ El-Husseini outlined the *Principles of National Understanding* which except for minor items is mirrored in the subsequent Ta'if Agreement of 1989.

³¹ The Conference was held to elaborate on ways to end the civil war.

It was parliamentarians that conducted the negotiations in Ta'if from 30 September to 22 October 1989. Despite the difficult internal Lebanese conditions sixty-two deputies met in Ta'if to put an end to the civil war, demobilize militias and extend the state authority. A committee of 17 members was created to draft an agreement on solving the conflict. The first version of the agreement suffered from Syrian criticism and many points of the initial text were amended to satisfy Syria, in particular those dealing with the Syrian army and the Syrian-Lebanese relations.

The agreement that was reached included major reforms of the regime and required a constitutional amendment to this end. Some of the changes included the decentralization of the administration, the abolishment of political confessionalism, the establishment of an economic and social council, reforming education and electing a president as the presidency has been vacant. The document also included provisions for re-establishing Lebanese sovereignty through the dissolution of militias, the return of displaced and the withdrawal of Syrian troops. An important section also dealt with Syrian Lebanese relations. The document was thus comprehensive in addressing various issues that account for the outbreak of the civil war. Through a broad consultative approach on several levels the participating MPs had ensured that the document found large consensus and approval.

Most significantly, the formula for political representation was modified to ensure a more equitable presentation. Although the negotiations were criticized by some Lebanese, as only 2/3 of the deputies were present and not all communities equally represented – for example the Druze community had only one deputy – parliament had attempted to involve as many representatives of Lebanese society as possible by contacting spiritual and political leaders and dignitaries. The negotiations had also involved establishing contacts with various militias of the civil war. The comprehensive involvement proved essential to ensure a broad-based consensus to the new formula reached in Ta'if and the new political order established there.

The case of Lebanon illustrates that the high involvement of parliamentarians in negotiations, has contributed to the successful ending of the conflict.

In **Algeria**, several attempts were made to resolve the conflict. In September 1997 secret negotiations were conducted between the army and the FIS. A cease fire between the two sides was reached in October of the same year. However, neither the public nor parliament were informed of the content of the negotiations. Although various parties had asked for the content of the negotiations no document has been made available to date. Moreover, the negotiations had aroused controversy for the lack of involvement of parties and parliament. In spite of its secrecy the agreement was yet an important step towards ending the conflict.

It was in particular the President Bouteflika who assumed the primary responsibility for finding a solution to the conflict. Bouteflika had, after being

elected in 1999, made the settlement of the conflict a priority.³² In July 1999, three months after his election, Bouteflika launched the initiative to hold a national referendum on 16 September 1999 on the *National Concord Law*, which received 96% approval by the people. The significance of this development lies in the fact that it constitutes the first initiative that intends to solve the security and political crisis. Equally important is the fact that it had been endorsed by parliament before it was submitted to a national referendum.³³

All of the above initiatives, the amnesty law of 1995, the 1997 seize fire agreement between the army and the FIS and the National Concord Law of 1999, were initiatives of the president. Although the 1997 elected parliament and the Transitional National Council were available as fora for debate on security and politics, they did not succeed in translating these debates into policies. A feature that had also undermined the role of parliament was the weakness of political parties, characterized by internal divisions.

In the case of **Yemen**, parliament had a marginal role in resolving the conflict. While it did offer suggestions for resolving the conflict between North and South Yemen, its significance lay more in the fact that it showed resilience throughout the conflict and continued to exist as a unified institution, whereas other national political institutions disintegrated along the lines of North and South Yemen.

On the eve of the war on 5 May 1994, Parliament declared a state of emergency and issued a statement condemning the war, placing responsibility on the secessionists within the YSP. On this basis parliament withdrew legitimacy from al-Baydh, the YSP Secretary General and Yemen's Vice-President. The parliament also cancelled the parliamentary immunity of six YSP MPs who were accused of supporting the war.³⁴ The parliament could however not contribute to the solution of the conflict but continued to call for reconciliation until the declaration of secession in May 21, 1994. Consequently, the Parliament, including the YSP bloc, denounced the secession and announced that it supported the legitimate unionist leadership in Sana'a.³⁵

In addition to the efforts of parliament to find a solution to the conflict, Yemenis from across the political spectrum had met in a National Dialogue Committee (NDC) in 1994 in order to find a formula agreeable to the elites in both Sana'a and Aden. After months of deliberations, the NDC drew up the *Document of the Pledge and Accord* (DPA), which included comprehensive

³² Following his election the Algerian President Bouteflika promised the start of a political solution to the Algerian crisis and of "national reconciliation".

³³ In January 2000 Bouteflika issued a presidential decree which expanded the amnesty.

³⁴ Iris Glosemeyer, "The Development of State Institutions," in *Le Yémen contemporain*, Rémy Leveau, Franck Mermier et Udo Steinbacj (éds.), Karthala, Paris, 1999, pp. 91-93.

³⁵ Most of the YSP MPs and a considerable number of the YSP leaders denounced the war and refused the decision of secession. For that the Parliament and the president accused only a faction within the YSP. The legal status of the YSP as a whole has not been affected and is still recognized in Yemen. Carapico, Sheila, "From Ballot Box to Battlefield. The War of the two Alis," *Middle East Report* No. 190 (September - October 1994), pp. 24-2

reforms. This document which presented a political system that would fend off conflicts envisaged the creation of a parliamentary order and the creation of a second chamber, the limitation of presidential powers and the autonomy of the army. However, the DPA was viewed by the rivals merely as a temporary truce. War broke out on 5 May 1994 and the conflict was solved through a military defeat of the South by the North in July 1994.

Several factors account for the inability of parliament to resolve the conflict. Most importantly, the relation between the executive and the legislative has determined the weakness of parliament. While the fragmentation of the executive during the first legislature of 1990-1993 had contributed to a relatively autonomous parliament, the parliament elected in 1993 could not present the level of coherence needed to prevent the conflict. Moreover, the 1993 parliament constituted a forum that to a certain level had furthered conflict. This was reflected in the fact that both the YSP and the GPC had used parliament to mobilize support for their diverging agendas. More specifically, the rival parties wanted to mobilize public support and needed the recognition and support of the parliament.

In **Sudan** and **Iraq**, in contrast, parliament played no role at all in the resolution of the conflict, which was in both cases conducted outside of parliament. In the case of Sudan, negotiations between the two main parties to the conflict included foreign mediators and were even held outside of Sudan.

Although some improvements to parliament in **Sudan** had been made in the 1990s, parliament remained weak in the face of a dominant executive. As such parliament had not the capacities of playing a prominent role in negotiating an end to the prolonged civil war between North and South Sudan. While parliament did not play a crucial role in initiating or conducting negotiations to ending the conflict, it did provide a forum for dialogue. Parliament could discuss the agreement concluded in January 2005, but was not given any role in amending or rejecting parts of it or its totality.

Moreover, negotiations of the agreement themselves took place outside of parliament and of Sudan. Regional and international mediation set the framework for the negotiations between the government of Sudan and the rebel leader of South Sudan. The institutional framework provided consisted of the Intergovernmental Authority for Development (IGAD) which was created in 1993. The IGAD included the leaders of Eritrea, Ethiopia, Kenya and Uganda.³⁶

In 1994, the IGAD initiative produced the Declaration of Principles (DOP), which laid out the essential elements necessary to a just and comprehensive peace settlement. These included the relationship between religion and the

³⁶ Lesch, Ann Mosely, "Sudan: The Torn Country", *Current History*, May 1999, pp. 218-222.

state, power-sharing, wealth-sharing, and the right of self-determination for the south. The DOP have formed the basis of subsequent negotiations.

In July 1997, the Sudanese government agreed sign on the basis of the Declaration of Principles the Khartoum Peace Agreement. The Khartoum Agreement reached with the SSIM/A and the Sudanese People's Liberation Movement/Army was approved by the National Assembly on 28 July 1997. In this process the role of parliament was the approval of the agreement while the process of peace was directed by the president.³⁷

On the basis of the DOP further negotiations were conducted to address the principles for a peace agreement. Important progress was made in 2002 which eventually culminated in the signing of the Comprehensive Peace Agreement between the government of Sudan and the Sudanese People's Liberation Movement (SPLM) on 9 January 2005 in Naivasha, Kenya.³⁸ In contrast to previous mediations the 2005 agreement is characterized by the face-to-face negotiations between Garang and Taha.³⁹

Compared with the case of Lebanon, however, negotiations were not comprehensive and limited to the two parties to the conflict. This resulted in the exclusion of representatives from other areas of conflict that may have a destabilizing affect on Sudan, such as the areas of Darfur and East Sudan.⁴⁰

The Agreement includes provisions for sharing power and wealth between North and South Sudan. According to the agreement, government and Southern rebel forces will merge, political offices will be divided between the Islamic North and the Christian South and the country's oil wealth will be shared to a varying ratio, all however in favor of the government The South will be largely self-governing and will hold a referendum at the end of six years to choose secession and self-determination or to remain inside Sudan. The peace agreement also foresees the creation of new institutions and the installation of an interim government of national unity once the constitution is ratified during the six-month pre-interim period. The interim government will include all parties to the conflict. The agreement also envisages a declared general amnesty in the South. In addition, both parties have declared their intention to establish a truth and reconciliation commission. According to the agreement, a 39,000 strong army will be created, which includes soldiers from both South and North Sudan. Islamic law will be only applied in North Sudan, a fact that signifies an important abandonment of the Islamic ideology as a basis for the regime.

³⁷ The Agreement was signed between the government, the South Sudan Independence Movement (SSIM) and five other southern factions. Machar initially headed the Khartoum-based body responsible for the SSDF, known as the South Sudan Coordinating Council (SSCC). The five other signatories were the SPLM-Bahr al-Ghazal Group, the Union of Sudanese African Parties, the South Sudan Independents Group, the Equatorial Defense Force and the SPLA Bor Group. *Sudan Endgame* International Crisis Group Africa Report, No. 65 Nairobi/Brussels 7 July 2003.

³⁸ In May 2004 agreement was reached on how to implement the peace agreement and on a cease fire. Final issues were to be settled on 31 December 2004.

³⁹ Sudan: Towards an Incomplete peace, ICG Africa Report No. 73, Nairobi/Brussels, 11 December 2003.

⁴⁰ Korbett, Justin and Paul Murphy, The heart of the peace agreement for Sudan: an analysis of the three contested areas *IRIN* 8 April 2003

The National Democratic Alliance (NDA) had criticized both the government and the SPLM for signing a peace agreement without involving other political forces and solely relying on the support of the international community.⁴¹

The Agreement was approved by the parliament of Sudan and the SPLM in late January 2005 and was also submitted for a national referendum.

While the agreement has not included other conflicts in Sudan, such as that in the marginalized areas in Darfur and in East Sudan, it can provide a model for solving those conflicts. It is believed that the inclusion of the SPLM in the interim government may render the central government more disposed towards ending the violence in Darfur and political negotiations.⁴²

The war in **Iraq** led by the allied forces resulted in the toppling of the regime of Saddam Hussein in March 2003 and the dismantling of all existing political institutions. The reestablishment of political life which began in April 2003 upon the end of the war followed a process largely directed by the allied forces. Several transitional institutions and arrangements were put in place to deal with the post-war situation and to rebuild the political and social infrastructure of the country. These laid the foundation for Iraq's future political development and paved the way for the gradual transfer of political authority to the Iraqi people.

⁴¹ The SPLA had been the only representative of the opposition in the IGAD process, while National Democratic Alliance delegations have had trouble even making appointments with IGAD mediators.

⁴² The Sudanese government has already started negotiations with the rebels from Darfur under the auspices of the African Union in Abuja, Nigeria and have signed an agreement.

Arab Parliaments in the Post-conflict era

Parliaments can play a crucial role in fostering peace in the post-conflict era. Critical issues that determine its role are its representativeness, its relation to the executive branch and its role in legislating and overseeing the executive. To a varying degree, in all of the case studies efforts were made to promote the role of parliament and to endow it with a certain degree of legitimacy.

A crucial aspect of laying the foundation of the political order and stability of the post-war conflict era, are legislative elections. Therefore the legitimacy of the parliament produced by the elections is of critical importance.

Constitutional drafting and amendments

In **Iraq**, an important milestone in the political development was the approval of the Transitional Administrative Law (TAL) by the Interim Governing Council. A 10-member committee had been formed to draft this interim constitution. It outlined the future shape of the political order in Iraq, namely that of a federal, democratic and pluralistic system. It further outlined the pace for the drafting of an Iraqi constitution. It also stipulated that elections of a full-term legislature be held on 15 December 2005.

The Transitional Administrative Law, which was signed in March 2004, caused some controversy. The Shiites criticized the wide powers the Transitional Law gave to the Presidency, in particular the requirement for the approval of the presidency for modifying the TAL, in addition to the required three quarter majority of the National Assembly.

Furthermore, article 44 of the law was criticized as it gave the Presidency the power to appoint the *Federal Supreme Court*. This would strengthen the position of the presidency towards the judiciary and would undermine the separation of powers. Another issue of controversy was the stipulation that members of the presidency have resigned from the Baath party at least ten years before the dissolution of the party. This stipulation was viewed as tailored to ensure the inclusion of specific persons, namely Iraqis who had lived in exile.

According to the TAL, the drafting of a permanent constitution must be completed by 15 August 2005 and submitted for a national referendum by 15 October of the same year. In line with the provisions of the TAL a constitutional drafting committee was created in May 2005, which is composed of 55 members of the elected Assembly. In order to ensure the inclusion of Sunni Arabs, who had as a result of the boycott, been underrepresented in parliament, the Committee was expanded to 71

members to include Sunni Arab representatives.⁴³ In drafting the constitution the members of the Committee have taken the TAL as well as Arab and foreign constitutions as a basis. The constitution was submitted on 29 August 2005 to parliament.

It foresaw that Iraq be republic, parliamentary and federal. It also referred to Islam as a “main source of legislation”.⁴⁴ A major drawback was the lack of support of the constitution by the Sunni Arab Committee members. The most contentious issue was that of federalism and the role of religion.⁴⁵

While the inclusion of all major political forces in the process of drafting the constitution has also been seen as indispensable for achieving stability in the country, the lack of endorsement of the constitution by all may constitute a source of instability and undermine the legitimacy of the constitution.

Important and far reaching changes were made in **Lebanon**. There, on the basis of the agreement reached in Ta’if in 1989, major constitutional amendments were made. These included the redistribution of power among the various sects and their representation in parliament, which had reflected the country’s new demographic and political realities and has made representation in parliament potentially more equitable.

Constitutional amendments had also modified the balance between the executive and the legislative, which have been altered to the benefit of parliament.⁴⁶ Parliament, has received as a result of the changes more operational space. This was reflected in the proactive role it had assumed following the end of the conflict. It succeeded in improving its legislative role considerably and between 1992 and 1996 parliament has promulgated the greatest number of laws (400) compared to previous parliaments. The ratio of proposed laws (bills proposed by a deputy or group of deputies to draft law) increased from 9% in 1992/1993 to 20% in 1995. Its strengthened role was also visible in the fact that it had refused to guarantee the Cabinet the right to engage in “delegated legislation”, a process through which the cabinet can pass legislation by decree in specific areas and for a set period of time.⁴⁷

The constitutional changes introduced in 1990 enforced the parliamentary feature of the system while at the same time de-emphasizing its presidential

⁴³ On May 24, 2005, its first formal meeting the Committee selected Sheikh Humam Hamoudi as its chairperson. Only two of the 55 member constitutional committee are Sunni Arabs. (Iraq Sunnis reject compromise on constitution, Daily Star 11 June 2005).

⁴⁴ Iraqi negotiators finish draft after failing to win Sunni support, Daily Star 29 August 2005.

⁴⁵ The Sunni Arabs have opposed a proposal submitted by the Shiites to create a federal region in the South of Iraq, in line with the autonomous zones the Kurds have enjoyed in the north since 1991. The Shiite Committee members modified their position and insisted on maintaining the principle of federalism. They postponed the decision on the details of a federal order for the new parliament to be elected in December 2005. Iraqi negotiators finish draft after failing to win Sunni support, Daily Star 29 August 2005.

⁴⁶ In addition the power balance within the executive, the President, Prime Minister and the Council of Ministers, has also been modified and the powers of the President reduced to the benefit of the Prime Minister and the Cabinet

⁴⁷ Baaklini, Abdo, Guilain Denoeux, and Robert Springborg, “Lebanon”, in *Legislative Politics in the Arab World. The Resurgence of Democratic Institutions*, Boulder, CO: Rienner, 1999, pp. 103.

one. Constitutional amendments reduced the power of the president and in turn enhanced the position of the prime minister, the council of ministers and that of the speaker of parliament. The latter's term has been extended from one to four years. Constitutional amendments also foresaw the devolution of power from the national to the local level.

The enhanced role of parliament is also reflected in its involvement in the process through which the prime minister is selected.⁴⁸ The amendments also stipulated that only parliament can remove the prime minister.

The Ta'if agreement has thus corrected the perceived imbalance between the Christian and Muslim communities which had led to the destabilization of the pre-war political system and has altered power distribution among the executive and legislative authorities. In addition, the increased size of parliament was thought to have had a positive impact on including a broader representation of society.

In **Yemen**, in contrast, constitutional amendments had put constraints on the role of parliament. Two constitutional amendments were made in the post conflict period, in 1994 and 2000, both of which aimed at strengthening the executive at the expense of the legislative. In 1994, the five-member Presidential Council was abolished and powers transferred to the President. Other amendments related to the election of the president and provided for direct elections of the president. In addition, the constitutional amendments limited the number of terms of the president to two.

The amendment of 1994 also introduced the Consultative Council, which initially served as a consultative body to the president. The significance of the Consultative Council was that it could incorporate the various groups and individuals who had lost part of their power as a result of the unification process, and that it represented a tool of co-opting rivals. It could for example absorb southern grievances that resulted from the loss of the 1993 elections and the 1994 war.

Constitutional amendments in 2000 further strengthened the executive. These amendments allowed the president to dissolve the parliament and to call directly for new elections without holding a popular referendum. The amendments also widened the powers of the Consultative Council and increased its membership from 59 to 111 and gave it some legislative powers as a second chamber in parliament. Given the fact that Consultative Council members are appointed by the president suggests that support for the President's policies will be extended by the Council and that it constitutes an additional power base of the president.

Although these amendments have weakened parliament, it could assert some of its constitutional prerogatives, such as in relation to issues of parliamentary immunity and the approval of the budget. In July 1995, 70 MPS protested the

⁴⁸ The Prime Minister is chosen through binding consultations between the president and parliamentary groups and speaker. The speaker can also veto the presidential choice of the premier.

detention of an YSP member. Following the questioning of the Interior Minister on this issue, the YSP member was released. In relation to budget approval process, the government had missed the deadline for the presentation of the budget. Parliament voted to extend the deadline and has thus succeeded in forcing the cabinet to abide to the procedures.⁴⁹

In **Algeria**, constitutional amendments were made with the explicit aim to address the conflict and bring an end to it. Thus, the constitutional amendments of 1996 mark a clear turning point as they completely modified the Algerian institutional makeup by introducing a bicameral parliament, composed of the National People's Assembly (al-Majlis al-Shaabi al-Watani)⁵⁰ and the National Council (Majlis al-Umma). The introduction of a second chamber has allowed the representation of forces not represented in parliament through elections. More importantly, however, the second chamber, in which one third of the members⁵¹ are appointed by the president and two-thirds elected by municipal and provincial councils, has buttressed the domination of the executive branch. This was viewed important to find support to the president's initiative of ending the conflict. More specifically, as legislation must have the approval of three-quarters of chambers, it also ensured that a party with a majority in the National People's Assembly cannot necessarily modify the legislature. That is, in the event that an Islamist party wins the legislative elections, it cannot challenge the authority of the government. In addition and in order to further strengthen the role of the President in his initiative of ending the conflict, the constitutional amendments of 1996 have further enlarged the scope of his powers.

Although the executive remains dominant the role of parliament has been improved. MPs were able to question government ministries, including on sensitive issues such as the massacres of 1997, but there was no mechanism to exercise real oversight of the ministers, given that they are not responsible before the parliament, but rather owe their appointments to the president and the decision makers behind the scenes.

The most important task of the **Sudanese** parliament of 1996 was the approval of a new constitution. In July 1997 a committee was created to draft the new constitution. The draft was submitted to parliament in March 1998 and approved. In June 1998 the constitution was submitted to a national referendum. The drafting process of the constitution found initially a lot of criticism as its drafting did not involve those political forces who had a majority in the 1996 elections.

The new constitution of 1998 contained limited participation of political forces. For example, civil society organizations, independent press and political parties that the regime allowed to register had limited freedoms.

⁴⁹ Baaklini, Abdo, Guilain Denoeux, and Robert Springborg, *Legislative Politics in the Arab World. The Resurgence of Democratic Institutions*, Boulder, CO: Rienner, 1999, pp. 212.

⁵⁰ The National People's Assembly is composed of 389 members.

⁵¹ The National Council is composed of 144 members.

While the new constitution did not guarantee political pluralism, it did promise basic liberties, such as freedom of religion, freedom of association and self-determination for southern Sudan. However, these reforms were implemented in a very limited and controlled fashion. The constitution of 1998 also defined the parameters for subsequent elections.

Amendments to the constitutions were introduced in 2005. Based on the peace agreement of January 2005 a Constitutional Review Commission was created, which included members from each of the two parties to the conflict, the government of Sudan and the SPLM. An important step was made by including more political forces in the process of drafting the constitution following the Cairo Agreement of 18 June 2005. This agreement signified the reconciliation between Sudan's main opposition group – the National Democratic Alliance⁵², an alliance of 13 mainly northern political groups, and the Sudanese government. Thus, the number of members of the Commission was expanded from initially 14 to include 27 additional members of the NDA.⁵³ The newly included members were provided with the opportunity to review the existing draft and add comments. The new additions to the constitution included pluralism, equality before the law, the respect of international human rights standards and declarations and the independence of the judiciary. On 27 June 2005, the constitution was submitted to parliament for discussion and approved on 6 July 2005. It was also approved by the autonomous government of South Sudan. This constitution is the culmination of a review of the existing constitution of 1998 and the inclusion of new stipulations laid out in the peace agreement.

Additional important provisions of the constitution are that Islamic Law will not be applied in the South. The constitution also removes the requirement that the president be Muslim. Furthermore, it set quota for political representation and paved the way for the establishment of a 6-year interim national unity government. During the interim period a new legislature will be appointed (the National Congress Party (NCP) will have 52% for executive and legislative seats, and the SPLM 28%. 14% for northern opposition parties and 6% split among the other southern groups. This is more than in the elected central government of 1958.

The significance of the constitution is that it constitutes another step towards stabilizing Sudan.

Representativeness

The transfer of power from the allied forces to the **Iraqis** has proceeded in a gradual and phased manner. Several transitional bodies have been created prior to the elections of the first post-Saddam parliament. The major characteristic of these transitional bodies was their makeup, which was largely

⁵² As a opposition force NDA members have been living in Egyptian exile.

⁵³ The National Democratic Alliance contains more than 12 opposition parties.

on the basis of decisions of the allied forces. The fact that these bodies were appointed rather than elected has undermined their legitimacy in the view of many Iraqis. A particular point of criticism was the representation to these bodies on the basis of sectarian divisions.

As a first step, the Coalition Provisional Authority (CPA) was established in April 2003. In an important move the CPA created in July 2003 the Interim Governing Council, composed of 25 appointed Iraqis. A central feature of the Council is its domination by exiled Iraqis.⁵⁴ This imbalanced representation⁵⁵ is reinforced by the fact that eight of the nine-member rotating presidency are either Iraqis who had lived in exile or Kurds.⁵⁶ This led to the perception of the inside Iraqis that they have been marginalized in the early period following the war. In many instances Iraqis viewed diaspora Iraqis as collaborating with the allied forces, while diaspora Iraqis viewed in many Iraqis who had not left Iraq under Saddam Hussein, as Baathist loyalists. Whereas tensions between exiled and inside Iraqis were high following the end of the war, they decreased substantially at a later stage. An important turning point was the revival and creation of new political parties, which have played an integrating force and thus contributed to overcoming this split.

The composition of the Interim Council and its mode of creation have caused criticism by a number of Iraqis. More specifically the fact that its members were appointed by the allied forces and its creation not the result of extensive consultations has undermined its legitimacy in the view of many Iraqis. An additional point of criticism was the distribution of council seats along sectarian lines, which may consolidate sectarianism as an organizing principle of a future Iraqi political order.⁵⁷

While the Interim Governing Council has been granted some executive powers, including oversight of the national budget and selection of Iraqi ministers and diplomatic representatives abroad, the ultimate political decision-maker was viewed to be the allied forces.

A temporary Iraqi Government was created in June 2004 and in August 2004 a national conference, composed of 1400 people, elected an Interim National Assembly of 100 members. This Assembly was dissolved after the first parliamentary elections were held in January 2005.

These first legislative elections of the 275-member National Assembly resulted in the victory by the Shiite dominated party, the United Iraqi Alliance, which garnered 140 of the 275 seats with 48 percent of the vote. The Kurdistan Coalition List came in second with 75 seats (26 percent of the vote).

⁵⁴ Two thirds of the 25-member Council was composed of exiled Iraqis.

⁵⁵ The reason for the overrepresentation of the diaspora Iraqis was their high level of organization and activism in political parties, which would not have been possible for Iraqis during the Saddam Hussein regime. Furthermore, a factor which had contributed to the overrepresentation of the diaspora Iraqis was the fact the US has cooperated with them before the fall of the Saddam Hussein regime and as a result have become central to the allied forces.

⁵⁶ In late July 2003 the nine-member executive body was created. It could not decide on a president and therefore opted for a presidency, which would rotate on a monthly basis.

⁵⁷ Sectarian divisions later on become apparent during the elections when mobilization of the electorate occurred on the basis of sectarian affiliation.

Sunni Arabs gained only 17 seats, as the main political parties of the Sunni community chose to boycott the elections.⁵⁸ A significant feature of the elections was the high participation of women.

The elections were boycotted by a large number of Sunni Arabs, partly due to the security situation, but also because of the fear of being marginalized, given the electoral law of one single constituency.⁵⁹ The boycott, it was believed, would attract international support for the Sunni communities. The Sunni boycott led to their (temporary) political marginalization. The result is that the National Assembly is not viewed by many as representative.

Most importantly, the elections were an opportunity to bring back population groups previously marginalized during the Saddam Hussein regime, such as Kurds and Shiites.

The importance of the elections is that they have constituted a further step towards ownership of the political process. A step that would have promoted national integration would have been the holding of a national dialogue.

In **Sudan** the return to a multi-party system⁶⁰ was made possible through the party law and with the ratification of the 1998 constitution⁶¹ which guarantees freedom of association and religion.⁶² According to the 1998 constitution, the legislative branch of the Sudanese government is composed of a unicameral body the National Assembly (al-Majlis al-watani). Representation in the Sudanese parliament ensures the representation of traditional (mainly religious and tribal forces) as well as other social groups. 25 percent of the parliament's seats are assigned to women, university graduates, representatives of trade unions, and to professional and scientific classes.⁶³ 270 members are directly elected by popular vote, while the remaining 90 members are elected by a national conference of interest groups called the National Convention. The national convention is an electoral body composed of members of the scientific and professional communities, and women.

In terms of parties, only the government, pro government parties and those who do not oppose regime policies were allowed. The parliament of 2001 – 2005 was composed on this principle.

⁵⁸ An Electoral Commission was formed to draw up the election procedure and supervise its proceedings. Toensing, Chris." Another 'Historic' day looms in Iraq. Middle East Report Online, January 2005. www.merip.org/mero/mero012005.html

⁵⁹ The election law, which defined electoral districts and representation, was decreed by the CPA in June 2004.

⁶⁰ All political parties had been banned following the June 30, 1989 military coup

⁶¹ The law which allowed political associations was revised in March 2000 covered parties that had existed prior to the coup of 1989.

⁶² The constitution also describes the functions of the National Assembly as monitoring executive performance, initiating draft constitutional amendments, passing bills and provisional decrees, questioning ministers and taking votes of confidence, ratifying international treaties, and passing the general budget.

⁶³ Among the 35 seats reserved for women, 10 are for women from South Sudan and 6 from Darfur. 26 seats represent university graduates, and 29 represent the trade unions.

Legislative elections were held in December 2000, in which the ruling National Congress Party (NCP) swept the majority of parliamentary seats. In these elections, as in 1996, the major opposition parties refused to participate.⁶⁴

President Bashir appointed representatives for 24 of the 270 geographical constituencies, where elections could not be held due to the civil war. A number of prominent southern Sudanese politicians were nominated in February 2001. The elections of December 2000 were criticized for being seriously flawed.⁶⁵

In the same month of the legislative elections presidential elections took place in which Bashir was re-elected with 86.5 percent of the votes for a second five-year term. The opposition boycotted the poll, accusing Bashir of vote rigging.

The parliament elected in 2000 is viewed by large parts of society as not representative. However, the new constitution which stipulates that elections be held by 2009 foresees the establishment of parties, a fact which may potentially improve the representativeness of parliament considerably.

In addition to the unrepresentative character of parliament, a fact that has undermined the legitimacy of the parliament is the weak relation between the MPs and the constituencies. MPs tend to visit their constituency only during election time. Moreover, they have been involved more in party politics which had come at the expense of serving their constituencies. MPs have also maintained weak relations with civil society institutions, such as trade unions, women organization or the media.

In the case of **Algeria**, both legislative and presidential elections have been used as a means to garner endorsement for the politics of Bouteflika.

Changes to the electoral law had been made in 1996.⁶⁶ These included amendments to voting and campaign procedures. More comprehensive reforms of the electoral law were made in 2004 with political party representatives receiving official copies of the vote protocols at every stage of the vote counting. A very important change was also the provision that the army no longer vote in its barracks. Also electoral monitoring was improved. Despite these changes allegations of fraud in the elections of 1997 persisted.⁶⁷ This led parliament to launch a commission of inquiry into electoral fraud in 1998. Its significance was however undermined, as the results of the inquiry were neither made public nor debated in parliament.⁶⁸

⁶⁴ The National Congress captured 355 of 360 seats. Independent candidates won the remaining five.

⁶⁵ *The December 2000 presidential and parliamentary elections*. The Economist January 2001

⁶⁶ These changes also provided representation for Algerian nationals living abroad.

⁶⁷ Parks, Robert P., "An unexpected Mandate? The April 8, 2004 Algerian Presidential Elections", Middle East Journal, Vol. 59, No. 1 (Winter 2005), pp. 98 – 106.

⁶⁸ "Diminishing Returns" Algeria's 2002 Legislative Elections", ICG, Middle East Briefing. Algiers/Brussels, 24 June 2002.

In the presidential elections of 2004 Bouteflika was confirmed as president with 84.99% of the votes. Bouteflika's success was attributed to his achievement of restoring relative peace to the country and for reconciling with Islamic militants by offering them an amnesty. The important issue about the elections in 2004 was the fact that for the first time since independence the presidential race was democratically contested to the end.⁶⁹

In spite of the constraints faced by a strong executive, the parliament of 2002 is considered the most representative one, with nine political parties and thirty independents represented. There was, however, widespread boycott, especially from the Berber population. As to women, their representation could be improved from 13 to 25 members in the 2002 parliament.⁷⁰

Several constraints have characterized the parliament in Algeria following the conflict. A factor which had weakened parliament has been the internal fragmentation of parties. Another weakness of parliament has been the high turnover of its members. In the parliament elected in 2002, for example, only 50 MPs of 380 MPs were reelected. This resulted in a parliament with a high number of inexperienced MPs. In addition, the political culture endorsed by the political elites has not furthered the independence of political institutions. Moreover, in many instances it is MPs themselves who do not sufficiently respect the separation of powers. All of the above has had an impact on the legislative and oversight roles of parliament.

While the oversight role of the parliament as foreseen in the constitution is restricted, the actual use of existing oversight prerogatives has also undermined parliament's role in overseeing government.⁷¹ For example, content or summaries of the work of parliamentary committees have not been distributed to the MPs, even in cases where investigations have been completed such as the committee on investigation on the elections or that investigating conditions in the Berber area in 1997.⁷² Furthermore, some of the questions raised by MPs to government have received delayed replies. In some cases one or more years had passed before a reply had been returned by government.

Another indication of the weak oversight role of parliament is the increased numbers of presidential decrees. Important legislation, such as family and nationality laws, was promulgated this way.

In **Yemen**, two legislative elections, in 1997 and 2003 were held in the post conflict era. In the national assemblies following the civil war the ruling GCP

⁶⁹ Parks, Robert P., "An unexpected Mandate? The April 8, 2004 Algerian Presidential Elections", *Middle East Journal*, Vol. 59, No. 1 (Winter 2005), pp. 98 – 106.

⁷⁰ "Diminishing returns: Algeria's 2002 legislative elections," ICG, Middle East/NorthAfrica Briefing, Algiers/Brussels, 24 June 2002.

⁷¹ According to the constitution there are only five measures available to the parliament to question government.

⁷² The parliamentary committee submitted its report to the presidency of the parliament without however submitting a copy to the MPs in accordance with previous practice.

has been able to increase the number of seats it holds considerably.⁷³ While the GCP has benefited from the boycott of the YSP in the 1997 elections, its strength in parliament is due to other factors as well, namely the role that the GPC-dominated government played in the elections by controlling the distribution of funds to political parties.⁷⁴ The GPC was also able to utilize the government-run TV and radio stations to promote its candidates. Moreover, the GPC had influenced the election process itself by dominating the Supreme Election Committee (SEC) and by using mobile military camps to vote in uncertain constituencies.

In the view of allegations of electoral fraud, the electoral law was improved, in particular voter registration, the network of local monitors expanded and an Electoral Council established for the April 2003 elections. Despite the improvements, however, claims of irregularity have persisted.

A factor that had implication on the representativeness of parliament is the electoral system. The Yemeni system which is based on the single-member district has promoted the domination of traditional kinship preferences, which has led to the reproduction of the dominant social groups in parliament.

Furthermore, the 1993, 1997 and 2003 parliamentary elections showed that the existing electoral law has favoured the large parties.⁷⁵ It has also increased the importance of kinship preferences, which has deepened sub-national identities at the expense of party programmes. The simple majority system resulted in the complete under-representation of the minority. Women have also been underrepresented although their number has increased.

Another factor which has undermined the representativeness of parliament is the channel of recruitment into parliament. In many instances it is family ties which determine representation in parliament. Often the political base is inherited through family connections.⁷⁶

Parliament has however played an integrating role by including moderate Islamists. Islah, the Islamic party in parliament has been able to play a mediating role between the state and the country's conservative Islamists. The inclusion of moderate Islamist has thus led to a stabilizing effect on the regime.

In **Lebanon**, the 1992 legislative elections, the first postwar elections and the first after 20 years brought about a radical change as it reflected the renewal of the political class. Only 18 out of the 128 parliamentarians belonged to the parliament of 1972. Furthermore, parliament played a role as an institution of

⁷³ In the local elections of 2003, in contrast, the GCP had only 60% of the votes.

⁷⁴ The YSP could make a modest come back in the 2003 elections. However, even in the South, where it had its stronghold, the number of seats it gained had decreased considerably. The results probably reflect the true strength of the YSP.

⁷⁵ Two GPC candidates, for example, had won their seats in the Parliament in the 1997 election by 23 per cent of the vote in constituencies number 143 and 212.

⁷⁶ Since the first Parliament of 1969, sons or relatives of deceased MPs filled most of the seats that have become vacant after the death of a relative.

political integration by incorporating a large number of previously excluded constituencies, especially Shiites. The elections were also important in that they contributed to the transformation of an Islamic party, Hizboallh, into a mainstream political party. Hizbollah was elected into parliament and could play an important role as an opposition group, in particular in relation to the economic policies of government.

The boycott of an important segment of the Christian population had, however, undermined the legitimacy of the parliament and restricted its representativeness. The lack of legitimacy of these elections was reflected in the lowest turnout since independence (30.4%).

The main contentious issue which had led to reduced voter participation was the drawing of the electoral districts that had favored pro-government and pro-Syrian candidates.⁷⁷ In addition to the interference of the Syrian regime in favor of certain election candidates at the expense of others, the applied electoral law and in particular the design of electoral districts remained a contentious issue. Electoral districts were gerrymandered to suit certain sectarian interests. Also contentious was the fact that the election law was adopted only shortly before elections were held.⁷⁸

The parliament elected in 1992 was not only limited in its representativeness, but was also characterized by its limited autonomy as a result of Syrian influence over most of the MPs.⁷⁹

The electoral law applied in the 1996 legislative elections was also contentious and was opposed in particular by large parts of the Christian community.⁸⁰ After the suggested law was referred to the Constitutional Council⁸¹, which declared it unconstitutional, the government made some modifications and declared that this law will be for “one time only”. In order to stop their marginalization and to further their ability to influence politics, Christians participated in the 1996 elections. In general voter turnout increased. In all post-war elections, however, fraud and irregularities were reported.

The elections in 2000 differed little from the two previous elections. Lebanese and Syrian authorities interfered in the making and unmaking of electoral alliances, thereby influencing most of the electoral outcomes. With the exception of a few deputies, the 2000 parliament was considered pro-Syrian. Elections held in 2005 after the withdrawal of Syrian troops, in contrast, are considered the most representative in the post war era.

⁷⁷ According to the Taif Accord parliamentary elections would be held on the basis of the muhafaza, large administrative district of which there were six in Lebanon. Holding elections on the basis of the muhafaza was seen as a vital safeguard to preserve national unity against sectarian extremism.

⁷⁸ In 1992 the election law was adopted only four weeks prior to the elections.

⁷⁹ For example the 1995 amendment of Art 49 of the constitution to allow an extension of President Hrawi was achieved under Syrian pressure. This is also true for the extension of the current Lebanese President Lahoud, whose term was extended in 2004.

⁸⁰ Parliamentary seats are allocated on a sectarian basis. Voters vote for candidates irrespective of their sect. In Lebanon's a simple plurality electoral system the major factor that influences the outcome of elections is the size of the electoral district.

⁸¹ The Constitutional Council was established in 1993.

Thus, while constitutional provisions have created the potential for a more representative parliament, post- Ta'if elections have produced parliaments that were representative to only a limited extent.

Legislation promoting peace, national reconciliation and reconstruction

In **Iraq** security remains of general concern to the public.⁸² While demilitarization is not considered a viable option at present, there are indications that some of those who have armed militias, such as Kurdish and some of the Shiite communities, support the integration of their militias into the army in the future. As long as internal security cannot be guaranteed, however, these groups have shown reluctance to be disarmed. The National Assembly has created a committee *Dialogue and National Relations* to address this issue. The absence of high profile members, however, is interpreted by many Iraqis that disarmament is not a current priority.

On another level, while de-Baathification was introduced by the allied forces in 2003 to purge the government's senior members of Saddam Hussein's Baath Party, individuals who had belonged to the Saddam Hussein regime's security apparatus have been recruited into the new army and police force, which has caused concerns among many Iraqis. This issue and the legacy of the past could be addressed in a national reconciliation conference.

A priority to be addressed by the legislature is also the rebuilding of the country's economy. An important step towards this direction was for example the transformation of the Central Bank of Iraq (CBI) into an independent body in 2004.⁸³

In **Algeria** parliament has played a role in endorsing issues related to the conflict as reflected in its unanimous support for the *Civil Concord Law*.⁸⁴

⁸² Insurgency against the Coalition forces is concentrated in Baghdad and in areas west and north of the capital. The diverse, multigroup insurgency is led principally by Sunni Arabs whose only common denominator is the shared desire to end foreign and particular the US armed presence in Iraq. The US tendency to equate Sunnis with Baathists and the latter with "Saddam loyalists," combined with the fact that most attacks on US forces have taken place in the "Sunni triangle," has meant that Sunni Arabs have borne the brunt of US counter-insurgency operations. Hashim, Ahmed S., "Iraq: From Insurgency to Civil war?" *Current History* Vol. 104, no 678 (January 2005); pp. 10-18.

⁸³ Daily Star ,20 June 2005.

⁸⁴ This amnesty law is restricted to insurgents who were not guilty of rape, murder or bombings, and who handed in their weapons. In addition, an early-release program for prisoners was introduced as part of this law. In November 2004, Bouteflika initiated the next phase of the 'national reconciliation' by evoking the prospect of a general amnesty that will broaden the amnesty for armed militants and would cover crimes committed by security force members. This Law has been criticized for failing to deal with the conflict as a political conflict, rather than a pure security issue. Other factors that account for the weakness of this amnesty law are the lack of safeguards against future human rights violations or accountability for past abuses. A more comprehensive approach would have been the development of a mechanism for uncovering the truth and ensuring justice in cases of human rights violations (The Algerian Crisis: Not Over Yet. International Crisis Group Africa Report, No. 24, Algiers/Paris/London/Brussels, 20 October 2000.

more comprehensive approach would be the development of a mechanism for uncovering the truth and ensuring justice for violations of human rights.

The Civil Concord Law was also submitted to the Algerian people in a national referendum in September 1999. As a result of this amnesty law the majority of the Islamic Salvation Army (Armée Islamique du Salut –AIS) surrendered. The two groups that rejected the offer were the Armed Islamic Group (Groupe islamique armée – GIA) and the GSPC.

An important step in furthering national reconciliation was also Bouteflika's recognition that the cancellation of the 1991 elections was an "act of violence".

Important changes were also introduced in reducing the influence of the army in political life. Since his re-election Bouteflika has consolidated his power as the head of the "Presidential Alliance", a coalition of the three ruling parties, the National Liberation Front (FLN), National Democratic Rally (RND) and Movement for the Society of Peace (MSP), which together control over 280 of the 389 seats in parliament and have pledged to support Bouteflika's program. Bouteflika has thereby strengthened his hand vis-à-vis the military hierarchy and positioned himself as the main arbiter between competing interest groups and political visions.⁸⁵

Parliament has been crucial in addressing the needs of marginalized groups, such as the Berber. In 2002, parliament voted to make Berber a national language but pro-Berber groups boycotted the vote because they considered the scope of the reform far too limited.

Not so successful has been Algeria's attempt to address the issue of disappeared in the conflict.⁸⁶ After his election in April 1999, Bouteflika spoke of 10,000 disappearances, a much higher figure than that given by human rights groups. However, although many cases of disappearance were cited as solved by the government, these were largely unverifiable. In addition organizations working for the resolution of the situation of 'disappeared' people have had great difficulty receiving official recognition. In 2003 Bouteflika put in place a governmental human rights body, the Ad-Hoc Mechanism for the Disappeared, with the aim of identifying the circumstances of those disappearances and finding practical solutions to assist the victims' families. This move, however, was not comprehensive enough as the Ad-Hoc Mechanism for the Disappeared has insisted that the abductions were acts of individual state officials rather than of state institutions.

In October 2004, Algeria's parliament took the positive step of amending the penal code to criminalize acts of torture. The amendments however fell short

⁸⁵ Algerian Crisis: Not Over Yet. International Crisis Group Africa Report, No. 24, Algiers/Paris/London/Brussels, 20 October 2000.

⁸⁶ The conflict has produced a considerable number of displaced, especially during the massacre of 1997 and 1998. Particularly vulnerable groups affected by the crisis are journalists, academics, artists, writers and other prominent intellectual figures as well as members and family of security forces and police have been among the victims of armed groups.

of international standards by failing to criminalize inhuman and degrading treatment or punishment.

Despite the above, Bouteflika continued to make use of his constitutional prerogative to introduce laws by decree in the period between parliamentary session, a fact that reveals the vulnerable situation of parliament in a political system dominated by the executive authority.⁸⁷

In **Lebanon** parliament made important steps to address issues related to the affects of the war and promoting social peace. Parliament resumed its legislative activities on 20 March 1990 to vote on several initiatives. On 26 July 1990 the first law was voted on, the institution of a Supreme Court. In August 1990 the parliament approved the constitutional amendments based on the Ta'if Agreement.

Parliament has also addressed issues related to the affects of the war. With the exception of the militia of Hizbollah all other militias were disarmed in 1991 and the army unified. In addition, a program was launched to address the issue of internally displaced persons.

As to war crimes, a general amnesty law was passed in early 1991, which granted impunity to any and all Lebanese individuals and groups for war crimes and crimes against humanity committed between 1975 and 1991.

Parliament has also endorsed the *National Reconciliation Government* which included former militia leaders and was formed in 1990. It obtained the confidence of the parliament on 9 January 1991.

A recent step to further national reconciliation was undertaken and the Lebanese Forces Commander, Samir Geagea was released from prison in July 2005.⁸⁸

The government has also highlighted the necessity to follow up on the status of Lebanese detainees in Syrian prison through the establishment of a joint Lebanese-Syrian committee to work on the issue.⁸⁹ The policy statement also addressed the issue of Lebanese prisoners in Israeli prisons,

An important issue in **Sudan** remains the resolution of the conflict in Darfur. As in the case of the Comprehensive Peace Agreement reached In January 2005, parliament had been marginalized in the negotiations aimed at ending the conflict in Darfur. Moreover, in relation to the Darfur crisis parliament has

⁸⁷“Diminishing Returns” Algeria’s 2002 Legislative Elections”, ICG, Middle East Briefing. Algiers/Brussels, 24 June 2002.

⁸⁸ He was the only prominent militia leader of the civil war who was jailed in 1994 for his actions during the conflict. He was freed under an amnesty law passed in July 2005.

⁸⁹ Daily Star July 26, 2005

been rather re-active.⁹⁰ It had not developed proposals to solve the conflict and only acted when the UN issued several resolutions addressing the humanitarian crisis in Darfur.⁹¹

As in the case of the IGAD process, negotiations on the crisis in Darfur were conducted outside of Sudan, in Abuja Nigeria, with the mediation of the African Union (AU). The negotiations were initiated in August 2004⁹² between the Sudanese government and the two rebel groups Justice Equality Movement (JEM) and the Sudanese Liberation Movement/Army (SLM/A). The Declarations on Principles (DOP), which were adopted in December 2004, dealt with the difficult issues of humanitarian and security issues and have laid the groundwork for further accords on power sharing and political matter.

The Abuja talks, however, were suspended in December 2004 after mutual accusations of cease fire violations. They were then resumed on 10 June 2005, when the AU distributed the DOP to the two parties for discussion and comments.

The agreement reached on 20 June 2005 has guaranteed traditional tribal ownership rights over land in Darfur and has allowed the region autonomy under a reformed federal institution. The DOP also includes the stipulation to find ways to pay reparations to those who have suffered in the conflict and guaranteed the displaced in the right of return to their place of origin. National wealth will be shared by the parties and all agreements will be incorporate into Sudan's national constitution.

The above account reveals that parliament has played no role in addressing other conflicts in Sudan.

Parliament did however play a role in contributing to addressing the crimes in Darfur by creating a special court to try suspects accused of atrocities in that region. This court was set up in an attempt to fend off UN demands that it hand over Darfur was crime suspects to the international Criminal Court.

In an important move parliament has lifted the state of emergency in Sudan in July 2005.

Other issues that require to be addressed by parliament is the promotion of a balanced social and economic development in the country, where, in addition to Darfur, Eastern Sudan is among the most neglected regions.⁹³

⁹⁰ The crisis in Darfur broke out in February 2003.

⁹¹ UN Security Council resolutions 1590 of March 2004 established the UN Mission in Sudan (UNMIS) for an initial period of six months. Its task is to foster peace in Darfur, facilitate the voluntary return of refugees and internally displaced persons, provide humanitarian de-mining assistance, and protect human rights.

⁹² Other partners in the negotiations are the Arab League, the EU, UN, UK, Canada, Egypt, France, Norway and the US.

⁹³ East Sudan and Darfur have the lowest proportion of people holding positions in the central government.

In **Yemen**, parliament has played a minimal role on adopting legislation that furthers national integration and a balanced socio-economic development. This is due to weaknesses in its executive and legislative functions.

A central feature of parliament has been that it served rather as a forum to express political dissent. This was particularly important, given the censorship over media and restrictive provisions in the laws regulating political parties.⁹⁴ In brief, the opposition parties could rely on parliament as a forum from which they could make their views known. For example, Islah used the parliament to criticize the president for his lack of commitment to an Islamization of Yemeni society and succeeded in passing legislation mandating Islamic practices for the banking sector.

In relation to policies furthering national conciliation and peace building it was the government of Yemen rather than parliament that took the necessary initiatives. Following the civil war, the government declared amnesty to the secessionists, the YSP leaders, except for 16 YSP members. Amnesty was extended to them in 2003.

Furthermore, the case of detentions and arrests in the context of the war against terrorism illustrates the minimal role played by parliament. In the case of al-Houthi in 2004, parliament had formed a delegation to negotiate and mediate, but its attempts were thwarted by the government.

The marginalization of parliament in this process is due to the imbalance between the executive and the legislative on the one hand and a result of its weak legislative and oversight role on the other. The weakness of its legislative function is reflected in the fact that parliament usually does not get involved in the early stages of the preparation of policy proposals made by the government.

The limited oversight role of parliament on the other hand is partly the result of the fact that the government has purposely deluged parliament with unnecessary bills to distract it from other functions. In many cases government has withdrawn its proposed bills after a considerable time was consumed by parliament on their discussion. The absence of a formal mechanism that would sanction government and force it to act on parliament's recommendations has consolidated this behaviour.

Furthermore, the high turnover of MPS has contributes to the weak oversight role of parliament. High turnover resulted in an inexperienced parliament and had a direct impact on parliament's capacity .As new MPs focused on consolidating their political position, they were reluctant to challenge any policies that would cause hostility or that were against the establishment or the presidency.

Both weak legislative and oversight functions are also reflected in the functioning of the parliamentary committees. The efficiency of the Standing

⁹⁴ Baaklini, Abdo, Guilain Denoeux, and Robert Springborg, *Legislative Politics in the Arab World. The Resurgence of Democratic Institutions*, Boulder, CO: Rienner, 1999, pp. 201-219.

Committees, where most of the parliamentary work is undertaken, has been undermined by the limited resources they have at hand. Lack of financial resources has been particularly the case for the creation of subcommittees for investigation and fact-finding. Another factor that has undermined the efficiency of the Standing Committees is the high rate of absence of its members as well as the lack of specialist knowledge in most Standing Committees.⁹⁵

In addition, in many instances parliament has not adhered to legislation passed. For example after the Parliament had approved the state budget of 1996, the government re-allocated resources and increased the credit for the presidential office by 146.6 percent over what had been approved. There were also other incidents where the government spent contrary to the state budget without authorisation from the Parliament. Comparison of the state budgets of 1996 and 1997 shows a decrease in resources allocated for education by 31.4 percent, for health by 34.9 percent, for electricity and water by 9.3 percent, and for agriculture by 14.4 percent. In another case, an ad-hoc parliamentary committee reported that some revenues never appeared in state budgets.

Despite its weaknesses, parliament cannot be considered a rubber-stamp legislature as it could succeed in rejecting, delaying and amending many government bills. Moreover, since 1990 not a single government bill has been passed without amendments. For example, until the end of 2000 the parliament refused to pass the bill on Local Administration, requesting a considerable number of amendments. In another example, the Parliament had suspended the government's bill on privatisation.

⁹⁵ The Standing Committees are expected to perform a variety of functions ranging from scrutinising legislation to overseeing of the government. Findings suggest that most of their activities are dedicated to legislative functions.

Summary of findings

The above accounts have revealed that the development of parliament in the selected case studies has faced various constraints. A major issue affecting all of the above cases is the extent of representativeness. The level of representativeness has direct implications on the ability of parliament to prevent or resolve conflicts. Several obstacles to a representative character of parliament could be identified. Most importantly electoral laws have been designed in such a way to disallow all societal forces to make their way into parliament. Inadequate electoral laws combined with electoral flaws have undermined the potential of parliament to be a representative elected body. In some of the selected countries of this study electoral laws have been amended to ensure a more equitable representation.

In Lebanon the unrepresentative nature of pre-civil war parliament was one of the causes leading the outbreak of the conflict. The conclusion of the Taef agreement laid the foundation of a more equitable representation in parliament.

In other cases a more equitable representation could also be achieved through the creation of an additional chamber in parliament to allow those groups, who could not find representation through elections, to be represented. This was the case of Yemen where a second chamber could absorb those forces who have lost power following the unification process.

For recently established political orders, such as in the case of Iraq, given the above, it is important to ensure an equitable representation and a balance between the executive and legislative authorities.

In some countries parliament has played a major role as a forum of debate. This was the case of Algeria where other fora, in particular those including opposition forces, were absent.

The role of parliament as an inclusive elected body has also been reflected in its ability to integrate a variety of parties, in particular those with specific orientations, such as with an Islamic or socialist agenda as illustrated in the cases of Lebanon and Yemen, respectively. In these cases parliament had a moderating affect and could provide a forum where those forces could voice their views and be heard. In the case of Algeria, in contrast, the exclusion of an Islamic party has contributed to its radicalization.

In addition to the restricted representative nature of parliament, the legislative and executive roles of parliament have been constrained to a varying degree in most of the above cases. Factors accounting for these constraints range from an imbalanced relationship between executive and legislative to weaknesses inherent in parliament. Parliaments have for example been weakened by the high turnover of MPs which produced inexperienced parliaments, such as the cases of Yemen and Algeria.

Parliaments' role in legislation can be directly attributed to its ability to prevent or resolve conflict. In general, the role of Arab parliaments in initiating legislation has been weak or even absent. In several cases this was undertaken by the executive, which reflects the dominance of the executive over the legislative. As a result of this imbalance between the two political authorities, parliament has been reduced to a rubber-stamp legislation, as has been the case of Sudan. Furthermore, despite that Arab parliaments have a constitutionally enshrined right of oversight they often fail to exercise this right. This may be due to weaknesses in internal capacity, such as insufficient expertise of MPs or lack of parliamentary mechanisms and procedures or the lack of knowledge of constituency needs or policy issues and options available to MPs.

Generally, as the above cases have shown while parliament has been weak in preventing conflicts, it has been to a varying degree more successful in addressing issues that had led to conflict or that may lead to conflict in the future.

A critical aspect defining the space in which Arab parliaments can operate is the relation between the executive and the legislative as defined in the constitution. The result of a dominance of the executive over the legislative is that the legislative has been constrained in taking an effective role in its oversight and legislative functions. In extreme cases this is reflected in the executive ruling by decree, at several instances or even for a prolonged period of time, as is frequently the case in Yemen. In some cases constitutional amendments have been introduced to alter the power relation between the executive and the legislative in order to give parliament more operational space to perform its functions, as was the case of Lebanon. For example, in the post Ta'if era in Lebanon enhanced constitutional powers enabled parliament to promulgate the greatest number of laws in Lebanon's history.

In relation to its role in addressing and solving a conflict, the case of Lebanon has revealed that parliament can play a crucial role in debating, elaborating and formulating resolutions to a conflict. In this process findings have shown that the inclusion of a broad range of societal forces guarantees the support for the formula adopted to end a conflict.

Recommendations

A strong role of parliament is reflected in three attributes: parliament as an elected body should be representative. In its legislative role it should address issues that promote social peace and stability and further social integration. Finally, it has an important role in its oversight function to question government policies and to prevent legislation that undermines political stability and peace.

Based on the above accounts and analyses, several suggestions for strengthening the role of Arab parliaments can be put forward. The most effective approach to supporting parliaments is one that combines various elements of interventions in a complementary way.

At the regional level

Support could be extended to establish a regional *Parliamentary Affairs Center* that would act as resource center for knowledge and research of existing parliamentary practices in the region as well as for training on issues related to parliamentary affairs and for providing assistance and consultations on selected parliamentary issues. The latter could include for example the provisions on the drafting of constitutions and their amendments. Equally, the Center could provide assistance to parliaments in performing their oversight and legislative roles. It could also provide assistance to design electorate laws that ensure the participation of marginalized social groups.

As a resource center, the *Parliamentary Affairs Center* could develop data bases on parliamentary practices and could act as a center for promoting networking between parliamentarians and civil society groups and the media. In addition to the above suggested functions, the *Parliamentary Affairs Center* could provide civic education, training for journalists or training for MPs in preparing bills, scrutinizing budgets and in effective management of floor debates. Members of committees can be trained on the investigation of certain issues, fact-finding and scrutinizing governmental proposals.

Issue specific assessments

Assessments could cover specific themes and issues. This could include the review of the relation between the executive and the legislative authorities or the review of existing electoral laws.

An assessment could also include existing mechanisms through which information is made available to MPs and a review of existing knowledge management structures, such as those relating to parliamentary documentation, records and procedures.

Additional suggestions for assessments involve a review of mechanisms and procedures available to ensure access of the public to parliament.

At the country level

In all of the above cases parliaments can be strengthened by providing support to improve their representativeness as well as their legislative and oversight functions.

The representative role of parliaments

Representativeness is crucial to enable parliaments to act as a forum for preventing potential conflicts and debating of and finding solutions to existing conflicts.

Several means can be employed to obtain a representative parliament, ranging from developing an electoral law that allows adequate representation to the promotion of relations between civil society and parliament.

For the cases of Iraq, Lebanon, Sudan, Yemen and Algeria a review of electoral law is recommended in order to determine built in mechanisms that prevent an adequate presentation of all societal forces, especially minorities. The review may include the design of electoral districts, quotas for certain groups, voting systems, i.e. by majority or proportional representation.

Support for the creation of an independent Electoral Commission could greatly improve the election process, ranging from campaigning to the elections themselves (Lebanon, Algeria).

In order to improve the representation of all society, particular attention could be given to promote mechanisms that allow a greater representation of women in parliament. This would include the assessment of obstacles that prevent women from playing a more significant role in political life. In this context assistance to the creation of cross-party women caucuses could be explored for the cases of Lebanon, Algeria, Sudan and Yemen.

For newly established political systems, such as in Iraq, support could be provided for voter education and for the preparation of legislative elections in December 2005 and for future local elections. Voter education is also important for future elections in Sudan.

For the case of Sudan assistance can be extended to improve the internal organization of parties, the process of candidate selection for elections and the development of party programs.

Assistance could address the improvement of relations between parliamentarians and the electorate by exploring ways of formalizing access of the electorate to MPs and of improving communication between the two (Lebanon, Sudan). In addition assistance could be given to improve the relationship between parliament and civil society in general and access of civil society to parliament in particular (Sudan, Yemen). In order to improve the

relations between parliament and the media support can be given to training media professionals and MPs. (Sudan).

In the case of Iraq it is important to support a conference of national reconciliation to address the legacy of Iraq's past, as the new regime has been installed without a true national dialogue.

The legislative function of parliaments

A parliament that performs its legislative role can prevent conflicts and/or solve them in that it promulgates legislature that promotes peace and stability.

For the case of Algeria support can be extended to strengthen parliament's legislative role, including the improvement of parliaments' capacity to initiate legislation. In this context improvement of legislative functions could target a specific issue. This could cover legislation that addresses the issue of the "disappeared" and human rights, or that of transitional justice and disarmament.

An issue-oriented support program could also be designed that would address some of the issues related to the conflict, such as legislation on defense budget. This has been recommended for the case of Sudan. Similar issue-based support programs can be designed for Iraq to initiate legislation for the protection of minorities, internal security, disarmament of militias and the process of de-Baathification. In the case of Yemen, parliament's legislative role could be strengthened in order to deal with the imbalanced socio-economic development in the country or the increased occurrence of tribal disputes. Assistance for issue-based programs in Lebanon could target legislating laws that promote social reconstruction. Equally important is to strengthen parliament's role in dealing with the completion of disarmament there.

Support could focus on parliamentary committees. This could range from a review of committees and their organization as well as training of committee members. Strengthening the role of committees is recommended for Yemen and Sudan. In addition, in Yemen newly elected MPs could be assisted to strengthen their capacities.

For Yemen there is also need to review the functions, structure and management of the parliament secretariat. Equally important is the training on information management system for parliamentarians and the parliament secretariat there.

The oversight function of parliaments

The strengthening of the oversight function of parliaments is of particular significance, given the dominant executive authority in most of the above cases.

Support programs could include a review of available oversight measures included in the constitution and the extent of their actual use by parliament. Assessment results could be used to design strategies and procedures to maximize the use of the available measures. This is particularly recommended for the case of Algeria.

Equally important is to provide support for the establishment of permanent channels between executive and legislative in order to facilitate cooperation and improve communication between the two authorities, such as for the cases of Yemen, Lebanon, Algeria and Sudan.

For newly established legislatures, such as the case of Iraq, support could be extended to strengthen parliament's role in overseeing government policies. This could also include the strengthening of research services at the parliament. This could be provided for the Sudanese parliament

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