



## **How can Parliaments contribute to the democratic process in the Arab States?** **AGORA Monthly Arab Digest- December 2013**

While the definition of the democracy term is variable, the characteristics of a democratic society are constant as such: freedom, equality and rule of law. A democratic state or country should thus reflect the people's will to govern their economic, political, cultural and social systems and guarantee their full participation. Parliaments are consequently the central institutions of democracy namely because their three main constitutional functions i.e. Representation, lawmaking and oversight reflect the modes or ways by which the democratic process can be initiated and sustained. Parliaments in countries that are undergoing a transitional democratization process have a critical role to play in enhancing the rule of law, transparency and accountability namely through but not limited to security sector reform, transitional justice, institutional reform, constitutional amendment as well as the observation and respect of international treaties and obligations for the protection of human rights. During the second transitional phase, parliaments are essential for consolidating and sustaining democracy. The existence of a representative parliament is vital for ensuring the legitimacy of the state and balance of power. The strengthening of the parliamentary representation in Arab States is a major requirement for increasing the level of public trust in the institution which currently stands at 10% according to the Global Parliamentary Report. Parliaments should engage in a constructive dialogue with citizens and the civil society to respond adequately to their needs. Parliaments should thus reduce the gaps between the public's insight of the MP's role-promote the economy and interests of the constituency- and the parliamentary perception of their roles-lawmaking-.

Parliaments should also work toward the full participation of women, youth, minorities and vulnerable groups in the political and public life for them to be truly representative and inclusive. It has been often said that democracy and development are interlinked and mutually reinforcing. Parliaments through their legislative and lawmaking duties can ensure access to information and freedom of expression which are the core principles of human rights. Furthermore, parliamentarians can employ decisive effect in the development or amendment of laws and policies that characterize inclusive, resilient and sustainable societies by enacting laws that oversee and guarantee the effective use of resources and distribution of wealth to reduce inequalities thus translating economic growth to human development. Parliaments through legislation can also abolish and repeal distortions and provisions that undermine legislative authority. Parliamentary oversight is the third core function of parliaments, a cornerstone of democracy and an indicator of good governance. Parliaments can hold the executive accountable and ensure that policies are implemented in

accordance with the passed legislation. Ensuring operational and financial integrity is key to diminish corruption, a major issue in the Arab states; by challenging the executive, overseeing the budget, leading inquiries into governmental performance, parliaments can improve accountability and responsiveness to citizens needs. Parliamentary institutions and systems reflect nations' particular political and historical contexts yet, given the similarity of challenges, collaboration, exchange of good practices and constructive dialogue will bring great benefit on the local and regional level.

## **Parliamentary Function of Lawmaking**

Parliaments worldwide perform three core functions: to represent citizens interests, to pass laws and to monitor the actions of the government. They perform a legislative function because, in addition to introducing legislation on their own, they have the power to amend, approve or reject government draft laws. This function is strongly linked to the representation function in that it is through the will of the people that the parliament receives its authority in democratic countries.

The exact means by which a parliament is engaged in the lawmaking process varies depending on the type of parliamentary system. In Westminster systems (i.e. - those that derive from the British system), the executive branch of government develops most draft laws and the main role of parliament is to review, amend and pass laws. Individual MPs can introduce draft laws (known as Private Members Bills) but few of these draft laws reach the committee stage and even fewer are ever passed.

In presidential systems, individual MPs have a greater opportunity to produce draft laws before they are reviewed, amended and passed. Some hybrid systems have developed other methods of developing draft laws, including providing authority to parliamentary committees to develop and introduce draft laws and, in rare cases, some parliaments allow citizen initiatives to introduce draft laws for debate.

In most parliaments with permanent committees, proposed legislation is introduced formally on the floor of the house, and then referred to one or more committees with jurisdiction over the legislation. Westminster systems typically hold draft laws on the floor for a second reading and a debate and vote on the draft law "in principle". After this, draft laws are referred to committees where committee members typically work on technical details and amendments.

In presidential systems, draft laws introduced are immediately referred to committee, and those draft laws over which more than one committee has jurisdiction may be referred to multiple committees. An education draft law with financial implications, for example might be referred to both the education and finance committees. In political systems with a very large volume of legislation (more than 10,000 draft laws are introduced each year in the US Congress, for example), most legislation never gets beyond committee.

If the parliament has two houses, draft laws may move through each house simultaneously, or through the houses consecutively. Two house parliaments generally devise methods of reconciling different versions of the draft laws.

For a parliament to be able to efficiently fulfill its legislative function, MPs must have the capacity to read and review draft legislation and amendments in order to interpret any policy changes and analyse proposed new rules. The staff of the parliament, especially committee staff, need to be well trained in **legal drafting and legislative review processes**. Committees also often rely on external expertise to assess the exact scope of a draft law and its consequences from diverse perspectives (for example legal, social, economic or environmental). This external expertise can be from within respective political parties or from academia or civil society.

Legislative strengthening programs for parliaments may have a key component that targets lawmaking capabilities. This type of assistance might include developing parliament-based research services, strengthening library and information systems, supporting the identification and engagement of expert consultants to committees, developing university intern programs for assisting committees, and strengthening legislative-civil society partnerships.

### **Parliamentary Function of Representation**

In democratic parliaments, MPs are elected by the citizens. Some electoral systems upon which MPs are elected are based on geographic constituencies (either single MP or multiple MPs per constituency), while other systems may have formal or informal links to ethnic, religious or other sectoral constituencies through party lists. In either case, for an MP to be successful, the citizens must have some sense that they are being effectively represented in the parliament.

This proximity to citizens is the basis of parliaments' representative function. According to John K. Johnson, writing for the World Bank Institute, "Unlike chief executives, who represent entire nations, or bureaucrats and judges, whose responsibility it is to carry out and interpret the law impartially toward all citizens, legislators are responsible for representing the differences in society, and for bringing these differences into the policy-making arena." The parliament, as the sum total of these differences, is said to represent the beliefs and ideas of a nation.

The representative function of a parliament is characterised by its role as a venue for disparate perspectives, for the expression and debate of issues of local and national importance, and the translation of those debates into policies. For MPs, effective representation requires engaging their constituents in continuing dialogue in order to understand their views and perspectives, and to rely on their knowledge on various topics. MPs must then utilise the powers vested in their office (i.e. legislating, participating in debates, authoring questions, etc.) to voice the resulting ideas. Through the parliamentary

**committees** an MP can use the formal structure of parliament to engage constituents and provide them with direct access to the decision-making process within the institution.

MPs must maintain ongoing **constituency relations** to demonstrate their accomplishments and to seek the input of citizens. Aside from reengaging constituents in dialogue, MPs may also provide other types of constituency services, including casework (i.e. helping to solve constituents' problems), facilitation of access to the executive branch and advocating for resources for the constituency. In a growing number of countries, MPs are provided with **Constituency Development Funds** to allocate limited but significant funding to capital projects that are a priority for the MP and the constituency.

Parliaments must be equipped with the institutional capacities to facilitate the function of representation. Many parliaments have outreach offices that seek to facilitate the flow of information in and out of parliament. They may also contain special services designed to assist the capacity of MPs to communicate with civil society organizations, the government, and other stakeholders. In other parliaments the role of the institution is to provide financial resources directly to MPs and parliamentary groups to enable them to provide staff and facilities in their constituency. More affluent parliaments provide MPs with access to elaborate telecommunications systems and devices to facilitate communication with constituents.

It is also common for parliaments to have bureaus specifically designed to engage other parliaments and institutions from foreign countries. This is known as **Parliamentary Diplomacy** and it allows for an alternative form of international dialogue to state-to-state interactions through the executive branch. There are international and regional networks of parliaments and, alternatively, networks of like-minded MPs, that promote this form of diplomacy.

Effective democratic parliaments conduct **outreach** with citizens on an ongoing basis. A parliament may broadcast its sessions via television or radio, most now have websites, and publications designed to help include citizens in the policy process. Because citizens cannot know how they are being represented if the parliament is opaque and MPs uncommunicative, transparency has an important bearing on the representative function.

### **Parliamentary Function of Oversight**

The parliamentary oversight function is one of the cornerstones of democracy. Oversight is a means for holding the executive accountable for its actions and for ensuring that it implements policies in accordance with the laws and budget passed by the parliament. The robust monitoring of the executive by the parliament is an indicator of good governance. Besides the parliament's legislative function, it is through oversight that the parliament can ensure a balance of power and assert its role as the defender of people's interests.

In both long-established and new democracies, the parliament is given the power to oversee the government through a number of tools and mechanisms. Typically, these tools and mechanisms are outlined in the constitution and other regulatory texts such as the

parliament's internal procedures. The specifics of how a parliament can utilise its oversight prerogative depends upon the existence of a legal framework, which consolidates the position of the parliament as an oversight institution and guarantees its powers and independence within the political system. Thus, while reforming the structure of the political system to increase a parliament's constitutionally given oversight capacities may not always be feasible, in some instances, parliaments can improve their oversight capacities by reforming their own rules. For example, a good practice for committee systems is to assign a single committee to each government ministry. The parliamentary budget permitting, such reforms are usually within the powers of the parliament to implement.

### **Objectives of Parliamentary Oversight**

Parliamentarians conduct oversight in order to:

1. Ensure transparency and openness of executive activities. Parliaments shed light on the operations of government by providing a public arena in which the policies and actions of government are debated, scrutinised, and subjected to public opinion;
2. Hold the executive branch accountable. Parliamentary oversight scrutinises whether the government's policies have been implemented and whether they are having the desired impact;
3. Provide financial accountability. Parliaments approve and scrutinise government spending by highlighting waste within publicly funded services. Their aim is to improve the economy, efficiency and effectiveness of government expenditure; and,
4. Uphold the rule of law. Parliament should protect the rights of citizens by monitoring policies and examining potential abuses of power, arbitrary behavior, and illegal or unconstitutional conduct by government.

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