

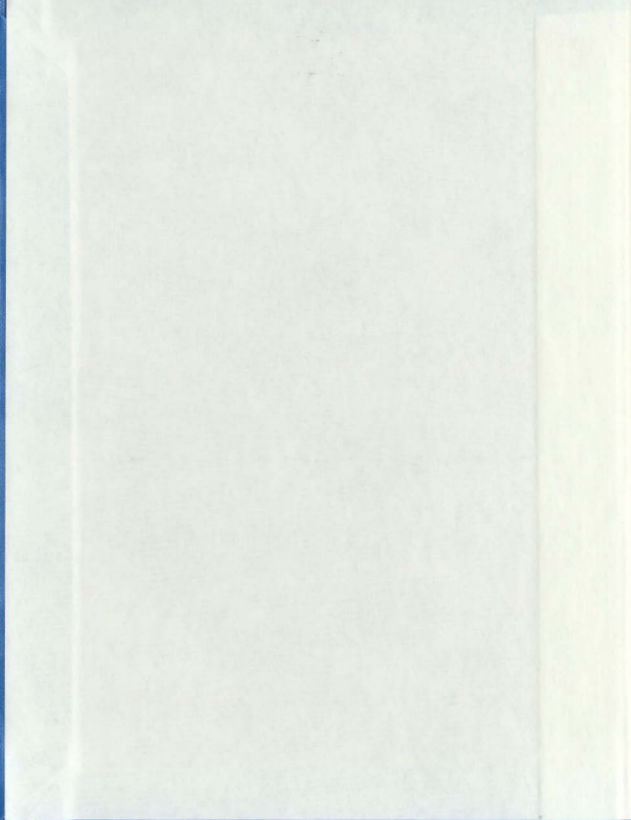
LEGISLATIVE DEVELOPMENT IN NEW DEMOCRACIES:  
GOING THE NEXT STEP

CENTRE FOR NEWFOUNDLAND STUDIES

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E. DEREK BUTLER







**Legislative Development in New Democracies: Going the Next Step**

**by E. Derek Butler**

**A thesis submitted to the School of Graduate Studies in partial fulfillment of  
the requirements for the degree of Master of Arts**

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## **Abstract**

The spread of democracy around the world in the eighties and nineties has given rise to a new industry of development, known as political or democratic development. International organizations, aid agencies, public institutes and private consultants have increasingly turned to the support of elections, political parties, civil society and legislatures. Their work is conducted through technical/material programmes, skills transfers, and conceptual training and education. Academic interest has in turn expanded beyond traditional questions of democratic transition and consolidation to consider this new field of democratic development, but the literature remains limited.

This thesis is an examination of that literature, specifically regarding legislative strengthening in new democracies. The review is enhanced by my practical experience managing political development programmes in transitional legislatures in a number of countries, but focusing specifically on Yemen and Morocco.

In my experience, legislative development does not adequately consider the academic literature. The work is conducted without proper study or reflection. The literature is itself insufficient, but is growing. Nonetheless the work is done despite this gap in knowledge, and is further debilitated by a poor grasp on the internal politics and prospects for democratization in a given country. The conclusion of this thesis is that legislative development, having successfully entrenched itself as a form of development aid, must now go the next step and 'educate' itself to ensure success in achieving its ambitious objectives. In closing, I make particular 'policy' recommendations in this respect.

## **Acknowledgments**

The length of time between the start and finish of this thesis by force lengthens the list of those instrumental in seeing its completion.

Dr. David Close has been an inspiration from my undergraduate days, and was instrumental in my returning to Newfoundland to complete my graduate studies. He, along with Dr. Bill McGrath, formed my supervisory committee and I acknowledge and thank them for their supervision. They along with other faculty in Memorial's Department of Political Science provided much moral support and encouragement, and the occasional threat.

Helen Oliver was departmental secretary for much of my programme, and was a source of laughter and friendship, not to mention administrative support. Thank you to Ruby Banfield as well, who has been with the department of late, for her invaluable assistance in guiding me through the last year and days of my programme.

The list of friends and family who encouraged, exhorted, prayed and threatened is too long to list here, but several merit special mention: Penny Dobbin, without whose prompting I might not have returned the first phone call from NDI, and thereby would have missed the whole adventure; friends and students of MUN Christian Fellowship, who alternatively prayed or puzzled over my studies; the Robertsons, who fed me food, material and spiritual; and Jim Hawkes, MP for Calgary West (1979-1993), who hired me for my first parliamentary job in Ottawa, and brought to life a dream to work in parliament. Thanks also to friends at Calvary Baptist for much encouragement, and to Andréa, for prayers and believing in me.

The staff at the National Democratic Institute for International Affairs became family for a number of years, and their expression of confidence in sending me to Madagascar in the first place, and all subsequent missions, humbles me still. I acknowledge in particular NDI President Ken Wollack and Middle East/North Africa Director Leslie Campbell. There are so many others, including Andreas, Julie, Deborah, Jean, Kim, and Ahmed. Rebecca, I have kept your words. Criticisms of aspects of my experience contained in this thesis are no reflection on the Institute or my experience, but rather counsels for 'going the next step.'

Lastly, I thank my brother and sister for much love, and my parents, one who gave me a love of books, the other a love of people: both gifts make this work possible.

### **Dedication**

This thesis is dedicated to Sandra, a child labourer in Guatemala who I have met - along with her family - on each of my visits to that country. Democratic government, and the legislatures that feature in them, is ultimately for the children. To that I add the people of Yemen. Everyone should visit a Shangri-la; one exists in Arabia Felix.

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## Chapter 1 Introduction, NDI Overview

With the end of the Cold War in the 1980s, American foreign policy has in part returned to the high goals of Wilsonism, in turn giving rise to the development of a democracy promotion component of internationalism.<sup>1</sup> That in turn has spurred the funding of a number of organizations and agencies working to support democracy abroad. The US Agency for International Development, the United States Information Agency, the State Department itself, and a number of agencies such as the National Endowment for Democracy have lent their support to the development of an entire field, if not industry, of democracy assistance.<sup>2</sup>

These efforts include both practical institutional support to parliaments, political parties and electoral systems, as well as support to 'social forces' within civil society. The work is ambitious. It is both high-minded and practical. It also flows from US self-interest.<sup>3</sup>

This thesis is an examination of one component of democracy assistance:

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<sup>1</sup>See Michael Cox, "Wilsonism Resurgent? The Clinton Administration and the Promotion of Democracy," *American Democracy Promotion: Impulses, Strategies and Impacts* editors Michael Cox, G. John Ikenberry and Takashi (Oxford: Oxford University Press, 2000). Also Thomas Carothers, *Aiding Democracy Abroad: The Learning Curve* (Washington: Carnegie Endowment for International Peace, 1999), pp.4-5.

<sup>2</sup>Eric Bjornlund, "Democracy Inc.," *The Wilson Quarterly*, 25.3 (Summer 2001), p. 2. URL: <http://www.wics.si.edu/outreach/wq/WQSELECT/BJOURN.htm>.

<sup>3</sup>Edward Newman, "Democracy Assistance: Motives, Impacts, and Limitations," *Ethnic Conflict Research Digest* 4, 2 (September 2001), pp.1-4, URL: <http://www.incore.ulst.ac.uk/ecrd/newman.html>. See also "Agency Objectives" at URL: <http://www.usaid.gov/democracy/dgso.html>.

legislative development. It considers the academic literature on legislatures in general, and particularly the question of the role of legislatures in democratic development. It also provides a critique of the aid based on that literature, and my experience abroad. It concludes that legislative development could be enhanced by a better understanding of the literature on the role of legislatures in both senses noted above. Legislative development would also benefit from the incorporation of a more systematic approach in the planning and execution of legislative assistance.

My interest in this topic is both academic and professional. I worked in both chambers of Canada's parliament for a number of years, before undertaking graduate studies on democratization in Latin America where I also traveled to observe Guatemala's ongoing transition to democracy. I later worked in Africa and the Middle East in the field of democracy assistance with the National Democratic Institute for International Affairs, one of the pre-eminent democracy assistance practitioners. This thesis is therefore based on both my experiences and my studies, but was prompted in particular by my work abroad. Without my experience, this thesis could not have been done. The questions I raise would not have occurred to me, and I would have undoubtedly read the literature in a different way.

This approach explains the somewhat unorthodox ordering of the chapters that follow. I have profiled the institute I worked for as part of my introduction in this chapter. In chapter 2 I provide sketches of the two countries which serve as case studies - Yemen and Morocco - including their respective legislatures. Chapter 3 is a recounting of my

experience in these countries, and is followed in chapter 4 by a critical assessment of the literature surrounding legislatures and legislative development. My conclusions and recommendations are contained in chapter 5.

Thomas Carothers, a prominent author on related questions, also worked in democratic development and published widely on its strengths and weaknesses. Like him, I have adopted a qualitative methodology, rather than a quantitative one.<sup>4</sup> Carothers's experience is of course more broad, his academic qualifications more extensive, and his work more thorough. My thesis is a much simpler reflection on my work in democracy assistance in two transitional legislatures, considered through the lens of a more limited critical review of the literature.

Additionally, Carothers considers the *results* of the aid programmes.<sup>5</sup> My effort has been to look at more immediate questions, such as the contexts in which my two programmes were executed, and whether or not the assistance given was in fact grounded on anything approaching a proper assessment of where 'we' could have impact.

The thesis concludes that the field of legislative development could be aided by more careful reflection in three different aspects of the work: systematic study, core strategy and assessment. That is, the work could be aided by a more careful study of the countries chosen as candidates for democracy work. Secondly, a core strategy influenced

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<sup>4</sup>Thomas Carothers, *Assessing Democracy Assistance: The Case of Romania* (Washington, DC: Carnegie Endowment for International Peace, 1996), p. 6.

<sup>5</sup>*Ibid.* p.7.

by the American model and concept of democracy is restrictive. Finally, programme assessment (before, during and after programme completion, including of the legislatures themselves) is fundamental to successful democracy assistance, but it is not yet done adequately. I examine these issues in the literature review.

Ultimately, the inadequacies of legislative development are in large measure a consequence of the lack of study and assessment by both practitioners and academics. The work of practitioners is based on a forward-operational focus and lacks adequate assessment and study, which undermines it. The work of academics has focused on questions of democratic transitions and consolidations, but not on democratic development aid. In my concluding chapter, I make several recommendations concerning the practice of legislative democracy assistance, as confirmed in the literature. This thesis remains, of course, a limited analysis. There is much more to study, but legislatures do not get much attention, either their role in transitions or the impact of legislative development aid on them. What I have attempted to do, however, is simply to consider the academic literature that does exist, and draw attention to what might be missing from it and from the practice of legislative aid.

Poorly conceived and designed legislative programmes will have a counter-effect. The donor community will determine that legislative aid does not work, whereas all that might be said - *if* such assistance is really not working - is that *poorly conceived or executed* legislative development programmes do not work. Inasmuch as legislative development programmes are grounded on an incomplete understanding of the politics of

the countries in which they are conducted, of the transitions underway, of the role and history of the legislatures in which they are conducted, of the centrality and capacity of those legislatures in new democracies, they are handicapped from the beginning.

That has been the case with the Institute's programmes in Morocco, and to a much lesser extent, in Yemen. In the words of NDI's former vice-president,

"hopefully....writers...will one day soon examine the ways in which the myriad efforts to enhance the role of legislatures in democratizing countries do or don't actually help."<sup>6</sup>

Additionally, they will need to consider how those efforts are conceived, planned and executed. Democracy assistance is neither inevitable nor futile.<sup>7</sup> But if it is to supplement at all, it will require more thought.

#### ***National Democratic Institute for International Affairs (NDI)***

In 1983 an Act of Congress was passed creating the National Endowment for Democracy (NED) to promote democracy abroad, as a publically funded agency run at arm's length.<sup>8</sup> Congressional leaders, supported by the Reagan Administration, believed that supporting democracy around the world was inherently easier and wiser than dealing with (the aftermath of) authoritarian regimes. The Endowment's broad objectives remain to promote democracy training programmes and institutions, to aid and strengthen

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<sup>6</sup>Thomas O. Melia, Review of *Legislative Politics in the Arab World: the Resurgence of Democratic Institutions* by Abdo Baaklini, et. al. *Middle East Polity* 7, 2 (February 2000), p.5.

<sup>7</sup>Carothers, *Assessing Democracy Assistance*, p.7.

<sup>8</sup>David Lowe, "Idea to Reality: A Brief History of the National Endowment for Democracy," (Washington, D.C.: National Endowment for Democracy, 2001). URL: <http://www.ned.org/about/nedhistory.html>.

electoral processes, generally to foster “cultural values, institutions and organizations of democratic pluralism,” all in keeping with US national interests and indigenous factors.<sup>9</sup> Notably, the statute creating the NED required it to support American organizations that would in turn support democracy abroad: hence, the establishment and growth of democratic development was a key objective.<sup>10</sup>

This in turn led to the creation of a number of quasi-governmental democratic development organizations working at arm’s-length from the government but relying on public funds. These funds are provided principally by the United States Agency for International Development (USAID) in addition to the NED and the US State Department.<sup>11</sup> The two major political parties in the US set up political party institutes - the National Democratic Institute for International Affairs (NDI) and the International Republican Institute (IRI) - dedicated to democratic development abroad. Each has close ties to but is formally independent from its respective party.<sup>12</sup>

The goal of NDI can be summarized as that of strengthening and supporting

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<sup>9</sup>Ibid.

<sup>10</sup>Carothers, *Aiding Democracy Abroad*, pp.30-31. For an assessment of the NED, see Rick Travis, “The Promotion of Democracy at the End of the Twentieth Century: A New Polestar for American Foreign Policy,” *After the End: Making U.S. Foreign Policy in the Post-Cold War World*, ed. James M. Scott (Durham: Duke University Press, 1998), pp.259-260.

<sup>11</sup>Bjornlund, “Democracy, Inc.” p.2. Bjornlund puts the figure at US\$700 million annually, representing 10% of the US aid budget.

<sup>12</sup>Carothers, *Aiding Democracy Abroad*, pp. 32-33. They are similar in some respects to the German party foundations or stiftungen, such as the Friedrich Ebert Foundation and the Conrad Adenauer Foundation.

democracy abroad. The Institute works through the provision of practical political training, sharing political experiences and providing encouragement for democratic governance.<sup>13</sup> It focuses on six functional areas: political parties, civic organization, women's political participation, election processes, governance, and civil-military relations. Perhaps the term **democratic education** captures it most succinctly (though as countries progress in their transitions and move into the consolidation phase, NDI's work has in turn become more sophisticated and therefore technical).<sup>14</sup>

NDI's approach to democratic development work is, the Institute says, unique in three particular respects:

- NDI, along with its Republican counterpart, is the only organization dedicated solely to political development programmes[:]
- NDI's programmes rely on volunteers who donate their time and expertise to support the Institute's hands-on technical assistance programmes[: and]
- NDI has structured its programmes to be multinational, marshaling the talents of expert political practitioners from the United States and around the world.<sup>15</sup>

NDI work is the more distinguishable by the Institute's focus on political processes,

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<sup>13</sup>National Democratic Institute for International Affairs "About NDI: Mission Statement," (Washington, D.C.: National Democratic Institute for International Affairs, 2000. URL: <http://www.ndi.org/about/mission/mission.asp>).

<sup>14</sup>One example of the increasing sophistication (and the move away from democratic education) of the Institute's work to develop a computer network for state legislatures in South Africa. See "Democracy at the Click of a Mouse," *NDI Reports: Review of Political Development in New Democracies* 3 (2001), p. 6. Transition is used in this thesis to refer to regimes undertaking democratic openings but still susceptible to reversal; consolidation generally refers to post-transition democratic challenges, such as embedding of democracy.

<sup>15</sup>"About NDI: Mission Statement," URL: <http://www.ndi.org/about/mission/mission.asp>.

programmes and partnerships. As they acknowledge,

[it] is not a grant-making enterprise, but rather an operational or programme-implementing organization. NDI programmes, usually of a technical assistance nature, concentrate on political processes and on developing partnerships – either on an individual or institutional basis – with those involved in the process of democratic reform and consolidation.<sup>16</sup>

The characterization of the well-known Carter Center as an *action-tank* also applies to NDI. Execution, not reflection, is inherent to the Institute's approach to democratic development.<sup>17</sup> This will be examined more in chapter three.

Four key roles generic to the 'international politics of democratization' (IPD) apply to NDI to different degrees: infrastructure-builders, resource-providers, technical advisers, and service-providers.<sup>18</sup> As a political foundation, NDI can be seen as one of among a set of "enablers and agenda setters who inject resources, empower some actors, and support certain goals in IPD."<sup>19</sup>

The Institute's work on governance (including national legislatures, the topic of this thesis) promotes representative institutions as crucial to democratic society.<sup>20</sup>

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<sup>16</sup> "About NDI: Mission Statement," URL: <http://www.ndi.org/about/mission/mission.asp>.

<sup>17</sup> James M. Scott, "Transnationalizing Democracy Promotion: The Role of Western Political Foundations and Think-tanks," *Democratization* 6, 3 (Autumn 1999), p.152. He (rightly) classifies NDI as a political foundation, much like the German "stiftungs."

<sup>18</sup> Scott, "Transnationalizing...", pp.161-163.

<sup>19</sup> Ibid, p.164.

<sup>20</sup> "About NDI: Mission Statement," URL: <http://www.ndi.org/about/mission/mission.asp>. Governance and democracy are hardly synonymous, and Carothers says governance work is not democracy promotion. But, as he adds, there is some overlap. Democracy assistance practitioners tend to assume good governance includes democracy. Those who conduct good governance programmes - such as the World Bank and other international organizations - mean by governance the encouraging of effective administration, fighting corruption and promoting rule of law. Carothers, *Aiding Democracy Abroad*, p.8.

## Effective democratic governance, according to NDI,

...depends on a professional, accountable, transparent and responsive legislature. The national legislature is the forum where the citizens' representatives -- often affiliated with a wide range of parties -- debate public policy issues and translate policies into laws. There are a number of U.S. government-funded programmes designed to enhance the technical capability and infrastructure of legislatures. NDI programmes, however, are unique because they focus on political organization -- the foundation of functioning legislatures.<sup>21</sup>

In terms of its approach, NDI responds to requests for assistance in the countries in which it works. These requests can come from either local partner organizations, government institutions or personalities (including those within executives or legislatures), or US government contacts such as embassies and USAID missions.<sup>22</sup>

NDI's work in legislatures includes topics such as legislative procedures, oversight, executive relations, party caucuses, and staff functions. It increasingly touches on technical areas such as bill drafting, legislative research and computer and library systems. Programmes may also work to increase public access to a parliament, develop or enhance constituency relations, or build bridges between legislatures and civil society. Since its creation in 1984, NDI has conducted such programmes in over thirty countries.<sup>23</sup>

The Institute is governed by a Board of Directors, comprised mostly of leading

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<sup>21</sup> "About NDI: Mission Statement," URL: <http://www.ndi.org/about/mission/mission.asp>.

<sup>22</sup> The question of how NDI arrives in a given country is considered briefly in chapter 4.

<sup>23</sup> NDI conducted legislative programmes in Albania, Algeria, Argentina, Bangladesh, Benin, Brazil, Bulgaria, Burundi, Cambodia, Central African Republic, Georgia, Guyana, Hungary, Kazakhstan, Latvia, Madagascar, Malawi, Morocco, Namibia, Nepal, Niger (regional programme with legislators from Benin, Mali, and Burkina Faso), Palestine, Poland, Romania, Russia, Slovenia, South Africa, Togo, Ukraine and Yemen, among others. I worked on five of these, including Madagascar, Togo, Yemen, Benin and Morocco. I also visited NDI programmes in South Africa, Namibia, Burundi and Palestine as well.

Democratic Party personalities, and chaired since early 2001 by former US Secretary of State Madeline Albright. Albright served as the Institute's vice-president in its early years before her appointment as US Ambassador to the United Nations.<sup>24</sup> A president appointed by the board manages the Institute on a day-to-day basis, in conjunction with the executive office comprised of a vice-president of administration and other senior management including regional, functional and administrative directors.

The regional directors lead teams of staff from between a half dozen to over a dozen. These teams write the programme proposals and reports, prepare materials for programme seminars or trainings, and provide liaison between the Washington headquarters and field offices abroad. The Institute originally consisted of functional directors for governance, political parties, elections and civic education, assisted by small teams of one or two staff per director to provide resources and to back stop regional teams with materials and advice. NDI has of late begun to move away from this: two former functional directors were replaced with *advisors*. Rounding out NDI staffing are human resources, accounting and administrative staff.

While NDI initially sent staff and trainers abroad on short term missions, as the work (and the funds to support it) grew, the Institute began to set up field offices. There are now over 40 field offices staffed by a combination of expatriate and locally hired staff.

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<sup>24</sup>Thomas Carothers, "Democracy Promotion Under Clinton," *The Washington Quarterly*, 18, 4 (Autumn 1995), p.20. NDI's former president, Brian Atwood, left the Institute to become head of USAID in 1993.

Finally, the Institute's funding for 2000 was approximately US\$30 million. Approximately 85 percent of this came from USAID (including US State Department funds administered *through* USAID). Another 10 percent were funds granted from the National Endowment for Democracy. An additional four to five percent came from the UNDP, World Bank, and European donors such as the British Foreign & Commonwealth Office, as well as private sources.<sup>25</sup>

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<sup>25</sup>Conversation, NDI Staff, Washington, D.C., November 2000.

## Chapter Two      Country Sketches and Legislative Profiles

This chapter provides brief sketches of Yemen and Morocco and profiles of their respective legislatures. While there are similarities in the sketches, each country's respective democratic transition is nonetheless unique. The material and time periods covered reflect this. The chapter concludes with profiles of the legislatures of the two countries.

### Yemen

At the risk of oversimplification, Yemen's democratic opening and subsequent (ongoing) transition are tied almost uniquely to one event: the unification of North and South Yemen.<sup>1</sup> Unity provided the break with past authoritarian models of government. The choice of democracy also reflected the hope that the new model would help "legitimate and cement the union...."<sup>2</sup> A democratic regime had a better chance of withstanding tribal influences.<sup>3</sup> Additional explanations exist, but unity is paramount.<sup>4</sup>

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<sup>1</sup>For a detailed consideration of Yemen's unity, see Joseph Kostiner, *Yemen: Tortuous Quest for Unity, 1990-94* (London: Royal Institute for International Affairs), 1996.

<sup>2</sup>Abdo Baaklini, Guilain Denoeux, and Robert Springborg, *Legislative Politics in the Arab World: The Resurgence of Democratic Institutions* (Boulder: Lynne Rienner Publishers, 1999), p.201.

<sup>3</sup>Jillian Schwedler, "On Democracy, Institution-Building, and the Practice of Power in Yemen," *Yemen Times*, Vol. VII, Issue 46, November 17-23, 1997, pp.1-4. URL: <http://www.y.net.ye/yemetimes-iss46/focus.htm>.

<sup>4</sup>David Nassar, "Evolving Democracy in Yemen: No Surprise After All," *The Washington Report on Middle East Affairs* (July/August 1998), p.54. Nassar refers to the three factors as the end of the cold war (which removed the client-state status enjoyed by the south, thus making unity an economic necessity), unity (which left both former regimes to contemplate and choose a new regime model), and political culture (including tribal groupings which aggregate interests, attitudes and lobby for resources, in addition to the provision for consensual forms of decision-making).

Following unification, Yemen began an ambitious political reform programme, with enhanced press freedoms, competitive political parties, an active civil society, and eventually, national elections. It was a new and unexpected undertaking in a neighbourhood not prone to such developments.<sup>5</sup> The transitional parliament of the unified Yemen was a combined version of the two former national parliaments, headed by a southerner, Speaker Mustapha Yassin No'man. It was made up of the 159 members from the former northern assembly, 111 from the former southern assembly, and 31 newly appointed members drawn from the north and south but in theory representing neither.<sup>6</sup> This resulted in a legislature the size of Canada's House of Commons (301 members) for a much smaller country. Clearly, one of the weaknesses of the new state was the rush to unity. That rush resulted in the failure to clarify the long-term role of south Yemen's former rulers in the new Yemen, in light of their much smaller population. Compounding the inadequate unity negotiations was the moving of the date of unity ahead by six months to head off its critics, thereby worsening an already poorly planned integration. The political foundations simply did not exist.<sup>7</sup>

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<sup>5</sup>There were elements in municipal and legislative reforms undertaken in North Yemen in the early to mid eighties under President Saleh's leadership that can be seen, with hindsight, as precursors to Yemen's democratic opening. Abdo I. Baaklini, *The Legal, Political and Information Dimensions of Yemen's Transition to Democracy: The Role of the Legislature* (Albany, NY: Center for Legislative Development, 1992), pp. 2-3.

<sup>6</sup>Baaklini, *The Legal, Political and Information Dimensions*, p.2, 3. Kostiner says the unified parliament had 320 members; Kostiner, *Yemen: The Tortuous Quest for Unity*, p. 20.

<sup>7</sup>Kostiner, *Yemen: The Tortuous Quest for Unity*, p.21. Kostiner explores in more detail the naive aspirations of the elites in both systems who believed that their high hopes would 'carry the day,' without need for detailed considerations, pacts and well-thought out plans, pp. 22-35.

Parliamentary elections held in 1993 were lauded by the international community, but unification was quickly followed by disunity. Whereas the initial years of unification were based on a negotiated coalition government between the two former ruling parties of the north and south - the General People's Congress (GPC) and Yemeni Socialist Party (YSP) - this changed with the first elections of unified Yemen in April 1993. The former northern rulers, the GPC won 122 seats, short of the required 151 seats for a majority government. The YSP won 59 seats, well short of its own expectations, and in third place behind the Islah - a new northern party composed of Islamic, tribal and business interests - with its 62 seats. The 1990-1993 GPC-YSP coalition gave way to a tripartite one in which the Islah held more cabinet seats than the YSP. The benefits of unity were quickly lost on the YSP.

The YSP's failure to negotiate a long-term presence in the power structures of the unified Yemen left it vulnerable to a simple mathematical reality: with a former population base of some 2.4 million in the former South Yemen, the party could in no way expect to fare as well in a unified Yemen with a combined population of approximately 12 million citizens.<sup>8</sup> In mid-1994, fighting between the non-integrated former northern and southern regiments began, resulting in a brief civil war. The war ended a few months later with the fall of the former capital of Aden to the northern forces, and unity was preserved. President Saleh moved to repair the wounds of war,

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<sup>8</sup>The risks of the proposed elections law down the road were recognized by some, and the predictions came true: the YSP lost seats in the 1993 elections. Baaklini, *The Legal, Political and Information Dimensions of Yemen's Transition*, p. 9.

pardoning all who had fought on behalf of the south, apart from 16 leading YSP leaders who fled the country.<sup>9</sup>

Constitutional reforms were then passed disbanding the presidential council and eliminating parliament's power to choose the president from among the council members. The president would henceforth be directly elected in a general election. The YSP party had its bank accounts frozen, and the party's assets, including the party's headquarters in Sana'a, were seized by the government.<sup>10</sup>

Parliamentary elections scheduled for April 1997 were nonetheless held on schedule, notwithstanding the civil war. The future of the YSP in Yemeni political life was complicated by the influence of party leaders who feared any participation would legitimize the regime. Their leadership lead the party to boycott the 1997 election. The GPC won two-thirds of the parliamentary seats in parliament, while the Islah obtained slightly more than it had in 1993. The lack of a YSP voice in parliament impeded the party's attempt to reintegrate itself into political life following the war. Their absence

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<sup>9</sup>Saleh's gesture was quite magnanimous, and went a long way in easing tensions and ending residual conflict. The 16 exiled YSP leaders were tried in absentia, and the court decision rendered in 1998: 5 leaders received death penalties, 3 received prison sentences of ten years each, 6 were given suspended sentences and 2 men were acquitted. This was a long way from treatment given to the accused in the 1986 civil war in south Yemen, described as a brutal exercise in the settling of political vendettas. *Yemen Country Report on Human Rights Practices for 1998* (Washington, DC: Bureau for Human Rights, Democracy and Labour, US State Department, 1999). Re: the brutality of the civil war in South Yemen in 1986, various conversations with YSP party members and former residents of Aden now living in Sana'a, 1997-1999.

<sup>10</sup>NDI had limited success in lobbying the government to release some YSP monies and party offices. The government argued that the YSP considered former state properties (and monies) in the south as party property, which should now belong to the government of the unified Yemen. The assets were seized following the 1994 war.

later resulted in the failure of YSP presidential candidate for the 1999 election to be approved by parliament.<sup>11</sup>

**Table 2.1**  
**Chronology of Yemen's Recent Political History and Democratic Transition**

Date	Event	Significance
1990	Unification of North and South Yemen	Democratic Model adopted
1990-93	Coalition government of GPC and YSP, two former ruling parties of north and south	YSP assured role in new state despite smaller size of south Yemen electorate
1993	Parliamentary election	First elections in unified Yemen, "democratic event"
1993-1994	Tripartite government, YSP marginalized by Islah after 1993 election results	Unification undermined as one party is alienated
1994	Secession attempt by south, civil war	YSP removed from government
1994-1997	Coalition Government, GPC and Islah	YSP further marginalized from political life, assets seized by government
1997	Parliamentary Elections	YSP boycott, GPS wins two-thirds of seats
1999	Presidential Election	YSP candidate fails to receive parliamentary approval for election
1999	Presidential Election	Saleh wins 96%
2000	Constitutional Referendum	Local government law passed, parliamentary elections postponed and terms of offices for MPs and President extended  Election law routinely violated in administration, barring thousands of opposition voters

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<sup>11</sup> Presidential candidates are nominated to parliament, and must obtain 10% of the votes of members present to run in the subsequent election. I unsuccessfully argued early on that the YSP should run by-elections candidates after the 1997 boycott, to curry favour from parliamentarians in the hopes of getting their YSP candidate approved in a parliamentary vote, should the YSP participate in the 1999 presidential election.

2003	Parliamentary Elections scheduled for April	Third electoral test in transition experience
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Sources: *Yemen: Country Profile, 1999* (London: The Economist Intelligence Unit, 1999). URL: <http://www.nusacc.org/cntryprofiles/ctrprf1999/ye.pdf>; Abdo Baaklini, *The Legal, Political and Information Dimensions of Yemen's Transition to Democracy: The Role of the Legislature* (Albany, N.Y.: Centre for Legislative Development), 1992.

### *Yemeni House of Representatives*

Yemen's House of Representatives is composed of 301 seats. Members were elected every 4 years in a first-past-the-post, single-member district electoral system. The legislature was also unicameral for the period I was in Yemen, despite apparent agreements **before** unification for the establishment of a new second chamber that would give equality to regions within the unified Yemen.<sup>12</sup> Members of Parliament, while receiving more than the average wage in Yemen, are poorly paid. They have no personal staff except for those in leadership positions (speaker and deputy speakers). There is no provision for *per diem* covering travel to or from Sana'a for MPs, and MPs do not have constituency offices, except for a select few who provide them through their own resources. The legislature meets throughout the year, with two weeks of sitting, followed by two weeks of recess (the summer month of August and the holy month of Ramadan are also recess periods).<sup>13</sup>

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<sup>12</sup>The Constitution previously allowed for the establishment of an Advisory Council consisting of 111 members appointed by the President of the Republic, but it had no actual legislative role. Such powers were accorded in a national referendum in February 2001. Its members are still appointed by the President. The parliament previously had a four year term, which was extended to six years in the same referendum. "Proposed Changes to the Constitution," Internet On-line, URL: <http://www.al-bab.com/yemen/gov/amendoo.htm>.

<sup>13</sup>Baaklini, *The Legal, Political and Information Dimensions of Yemen's Transition to Democracy*, pp. 19-20.

Members possess free mandates, that is, they may cross the floor to join other parties after election, and their votes can not be predetermined by party allegiance. There are no term limits, and no provisions for recall of members. Dismissal can only occur in the case of *flagrante delicto*, or if parliament votes to remove a member's immunity.<sup>14</sup>

The parliament is ruled by a presidium consisting of a speaker and three deputy speakers, elected by all parliamentarians in a secret vote in the first session after a general election. The presidium is assisted by a Secretary General appointed by the speaker. The presidium decides on parliamentary business, orders of the day, and committee business. Caucus and committee chairs also participate in discussions of parliamentary business and debate scheduling; in practice, the presidium, led by Sheikh Al-Ahmar, makes most decisions.

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<sup>14</sup>Baaklini et. al., *Legislative Politics in The Arab World*, p. 207.

**Table 2.2**  
**General Election Results - Seats in Yemen House of Representatives**

	1990 Post-unity parliament	1993 election	1997 election
<b>GPC</b>	159 (former parliament of north Yemen)	122	187
<b>YSP</b>	111 (former parliament of south Yemen)	56	na <sup>1</sup>
<b>Islah</b>	NA	66	55
<b>Other</b>	31 <sup>2</sup>	57 <sup>3</sup>	54 <sup>3</sup>
<b>Total Seats</b>	301	301	301

<sup>1</sup> Three 'independent' YSP parliamentarians were also elected, and are shown here as independents. <sup>2</sup> 31 newly appointed members; at least 19 were southerners. <sup>3</sup> Independents indicate those who maintained independent status after the elections, as well as smaller parties. In 1997 most independents soon joined the GPC, bringing that party's total to 224. Several seats remained vacant due to election fraud or cancellation of local polling due to violence. Sources: "Election Watch," *Journal of Democracy*, 4, 3 (July 1993); "Election Watch", *Journal of Democracy* 8, 3 (July 1997); and Baaklini, *The Legal, Political and Information Dimensions of Yemen's Transition to Democracy*, p.3.

There are 19 parliamentary committees, organized along the lines of the executive branch ministries. As one Yemeni parliamentarian told me, they represent the "the kitchen of parliament," where the 'meals' are prepared for plenary debate.<sup>15</sup> Meetings are not infrequent, and open to the public theoretically but conducted in private as a practical matter: committee rooms are small and provide inadequate space for other

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<sup>15</sup>Conversation with member of parliament, June 1997. By this analogy he no doubt meant committees are the heart of the parliament, where the dirty work is done before plenary debates. Most laws are in fact prepared and submitted from the executive branch, so the analogy is not altogether appropriate.

than the committee members.<sup>16</sup>

Committee chairs are chosen by election in the first committee meeting of each session. Chairmanships are distributed on a proportional basis reflecting the composition of parties in the plenary, necessitating some backroom negotiations between party caucus leaders.<sup>17</sup> Membership on committees is determined in theory by survey of members' interests and expertise. In reality, party caucus leaders negotiate assignments with the presidium. This is then submitted to the plenary session for a vote of approval, and must be voted *en masse*.

Committees are comprised of 15 members. Each parliamentarian can serve on only one committee; as of 1999, 257 of the 301 members were assigned. They can attend any committee meeting, but may only vote in committees of which they are members. No provision is made for temporary substitution of members, though permanent replacements are sometimes made at the discretion of the Presidium.<sup>18</sup>

Yemen's committees possess a fair range of powers, reflecting the strength of the parliament in general. Committees may draft legislation but in practice rarely do so given their lack of means, as well as the tendency of parliaments worldwide to defer to

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<sup>16</sup>Parliament does have a prominent voting board installed under a USAID grant, but it is now broken. This is an example of an excessive and inappropriate 'legislative development programme' given the lack of other resources in parliament such as telephones, computers or even photocopiers. The board was recommended by an American legislative assessment in 1992, Baaklini, *The Legal, Political and Information Dimensions of Yemen's Transition*, p.32.

<sup>17</sup>E. Derek Butler, *Yemen House of People's Deputies: Committees Directorate Assessment* (Sana'a: National Democratic Institute for International Affairs, 1997), p.7.

<sup>18</sup>*Ibid*, pp.6-7.

executive branches to perform this function. Draft bills therefore originate with the executive branch, are presented to the presidium for 'scheduling,' and then go before the plenary for debate. They are then assigned to their respective committees by the presidium. Draft bills may in effect be examined in more than one committee, though not concurrently.<sup>19</sup>

Committees consider draft legislation and sometimes consider additional research conducted by the committee clerks. While they invite witnesses from the ministries relevant to the legislation at hand, or from the public at-large, this prerogative is not often exercised, and it is not a subpoena power. Committees may consider written submissions and reports, and the public can also initiate contact with committees on relevant matters. The public can even ask to testify, though it is a rare privilege.<sup>20</sup> Committee work is not generally publicized in the press.

Committees can not amend or modify bills, but can only make recommendations and proposals which are reported to the plenary session where they are considered and voted on. After bills have been debated and voted in plenary session, they are sent to the president of the country for signing.<sup>21</sup> With few exceptions (such as a request on the part of the executive to expedite an urgent bill) all draft bills go through this committee process. There is also provision for the plenary session to revert to what is called in the Canadian parliament Committee of the Whole. In this instance the speaker chairs the

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<sup>19</sup>Butler, *House of Peoples Deputies*, p.4.

<sup>20</sup>Ibid, p.5.

<sup>21</sup>Ibid, p.5.

plenary session, acting as a committee. The decision to deal with a draft bill or matter in this manner is taken by the Presidium.<sup>22</sup>

At present no formal or institutional link exists between parliamentary *committees* and their counterpart ministries. Relations are conducted informally through the clerk, committee chairman or the presidium, depending on the nature and formality of the request. There is however a minister of legal affairs who is considered the channel for communications between the parliament and executive branch in general.<sup>23</sup>

The parliament is on paper a strong one, and it is certainly more active than others in the region. It possesses more than adequate powers to fulfill the range of legislative functions. It can propose any law, call ministers, and initiate debate on any subject. The government's programme, presented by the prime minister, must be approved prior to official installation of cabinet members. The parliament has full investigation and inquiry powers, and can set up committees of such as it sees fit, and empower them to travel around the country.<sup>24</sup>

There are few constraints on parliamentary power in Yemen. One is the provision for dissolution of the chamber by the president. Such a decision requires a national referendum, though this requirement was substantially weakened in the referendum in

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<sup>22</sup>Butler, *Yemen House of Peoples Deputies*, p.4.

<sup>23</sup>Ibid, p.5.

<sup>24</sup>Ibid, p.5.

February 2001.<sup>25</sup> The second relates to a limited presidential veto: laws sent to the president for signing may be returned to parliament, where they can be passed again by a simple majority vote, though this is rarely done. The third constraint relates to the budget. Parliament must either approve or reject the budget in its entirety: it can not amend it.<sup>26</sup> A fourth constraint is the absence of apparent sanctions that go with the ability of committees to summon witnesses or documents, that is, the lack of a subpoena power of parliament.<sup>27</sup> As one analysis suggests, the framing of the powers of the parliament "indicates a desire on the part of the framers of the Yemeni constitution to elevate the legislature relative to the presidency."<sup>28</sup>

In theory this occurred, but its practical effect has been limited. A *Yemen Times* story appearing in June 1998 testified to the increased activism of parliament, saying that it was finally standing up for constituents, that the opposition Islah were finally performing their opposition function, and that government caucus MPs were standing up to their own party in the executive, working more effectively to have their views considered.<sup>29</sup> But ultimately, the parliament possesses limited resources, material and morale. Staff are organized along political lines and often serve party interests over

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<sup>25</sup>- "Proposed Changes to the Constitution," Internet On-line, URL: <http://www.al-bab.com/yemen/gov/amend00.htm>.

<sup>26</sup> Baaklini et. al., *Legislative Politics in the Arab World*, pp.211-212.

<sup>27</sup> Butler, *Yemen House of Peoples Deputies*, p.5.

<sup>28</sup> Baaklini et al. *Legislative Politics in the Arab World*, p.207.

<sup>29</sup>- "Visible Growth in Our Parliament," *Yemen Times*, 8, 27 (June 6-12, 1998), p. 2.

parliamentary ones, and cooperation between parliamentarians and staff is minimal. Members possess relatively little appreciation of their actual powers, and independent voices are controlled by strong party apparatuses.

The speaker and deputy speakers represent the major political tendencies in the country, aside from the YSP. The speaker - a sporadic but reliable ally of the president and head of the tribal confederacy to which the president belongs - effectively blocks parliamentary action that might threaten the executive branch when it suits him. Through his control, the parliament is controlled closely by the executive. Ministers refuse to appear to answer questions, even though parliament has the right to call them.<sup>30</sup> Laws are passed by executive decree when parliament is not sitting; parliament is supposed to review such decrees but does not, refusing to challenge the executive on this matter.<sup>31</sup>

As Yemeni MPs said following a study tour to the Hungarian parliament, their biggest challenge is in achieving a measure of rule of law - by which is meant adherence to parliamentary by-laws and procedures - in their work. Parliament will not be taken seriously until it takes itself seriously as an institution and adheres to its own procedures.<sup>32</sup>

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<sup>30</sup>Baaklini, et. al. *Legislative Politics in the Arab World*, p. 215.

<sup>31</sup>Baaklini, et. al. *Legislative Politics in the Arab World*, p. 208.

<sup>32</sup>Conversation with NDI Staff, Sana'a, Yemen, February 2001. As an example of parliamentary by-laws being surpassed and the work of parliament undermined, one deputy speaker argued that an unconstitutional government decree was preferable to a parliamentary law (and debate) on a revised military service law. In October 1997 I noted the primary need to bring "a measure of 'rule of law' to the plenary sessions and overall work of Parliament....otherwise...MPs...risk falling victim to the orchestrations of those in control and their effectiveness in parliamentary debate, legislative review and oversight is significantly weakened." Butler, *Yemen House of People's Deputies*, p.12.

Burnell notes that assessments of political change in a particular instance are either debated by observers or in turn remain unclear until the event is over.<sup>33</sup> This was true in Yemen. From 1990 and certainly with the first parliamentary elections in 1993. Yemen was undertaking a 'new thing,' and made significant progress: "...within three years. Yemen was able to establish the constitutional framework...within which an elected legislature could function."<sup>34</sup> The civil war of 1994 gave rise to caution, but the country pulled through and a second parliamentary election was held in 1997. Presidential elections followed in late 1999, and then the referendum and local government elections in February 2001.

But suddenly, the democratic bloom wilted. As one government minister told me, the challenge is to maintain current achievements, let alone advance democracy in the country.<sup>35</sup> When a democratic opening can be said to be stalled or reversing is often only determined with hindsight, as Burnell suggests. Political development must often be conducted despite this. Nonetheless, with a clearer assessment of democracy's prospects early on, much effort might have been saved, certainly in terms of our efforts to assist the parliament.

This was revealed by the national referendum conducted in Yemen in February 2001. In it, the president asked for approval to extend his own mandate. Parliament

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<sup>33</sup>Peter Burnell, "Democracy Assistance: State of the Discourse," *Democracy Assistance: International Co-operation for Democratization* Ed. Peter Burnell (Portland: Frank Cass, 2000), p.10.

<sup>34</sup>Baaklini, et. al. *Legislative Politics in the Arab World*, p.218. Yemen's democratic opening was a remarkable and unforeseen development in the region.

<sup>35</sup>Conversation with Yemeni cabinet minister, February 2001, Sana'a, Yemen.

initially voiced its opposition to the changes but eventually acquiesced to the president's proposals in the subsequent national referendum. Their own terms of office were also extended two years. Parliamentary powers were weakened, and an appointed consultative council expanded from 59 to 111 members (all appointed by the president as before). It was also given significant legislative powers, some in conjunction with parliament, but others apparently at the discretion of the president. Furthermore, national parliamentary elections that might have threatened the government's control over the parliament were postponed, in effect extending the term of the sitting parliament retroactively.<sup>36</sup>

## **Morocco**

Unlike Yemen's dramatic opening, Morocco's democratic opening in 1996 requires a wider historical perspective. Independence, the monarchy's orchestration of political parties and elections, and attempts at constitutional reform, all factor into an understanding of Morocco's opening. NDI soon began to consider Morocco as the most promising transition in the Middle East and North Africa, replacing Yemen in the Institute's view. A clearer appreciation for the roots of the transition and Moroccan political history might have qualified that positive assessment.

The historic challenge of the monarchy in Morocco has been confirming its legitimacy. On his succession in 1961, King Hassan II immediately faced challenges to

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<sup>36</sup>—Proposed Changes to Constitution," Internet On-line, URL: <http://www.al-bab.com/yemen/gov/amend00.htm>. See also Brian Whitaker, "Avoiding Elections," *Middle East International* 66 (September 2000), URL: <http://www.al-bab-com/yemen/artic/mei66.htm>.

his rule. His response was predictable: he ran "...a medieval absolutist state."<sup>37</sup> Using tactics of repression, corruption and cooptation, the King ruled through ostensibly participatory and modern institutions like elections, political parties and parliaments.<sup>38</sup> The result was a "...multi-party electoral system...[that] operated essentially as a mechanism to select, control and reproduce a docile, corruptible and dependent political elite."<sup>39</sup> While numerous constitutional referendums allowed the King to claim a certain legitimacy, election results were nonetheless rigged through a "complex mechanism of political cooptation [he] conceived and sustained."<sup>40</sup>

Political parties were therefore orchestrations of political competition and control directed by the palace.<sup>41</sup> Through the Minister of the Interior, who in essence served as Prime Minister, Hassan divided and controlled the parties, determined electoral outcomes, and appointed (and dismissed) the government of his choice. Political parties were helpless:

...political parties in Morocco are too weak to bring about democratic change. While the king's repression and manipulation have contributed to their weakness, they also suffer from two problems of their own making: an ideological wavering between nationalism

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<sup>37</sup> Abdeslam Maghraoui, "Political Authority in Crisis: Mohammed VI's Morocco," *Middle East Report* 218, Spring 2001, p.13.

<sup>38</sup> Ibid, p.13.

<sup>39</sup> Ibid, p.14.

<sup>40</sup> Ibid, p.14. Interior Minister Driss Basri was eventually dismissed by Hassan's son Mohammed VI, prompting Basri 'firing parties' across Morocco. It has been one of the most dramatic developments under the new monarch.

<sup>41</sup> This orchestration results in the atomisation of the parties and public opinion: "au lieu de politiser l'opinion publique, ce fractionnement la démobilitise." Abdelkébir Khatibi, *L'alternance et les partis politiques* (Casablanca: Editions Eddif, 2000), p.22.

and democracy and a structural inability to fulfill their function as mechanisms of mass political integration and representation.<sup>42</sup>

The first elections were held in May 1963, but a poor showing by palace-backed parties led to the annulment of various results and arrests of opposition candidates. By-elections in January 1964 led to a pro-palace majority.<sup>43</sup> The tone was set for politics Morocco-style.

King Hassan responded to economic riots in 1965 by disbanding parliament, banning political party activity, and appointing himself prime minister. The country remained without a parliament for 5 years.<sup>44</sup> The country's second elections in 1970 were boycotted by the opposition, but in any event were rigged heavily in favour of the pro-palace parties to remove any risk of a repeat of 1965. Pro-palace parties won 220 of the 240 seats contested.<sup>45</sup> Electoral meddling ensured "...the parliament [served] as a mere servant of the predatory state."<sup>46</sup>

National elections were postponed again in the mid-seventies due in part to coup attempts against the King, developments in the Western Sahara, and further economic unrest. Parliamentary elections in 1977 were again dominated by palace-aligned

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<sup>42</sup>Abdeslam Maghraoui, "Monarchy and Political Reform in Morocco," *Journal of Democracy*, 12,1 (2001) p.77.

<sup>43</sup>Mary-Jane Deeb, "Morocco," *World Encyclopedia of Parliaments and Legislatures, Volume I* Ed. George Thomas Kurian (Washington: Congressional Quarterly Incorporated, 1998), pp. 467-468.

<sup>44</sup>James Ketterer, *Morocco's New Bicameral Parliament: Democratic Obstacle or Catalyst?* (Albany, NY: Centre for Legislative Studies, 1998), p.4.

<sup>45</sup>Deeb, "Morocco," p.468.

<sup>46</sup>Ketterer, *Morocco's New Bicameral Parliament*, p.4.

parties.<sup>47</sup> Further unrest led to yet another postponement of national elections, to September 1984. Again, the palace-backed parties did well.

By the late 1980s, economic pressures, increasing political dissatisfaction and the growing Islamic threat led Hassan to extend efforts to liberalize the regime while at the

<b>Table 2.3</b> <b>Chronology of Morocco's Recent Political History and Democratic Transition Events</b>		
<b>Date</b>	<b>Event</b>	<b>Significance</b>
1956	Independence from France	Constitutional monarchy, monarch possesses full discretion in appointing government
1961	King Hassan II accedes to throne	
1962	Constitutional Referendum	"Introduction of the hereditary principle of royal succession. This principle represented a break with the centuries-old tradition of conferring popular legitimacy on new sultans."
1963	Parliamentary Election	Country's first elections, palace backed parties do poorly, numerous opposition candidates arrested. By-elections in 1964 give palace parties control.
1965	Parliament disbanded	Economic riots lead to suspension of parliament by Hassan, who becomes prime minister and bans party activity
1970	Constitutional Referendum - July	Parliament banned from debating Royal Decrees
1970	Parliamentary Election - August	Palace-backed parties win 220 of 240 seats
1971-72	Coup Attempts	Erosion of public confidence, military attempts two coups
1972	Constitutional Referendum	Referendum following coup attempts, additional powers given to parliament, inquiries into King's businesses barred
1975	Parliamentary Election postponed	Economic riots and unrest lead to postponement of national elections
1975	Reclamation of Western Sahara	Hassan-led national march to claim the disputed Western Sahara for Morocco, mobilizes national support
1977	Parliamentary Election	Palace-aligned parties win again
1984	Parliamentary Election	Palace-aligned parties maintain control. Elections had been postponed in 1982.
1989	National Referendum	Referendum to extend parliamentary term of members elected in 1984 by two years.
1993	Parliamentary Election	Hassan fails in attempts to appoint opposition parties to government, despite changes in constitutional referendum in 1992.

<sup>47</sup>Deeb, "Morocco," p.468.

1996	Constitutional Referendum	Bicameral parliament introduced as concession to opposition political parties, and enticement to consider accepting role in government
1997	Parliamentary Election	Opposition parties win fewer seats than previous election, but accept in principle idea of assuming power if appointed.
1997	'Alternance' Begins	Yousouffi is first 'opposition' prime minister, "which institutes the principle of change-over of political power for the first time in the history of the Kingdom." <sup>42</sup> Coalition includes palace-backed parties.
1999	King Mohammed VI assumes the throne	Appointment of progressive 'king of the people' who states intention to follow Spanish model of constitutional monarchy.
2002	Parliamentary Elections Scheduled	Test of 'alternance': In the words of the current prime minister, these will be "les premières consultations libres et transparentes du Maroc indépendant." <sup>43</sup>

<sup>42</sup>Omar Bendourou "Power and Opposition in Morocco" *Journal of Democracy* 7,3 (1993), 108-122.

<sup>43</sup>"History of Morocco," Ministry of Communications, Rabat, Morocco. URL: <http://www.mincom.gov.ma/english/generalities/history/history.html>. <sup>44</sup>Abderrahmane El-Yousouffi, Address to Moroccan National Media, Rabat, Morocco, 10 January 2002. URL: <http://www.pm.gov.ma/fr/magazine/actualite/lire.asp?clef=22173812>: "the first transparent and free consultations in an independent Morocco." Sources: Mary-Jane Deeb, "Morocco" *World Encyclopedia of Parliaments and Legislatures* Ed. George Thomas Kurian, (Washington: Congressional Quarterly Incorporated, 1998), pp.467-468; "Morocco Index," ICL, URL: [http://www.uni-wuerzburg.de/law/mo\\_index.html](http://www.uni-wuerzburg.de/law/mo_index.html); and *Morocco: Country Profile, 1999-2000* (London: The Economist Intelligence Unit, 2000).

same time ensuring his role as guarantor of the state and commander of the faithful.<sup>48</sup> In an attempt to orchestrate an *alternance*, Hassan offered the government to a coalition of opposition parties following the 1993 elections, but the king was rebuffed. He turned to his old tactic of constitutional reform.

In 1996 a national referendum - the fourth such referendum since assuming

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Bruce Maddy-Weitzman, "From Hassan to Mohammed: A New Era for Morocco," *Policy Watch*, 401 (30 July 1999). URL: <http://www.washingtoninstitute.org/watch/Policywatch/policywatch1999/401.htm>. A national referendum in 1989 extended the term of office of the 1986 parliament by two years, as Hassan no doubt contemplated growing dissent. For a consideration of the contradictions in perceptions of the monarch as symbol of unity while also corrupt and the personalization of authoritarian rule, see Maghraoui, "Monarchy and Political Reform in Morocco."

power - was held, to entice the opposition parties to participate in government.<sup>49</sup>

Changes included a directly elected lower house of parliament to replace the existing house, one-third of whose members were appointed by the monarch. A second chamber called the *chambre des conseillers* (Chamber of Councillors) was also introduced, to be elected through a system of electoral colleges representing trade councils, professional associations and unions.<sup>50</sup> The constitutional changes passed with a vote of 96 percent.<sup>51</sup> Ultimately, though, the changes did little to reduce the powers and prerogatives of the monarch.

The parliamentary elections which followed were reported to have been among Morocco's fairest. While no party won a majority, the opposition parties fared well, and in February 1998 King Hassan appointed Abderrahmane Yousoufii as Prime Minister. Yousoufii was head of the Union socialistes des forces populaires (USFP), a leading opposition party. He had gone into exile following the 1993 national elections, after Hassan's failed bid to entice the opposition to accept the charge to form a government. Following his appointment as prime minister, Yousoufii proposed a cabinet drawn from

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<sup>49</sup>Deeb, "Morocco," p.469. National constitutional referendums were held in 1962, 1970, 1972, 1992, and 1996. Three additional referendums were held to modify particular articles of the constitution, and a fourth to vote on joining the Arab-African National Union. See also URL: [http://www.mincom.gov.ma/english/generalities/state\\_st/election.html](http://www.mincom.gov.ma/english/generalities/state_st/election.html).

<sup>50</sup>For more, see Ketterer, "From One Chamber to Two: The Case of Morocco," *Second Chambers* Eds. Nicholas D. Baldwin and Donald Shell (Portland: Frank Cass Publications, 2001), pp.135-150.

<sup>51</sup>Only one opposition party - the Organization de l'action démocratique et populaire (OADP) - opposed the changes. They were subsequently subject to government harassment and internal divisions that split the party. Interview with member of the OADP executive, OADP Party Headquarters, Casablanca, Morocco, 12 May 2000.

seven different political parties, mostly from the 'Koutla' or opposition coalition, but also including a palace-aligned party, the Rassemblement national des indépendents (RNI).<sup>52</sup> The hand of the monarch still weighed heavy in Moroccan politics.

### ***Moroccan Parliament: Chamber of Representatives***

The Moroccan parliament is bicameral and comprised of a directly elected Chamber of Representatives and a new indirectly elected Chamber of Councillors, the result of the new constitution passed in a referendum in 1996. The previous unicameral chamber was two-thirds elected, with the remaining one third appointed by the king. The current lower house is comprised of 325 members, elected in a single member district, first-past-the-post system. There are currently 10 party caucuses in the chamber ranging from radical left-wing to moderate-centre.<sup>53</sup> The chamber is led by a speaker elected in the first plenary meeting. He heads the presidium which consists of six house officers - himself and deputy speakers - and other parliamentarians (called *Oumana*, a traditional Arabic word meaning 'trusted counselor') who are elected by the plenary session.<sup>54</sup>

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<sup>52</sup>The cabinet is made of seven different parties, but is supported by two others in parliament who do not have representatives in cabinet. *Europa: Middle East and North Africa Year Book 1999* (London: Europa Publications, 1999) and *Country Profile for Morocco: 1999-2000* (London: Economist Intelligence Unit, 1999).

<sup>53</sup>Sixteen parties contested the elections, with 12 electing members, but two - the OADP and MPCD - did not have sufficient MPs elected to constitute caucuses. Khatibi, *L'alternance et les partis politiques*, p.21.

<sup>54</sup>Conversations with parliamentary staff, Chamber of Representatives, Rabat, Morocco, June 2000.

The prerogatives of the lower chamber include the ability to propose legislation, amend laws, and question ministers orally and in writing. It can also hold a vote of confidence in the government programme when it is first constituted, and can dismiss the government by a simple majority vote. Theoretically, preeminence is given to the lower chamber, but the upper chamber has also been given the power to censure the government (a power shared by only two other upper chambers in the world, in Italy and South Africa).<sup>55</sup> The upper chamber can therefore dismiss the government by a two-third's vote, initiate legislation, conduct inquiries, and issue a warning motion which obligates the prime minister to appear before the chamber in defense of the issues contained in the motion.<sup>56</sup> The lower chamber does not share this power.

There are six permanent committees in the Moroccan lower house, consisting of 54 members each, making them unwieldy. They are broadly divided by the following themes: foreign affairs, justice, interior, finance, resource industries and social and Islamic affairs. Ad-hoc committees on special matters may also be constituted by the house, either at the request of the monarch or the majority of members of the house. Committees membership is proportional, based on party membership in the chamber, and each parliamentary group proposes its members. Any deputy can attend any committee meeting and participate in debate, but may not vote. Chairpersons are elected

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<sup>55</sup> Articles 76-77, *Constitution of Morocco, 1996*. URL: <http://www.al-bab.com/maroc/gov/con96.htm>.

<sup>56</sup> National Democratic Institute for International Affairs, *Legislative Baseline Data* (Rabat, National Democratic Institute for International Affairs, December 2000), p.6.

by the plenary, also on a proportional basis.

All bills must be considered in committees before being voted in the plenary session. As with most parliaments, the majority of bills originate with the executive branch, though the Moroccan chamber is active in this respect. Bills are scheduled for house consideration by the board or presidium of parliament.<sup>57</sup> Committees can also subpoena witnesses or documents. This was done recently in a special inquiry of a banking scandal in Morocco, but it is a rarely exercised power: the inquiry is only the second in the history of Morocco's parliament.<sup>58</sup> Committees may invite experts as part of their consideration of bills, though this is not current practice. Committee meetings are, unfortunately, closed to the public.

<b>Table 2.4</b>		
<b>General Election Results - Seats in Moroccan House of Representatives</b>		
	<b>1993</b>	<b>1997</b>
USFP	48	57
RNI	28	46
UC	27	50
PI	43	32
MP	33	40
MDS	NA	32

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<sup>57</sup> A fair number of bills DO originate in the parliament, more so than in most parliaments; their chance of actual passage is reduced compared to government bills. Chamber of Representatives, Legislative Services Division. *Bilan général des projets et des propositions de lois* (Rabat, Morocco: Legislative Services Division, August 2000).

<sup>58</sup> Conversation with Chairman, Foreign Affairs Committee, Chamber of Representatives, December 2000.

MNP	14	19
PPS	6	9
PND	14	10
PJD	NA	9
FFD	NA	9
Other	1111	12
Total Seats	333	325

<sup>1</sup> Elected indirectly through professional associations, unions and local administrations

Sources: "Elections Watch," *Journal of Democracy*, 4, 2 (October 1993); Kevin Johnson and Arsala Deane, *Consultations with Moroccan Political Parties and Civic Organizations: Trip Report: October 18 to 31, 1997*. (Washington, DC: National Democratic Institute for International Affairs, 1997), p.23.

A secretary general (or 'head' parliamentary clerk) is appointed directly by the king, to whom he owes allegiance. Ultimately this impeded our work as the secretary general of the parliament was strongly opposed to NDI's presence.

There are numerous constraints on the lower house's powers - besides the upper house - all of which reflect the subordination of parliament to the monarch. First, there are no limits on the king's legislative authority, whereas the parliament possesses a limited authority on questions of defense, religion, and the monarchy. Second, the parliament possesses only a limited veto, whereas the King can ultimately submit legislation to national referendum and thereby contest the legislature's will. Third, the king can dissolve parliament and rule by decree, a power that has been exercised twice since 1965. Fourth, the king sets the date for parliamentary elections, sometimes

postponing them to the advantage of palace-aligned parties.<sup>59</sup> Finally, the king is under no obligation to appoint a prime minister based on the parliament's composition.<sup>60</sup>

Morocco's new parliament remains perhaps the most predisposed to democracy in the country's history, with less of a built-in bias to favour the palace than the previous parliament.<sup>61</sup> Yet at worst the parliament risks serving as part of a facade in an authoritarian regime.<sup>62</sup> NDI itself noted in one of its reports that Morocco's political parties (and their resulting placement in parliament) are a simple manifestation of the political will of the king.<sup>63</sup> Still, NDI felt the country's democracy was progressing, and reported that most Morocco watchers were optimistic about the democratic advances made there.<sup>64</sup> Many observers thought precisely the opposite. Assessments of longtime Morocco watchers such as Catherine Sweet, Gregory White and Guilian Denoeux were less optimistic.

Denoeux also wrote that electoral fraud in Morocco suggests parliamentary seats

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<sup>59</sup>Guilain Denoeux, *Democracy Assessment of Morocco* (Washington: Management Systems International, August 1998), p.87.

<sup>60</sup>Denoeux, *Democracy Assessment of Morocco*, p.88.

<sup>61</sup>Gregory White, "The Advent of Electoral Democracy in Morocco? The Referendum of 1996," *Middle East Journal* 51, 3 (Summer 1997), p.393, as cited in Ketterer, *Morocco's New Bicameral Parliament*, p.9.

<sup>62</sup>Ketterer, *Morocco's New Bicameral Parliament*, p.2.

<sup>63</sup>National Democratic Institute for International Affairs, *Programme de renforcement des partis politique au Maroc* (Rabat: National Democratic Institute for International Affairs, 29 May 2000), p. 1

<sup>64</sup>National Democratic Institute for International Affairs, *CEPPS:NDI Quarterly Report: January 1 to March 31, 1999 Morocco: Enhancing Legislative and Political Party Capacity* (Washington: National Democratic Institute for International Affairs, April 1999), p.2.

are given out in a quota system before ballots are ever counted.<sup>65</sup> Catherine Sweet called the Moroccan parliament "...a classic pseudo-democratic institution..." that added to the regime's powers rather than limiting or controlling it.<sup>66</sup> Another academic who observed the Moroccan elections in 1993 reported in the *Middle East Report* that the results were determined by the King before voting had even started, and resulted in a powerless parliament.<sup>67</sup> The International Foundation for Electoral Systems monitored the 1993 elections in Morocco and reported "...elections are no mechanisms of fundamental change in Morocco because the Palace wields ultimate power."<sup>68</sup>

According to a more recent assessment, Morocco's changes are thus far finely tuned manipulations giving only the appearance of change.<sup>69</sup> Even with a new king, optimism is not abundant: "the main structure of government and the handling of power will remain more or less the same. Power will be exercised much in the same way as

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<sup>65</sup>Guilain Denoeux and Abdeslam Maghraoui, "King Hassan's Political Dualism in Morocco," *Middle East Policy*, 5, 4 (January 1998), p.113.

<sup>66</sup>Catherine Sweet, "Democratization with Democracy: Political Openings and Closures in Modern Morocco," *Middle East Report*, 31 (Spring 2001), p.24.

<sup>67</sup>Henry Munson Jr., "International Election Monitoring: A Critique Based on One Monitor's Experience in Morocco," *Middle East Report*, Winter 1998. Munson notes that inadequacies in the conduct of the 1993 election (such as the government's failure to release official local vote tallies) were repeated in the 1997 elections.

<sup>68</sup>Thomas C. Bayer, *Morocco, Direct Legislative Elections, June 25, 1993: Report of the IFES Monitoring and Observation Delegations* (Washington: International Foundation for Electoral Systems, 1993), as cited in Munson, "International Election Monitoring," *Middle East Report*, p.3.

<sup>69</sup>Karim Mezran "Morocco after Hassan II," *Middle East Intelligence Bulletin*, 2.8 (5 Sept. 2000), p.1.

before with only minor changes to make its facade more appealing to the outside.”<sup>70</sup>

According to Ketterer, the closest observer of the Moroccan parliament, the new bicameral parliament was an attempt on the part of King Hassan to remove the monarchy from political battles by setting up the indirectly elected upper chamber as political counterweight to the directly elected, more representative, lower chamber, which he had to offer as a concession to the opposition. As White and Ketterer both note, Hassan faced the challenge of incorporating political parties in a regime of questionable legitimacy: the new parliament was not the resolution of the alienation, but rather the method of cooption.<sup>71</sup>

The risk that the new bicameral parliament will be used to simply maintain an authoritarian system with democratic window-dressing has therefore been acknowledged. A debate is even underway in Morocco on the role of the second chamber in impeding democracy, and certain voices from both political parties and the national media are calling for its abolition.<sup>72</sup>

Logic suggests that the parliament is simply the new tool for cooption. Judging

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<sup>70</sup>Mezran, “Morocco after Hassan II,” p.2. See also Michael J. Willis, “After Hassan: A New Monarch in Morocco,” *Mediterranean Politics*, 4, 3 (Autumn 1999), and Zakya Daoud and Abderrahum Kader, “Activisme du monarque, immobilisme du gouvernement: le Maroc change-t-il vraiment?” *Le Monde Diplomatique* (February 2000), p.14.

<sup>71</sup>Ketterer, “From One Chamber to Two,” p.136. In this article Ketterer leans to the glass-half full side of the analogy, and suggests the new bicameral parliament addresses concerns of representativeness and stability not adequately covered in the previous unicameral parliament.

<sup>72</sup>Abdelaziz Jazouli, “Trois scènes parlementaires” *Le Temps du Maroc*, 242 (16 June 2000), p.3. Also, Ketterer, “From One Chamber to Two....” Both the PPS and OADP have as part of their electoral platforms the abolishment of the upper chamber.

from the results of the 1997 election - and Prime Minister Yousouffi and the opposition's record in power thus far - this is precisely what has happened.<sup>73</sup> The parties have once again been co-opted into the regime's balancing act. The directly elected lower house is impeded by the upper chamber, the opposition has been brought into power without possessing true legislative authority, and the ministers serve the king, not the parliament. The parties that comprise parliament are themselves the king's creations, "as he simultaneously perpetuates their existence and fragments them."<sup>74</sup> The parliament is simply one more part of the puzzle as the monarchy and the elite work to ensure their own stability and legitimacy.<sup>75</sup> The detachment of the Moroccan civil society from the institution is understood in this context.<sup>76</sup> The final reality is parliament has a historic record of subservience to the monarch that will be hard if not impossible to overcome, and the majority of Moroccans are understandably skeptical that things will change.<sup>77</sup>

Parliament faces a constitutional bias favoring the king, not to mention the history of a manipulated electoral and political party system. Constitutional provisions ensure the monarch is the ultimate voice in Moroccan politics, and numerous constitutional provisions allow for laws passed by parliament to be vetoed. Royal

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<sup>73</sup>Ali Lmrabet, "Pourquoi a-t-il changé?" *Demain* 27 (2000), pp.10-12.

<sup>74</sup>Ketterer, "Morocco's New Bicameral Parliament," p.15.

<sup>75</sup>As one academic noted, Hassan II orchestrated every constitution of the kingdom to ensure both the monarch's place in the state and "the subordination to it of all other political institutions, whether legislative, executive or judicial." Bendourou, "Power and Opposition in Morocco," p.109.

<sup>76</sup>Conversation with Moroccan parliamentarians, London, UK, December 2000.

<sup>77</sup>Maghraoui, "Monarchy and Political Reform in Morocco," p.75.

prerogatives and administrative maneuvers emasculate the parliament.<sup>78</sup> Ketterer is right: "Unless Morocco can peacefully generate politically representative institutions, the democratization process will likely remain in the hands of predatory rulers whose commitment to the process is tenuous...."<sup>79</sup> The politics of present-day Morocco remains much like that of the Morocco of the independence era: nothing has really changed except perhaps the face of the regime.<sup>80</sup>

The above history therefore provides a background to the democratic transitions underway in Yemen and Morocco, including brief overviews of their respective legislatures, and the environment in which I conducted legislative development. Even such a cursory overview as I have provided here would have been invaluable to me had it been available when I began my work, as an explanation of the origins of the democratic openings in the respective countries. Moreover, it might have influenced NDI not to work with the parliament, in Morocco in particular.

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<sup>78</sup>Ibid, p.76.

<sup>79</sup>Ketterer, "Morocco's New Bicameral Parliament," p.13.

<sup>80</sup>Mark Hubbard, *Warriors of the Prophet: The Struggle for Islam* (Boulder: Westview Press, 1998), p.98.

### **Chapter 3**

### **My Work Experience**

This chapter will provide an overview of my experience working with the legislatures of Yemen and Morocco conducting long-term legislative programmes, for two and a half and one year respectively. This chapter will provide the background leading to the critical assessment of the literature to follow in chapter 4. While I am focusing on Yemen and Morocco, my first experience in the field of legislative development was leading a two-month programme in Madagascar in early 1996. This was followed by my participation in an NDI assessment of the National Assembly of Togo, helping the Institute determine what programme it might conduct in that country. I am however limiting my consideration to the long-term programmes on which I worked as the Madagascar and Togo programmes were both of shorter durations.<sup>1</sup> I will draw on the Madagascar experience briefly in the closing chapter.

My job in Yemen and Morocco was to administer the Institute's programmes in each country, in all its facets. Field representatives organize the activities that make up the Institute's work, provide consultations and documentation to partners, represent the Institute in diplomatic and government meetings. Duties also included extensive programme management and administration such as managing in-country budgets, writing weekly or bi-weekly political and programme reports to NDI in Washington, and providing input into the planning for future programmes. In summary, the position

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<sup>1</sup>Madagascar was in fact in a two-month programme to execute a legislative assistance programme, whereas Togo was a 10-day mission to assess needs and opportunities for a legislative assistance programme.

involved both the organization and facilitation of NDI's programmatic work as well as 'public relations' type activities including outreach to other international organizations and negotiations with local actors and government officials.

Specific written terms of reference are sometimes given to field representatives before their placement in the field. Representatives also visit NDI's headquarters in Washington to meet with staff and to obtain background to NDI's work. No specific terms of reference were drafted for my placement in either Yemen or Morocco, though briefing 'binders' were supplied. These contained limited programme information and political background about the country, and one or two academic articles on some aspect of the country's politics. Neither, remarkably, contained information about the respective legislatures in which I would work. Each of NDI's programmes is the fruit of a particular programme proposal (and these were included in the briefing materials).

Neither the Yemen nor Morocco programmes were based on assessments, unlike NDI's work in Madagascar and Togo.<sup>2</sup> The lack of either a comprehensive or even cursory assessment of either country's parliament (though the Institute worked in both countries before my arrival) detailing their powers or functions, is revealing.<sup>3</sup> Also,

given that I arrived in both countries after programme activities had already been

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<sup>2</sup>I look at the issue of assessments in the next chapter.

<sup>3</sup>An NDI team did visit Morocco in 1997, but no parliamentary assessment was conducted. See Johnson and Deane, *Consultations with Moroccan Political Parties*.

defined, my ability to adjust them was limited.<sup>4</sup>

## **Yemen**

NDI's work in Yemen began with a short-term observation mission to the 1993 elections. A long term presence began in 1996, training political party poll watchers for the 1997 parliamentary elections. NDI followed with an election observation mission to the April 1997 parliamentary election, leading to my placement as the first permanent field representative in May 1997.

The Yemen programme was initially a nine-month political party programme, but on being hired I was directed to attempt to work with the legislature, *not on the basis of any needs assessment*, but on the basis of perceived need or NDI's instinct that this was the area in which the Institute should now work. While NDI felt the 1997 elections were a positive step in Yemen's transition, they had resulted in a parliament heavily favouring the governing GPC, which had won two-thirds of the seats. The government's control of the legislature had therefore increased, and the opposition's significantly weakened. NDI felt that the parliament could benefit from NDI support on parliamentary functions and general training.

The high percentage of new members - 170 of 301 members were new after the 1997 elections - meant most parliamentarians had no training or experience in

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<sup>4</sup>This was less true in Yemen, where the duration of my in-country placement allowed me to have substantial input into subsequent programmes.

parliamentary affairs, and had a limited notion of the role and function of parliament. Their work was further impeded by inadequate material resources. NDI's goal was to strengthen the capacity of deputies to perform their duties through basic parliamentary training on topics including committee functions, caucus organization and staff functions.

The work was undertaken in what came to be called a 'parties in parliament' approach: working with parties but concentrating on their caucuses and work in parliament as opposed to parties outside the parliament.<sup>5</sup> In anticipation of our programme (and the absence of any knowledge about the parliament) I conducted a hasty assessment of the parliamentary committees directorate, including a review of internal by-laws, the presence of material resources, and staff education levels.<sup>6</sup>

My work was initially aided when I discovered an assessment of the Yemeni legislature written by a Dutch parliamentary clerk in December 1996, conducted under the auspices of the Inter-Parliamentary Union in Geneva.<sup>7</sup> The assessment was a

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<sup>5</sup>At the same time NDI conducted party work outside the parliament, with the YSP, the GPC and the Islah, as well as with the Supreme Coordination Council, a coalition of smaller opposition parties.

<sup>6</sup>Butler, *Yemen House of People's Deputies*, p.2.

<sup>7</sup>Albert J.B. Hubert, *Report of the Needs Assessment Mission to the House of Representatives of Yemen: 8-19 December 1996* (Geneva: Inter-parliamentary Union, 1996). While a flawed assessment, this is the kind of information that could have been in the briefing books for field representatives, as well as the Baaklini study of the parliament, "The Legal, Political and Information Dimensions of Yemen's Transition to Democracy."

precursor to a large parliamentary strengthening programme to be funded by the UNDP.<sup>8</sup>

It was a technical analysis of the parliament, dealing mostly with questions of material resources. Nonetheless the author offered an assessment of the capacity and centrality of the Parliament at the same time, writing "I found a well-run and effective Parliament. It is a real power in the land, not a figurehead or rubber-stamp. It is active and apparently well-appreciated by the constituents....Proposals are sometimes really amended and occasionally even rejected....Plenary sessions are conducted in a professional manner."<sup>9</sup> Nothing in the report substantiated that positive assessment (if it were true, a well-run, effective, powerful, active, well-appreciated legislatures that even occasionally amended or rejected government bills would not, one assumes, require international assistance).

The reality was different. The parliament was often by-passed by cabinet decrees, constituents had no access to parliament, and plenary sessions were haphazard and did not follow the by-laws. A situation analysis such as the one above, on which the assessment was based, was entirely flawed.<sup>10</sup>

Erroneous, misinformed, and ill-researched, the report also ignored the politics of the chamber. It was conducted five months prior to the 1997 election, and therefore failed to take into account the political configuration of the new parliament, including

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<sup>8</sup>The programme budget was just over US\$1 million, and NDI eventually applied to execute approximately \$360,000 of the programme. United Nations Development Programme, *Yemen, Governance Capacity and Institutional Reform*, (Sana'a: United Nations Development Programme, 1997), YEM/97/400.

<sup>9</sup>Hubert, *Report of the Needs Assessment Mission*, p. 4.

<sup>10</sup>*Ibid.* p.22.

the non-presence of the YSP, which had boycotted the election. No mention was made of the political configuration of the parliament even at the time the report was written: neither the number of parties represented nor the presence of independent parliamentarians was noted.

The assessment noted that most committees had to make do with traditional cushions lining the walls of committee rooms, in the absence of budgets for furniture. A recommendation was made for budgets to be accorded for the purchase of tables and chairs.<sup>11</sup> This is not an issue of 'make do' but rather the traditional form of seating in Yemen. The report also stated that committees had real influence, and yet was unsure how many committees there were.<sup>12</sup>

Ultimately, the assessment focused on material needs of the staff, rather than assessing powers and prerogatives of parliamentarians, staff capacity or educational backgrounds, or parliament's overall power or capacity in relation to the executive branch. Material needs were indeed great, with few computers, limited office space, and poor staffing procedures and remuneration. The report recommended 20 new photocopiers, 50 computers (20 to include CD-ROM and modems for internet access), at least 20 printers, and two flatbed scanners. It said "Parliament seems to be able to really

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<sup>11</sup>Ibid, p.8.

<sup>12</sup>Hubert, *Report of the Needs Assessment Mission*, p.5. The report also noted that 'surprisingly' the parliament had no public gallery, and said the parliament should consider one as a means of increasing both transparency and goodwill. Parliament does indeed have a rarely used public gallery above the plenary chamber (used by the media and less frequently NDI staff). A separate diplomatic gallery is on the floor of the chamber at the opposite end of the chamber. The issue with the public gallery is one of limited access.

operate these..systems.....All departments...can put more computers to use.”<sup>13</sup> No evaluation was made of who could use computers or for what purpose. During my own visit to the Committees Directorate, I discovered three computers, two were not in use. When I asked why, I was told no one knew how to operate them.<sup>14</sup>

The problem of the parliament, as I began to say in Yemen, was not a ‘flat-bed scanner’ one. They did not need 50 new computers, or even flatbed scanners. Instead, the challenges facing the parliament were related to capacities that derived from an inadequate understanding of what the parliament was supposed to do, and how MPs could fulfill their roles. It was a matter of democratic education, not new equipment.

That most donors only see the latter is recognized in Carothers’ critique of democracy aid.<sup>15</sup> There are two reasons for this: first, it is easier to offer material resources, such as computers or library resources; second, there is a general sensitivity among donors regarding political development and education. Donors are reluctant to confront the larger questions of what it really means for parliamentarians to do their work as this might be seen as meddling. This is so even where parliamentarians explicitly want the latter kind of aid, to learn more about what it means to be a parliamentarian. As one deputy said after an NDI seminar on committee functions in Sana’a, the example of the US Congress drew his attention because it determined the

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<sup>13</sup>Ibid, p.15, 19.

<sup>14</sup>Conversation, Yahia al-Sharki, Director of Committees, House of Representatives, July 1997.

<sup>15</sup>Carothers, *Aiding Democracy Abroad*, pp.178-181.

budgets of all the ministries and supervised them, thereby giving the legislature real power.<sup>16</sup> That is not the kind of response many donors would be happy to record on completion of an aid programme, particularly if they are already working with ministers in the executive branch. Donors prefer, "the provision of bells and whistles...or training in apolitical areas...to the more politically sensitive (and potentially more valuable) assistance..."<sup>17</sup> NDI's strength is in conducting the very work other donors will often not do.

My initial work and committee directorate assessment led to an application for a portion of the UNDP funds that had prompted the Dutch Clerk's input. This would allow NDI to execute a comprehensive programme in parliament, and to shift the programme from one of material resources to basic education and training. Monies would still be available for some computers, as foreseen by the Dutch assessment, but NDI designed a programme that would make use of more seminars and roundtables, documentation and consultations, to provide a more basic 'parliamentary education' programme without the use of highly paid European consultants (one of whom was to be paid US\$70,000 for 9 months part-time work).<sup>18</sup>

In the first eight months in-country, NDI conducted an assessment of the

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<sup>16</sup>Conversations with various participants during the NDI Seminar on the Role of Committees in an Effective Legislature, Sana'a Yemen, October 1997. See also National Democratic Institute for International Affairs, *The Role of Committees in an Effective Legislature, Sana'a, Yemen: October 27-29, 1997* (Washington, DC: National Democratic Institute for International Affairs, 1997).

<sup>17</sup>Melia, Review, p.4.

<sup>18</sup>UNDP, *Yemen, Governance Capacity and Institutional Reform*, p.8.

Committees Directorate (which had not been planned for in the programme), and organized and conducted a large three-day conference on “The Role of Committees in an Effective Legislature,” held in October 1997. The Institute also submitted a proposal for a more extensive parliamentary programme to the UNDP. In party work, NDI conducted a two-day seminar on political party reform for the YSP, which had boycotted the 1997 election (it was also attended by several YSP parliamentarians elected as independents).

In 1998, NDI continued to work with the parliament, beginning the year with a one-day seminar for parliamentary staff with a lead researcher from the Congressional Research Services of the Library of Congress. We conducted most of our seminars, however, under the “parties in parliament” rubric, with the expectation of obtaining a portion of the UNDP funds for strict and more detailed parliamentary work. My own attention was aimed more at parties outside parliament while we waited for the UNDP funds to be approved. NDI continued to concentrate its efforts on the YSP, on the topic of party reform. The Institute also conducted political party roundtables on the role of women in politics and opposition functions.

After my first year NDI received a US State Department grant to work with parliamentarians on issues related to constituency relations, managed by additional staff.<sup>19</sup> NDI also received the grant for a Parliamentary External Relations Programme

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<sup>19</sup>The monies were disbursed through US-AID, but were actually US State Department democracy promotions funds: National Democratic Institute for International Affairs, “*YEMEN: Parliament’s External Relations*” *US-AID Cooperative Agreement No AEP-5468-A-00-5038-00*, (Washington, DC: National

from the US State Department in late 1998, an optimistic programme conceived and designed to increase the capacity of members to represent effectively their constituencies and build relations with citizens groups.<sup>20</sup> The programme was designed by an NDI staffer who had never worked with a parliament let alone in a transitional democracy. It was also an example of ignoring the academic literature on Arab parliaments and democratization, noted in the literature review.<sup>21</sup>

Baaklini, Denouex, and Springborg suggest that Arab parliaments are increasingly likely to play their proper legislative roles, and also can serve as indicators of liberalization if not democratization in the Arab world, a region long resistant to the democracy.<sup>22</sup> Parliamentary functions, they suggest, can be summarized as either outputs (passing laws or executive oversight) and inputs (representing constituents and serving as ombudsman). In the face of limited resources and strong competition, the authors suggest that Arab parliaments can best be assisted by supporting their internal capacities

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Democratic Institute for International Affairs, 1998).

<sup>20</sup>The programme was conceived and designed by DC-based staff who had neither worked with nor in Yemen's parliament or any other transitional democratic parliament. It was eventually rejigged and run by an NDI staffer with extensive experience in the former Yugoslavia.

<sup>21</sup>See Robert Springborg, "Legislative Development as a Key Element of Strategies for Democratization in the Arab World," *Arab Studies Journal* (Spring 1995). See also Baaklini et. al. *Legislative Politics in the Arab World*.

<sup>22</sup>Melia, Review, pp.4-5. Melia notes that the authors have yet to publish assessments of the conduct of legislative development programmes, and suggests one might read into that that they think it is either inadequate or unsuccessful. It may be, he says, an oblique critique of western donors' efforts, pp.4-5. The authors are, as Melia notes (himself former Vice-President of programmes at NDI), highly-regarded scholars on the Arab world, widely-published, and with extensive backgrounds in legislative development.

in the face of dominant executive branches, and not by increasing citizen demands on parliaments which do not have the capacity to respond.

Carothers characterizes the output and input distinction as two forms of parliamentary assistance, one being top-down, the other bottom up. Top-down donor assistance concentrates on aiding the parliament with training, education or resources, and is the conventional model. Bottom-up assistance is less frequent and involves assisting NGOs or other aid recipients to either change legislation or legislative behaviour (i.e. make a parliament more representative).<sup>23</sup> Furthermore, where a will to reform does not exist or is offset by 'serious institutional deficiencies,' a bottom-up approach is the recommended method of donor assistance.<sup>24</sup>

In 1999, my attention turned to the Emerging Democracies Forum<sup>25</sup> but NDI also launched the UNDP funded programme of parliamentary support with a workshop on executive-legislative relations. The workshop had been recommended by both the committee seminar the previous year and parliamentary and executive-branch leaders. Despite this and a public signing ceremony attended by UNDP and parliamentary

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<sup>23</sup>Carothers, *Assessing Democracy Assistance*, pp.62-63.

<sup>24</sup>Ibid, p.64.

<sup>25</sup>The Forum was an international summit for key actors and decision-makers in a sub-set of emerging democracies overlooked by the international community and media. A three-day conference in Sana'a brought together a range of players from 16 countries, ranging from presidents and prime ministers to NGO activists, to sit and discuss best practices and lessons learned in democratic reform. URL: <http://www.ndi.org/edf/index.htm>.

officials<sup>26</sup> - and despite NDI's hopes - the UNDP funds were never forwarded and NDI's programme was stalled by internal politics and corruption in parliament, as well as ineffective UNDP oversight of the programme.<sup>27</sup> My recommendation to NDI had been not to proceed with the seminar until the UNDP monies came through, but NDI felt launching the programme might expedite that funding. Regrettably, it did not.

At the same time NDI continued with its State Department-funded programme, ignoring the warning signs noted above. The programme later faced a rebellion of several prominent parliamentarians who wanted to stall NDI's work, which included boycotts of the Institute's work by the two prominent caucus chairs (from the GPC and Islah parties).<sup>28</sup>

Yemen's parliament is still overshadowed by the executive branch. Parliamentary elections were recently postponed by the president without significant protest, and a new (appointed) legislative council was created with powers in competition with the elected parliament. Attempts by the parliament to change the local administration law were rebuffed by the president.<sup>29</sup>

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<sup>26</sup>"NDI and Parliament Sign Accord," *Yemen Times*, 8, 41 (December 1998), p.2. Also available at URL: <http://www.yementimes.com/98/iss41/ln.htm>.

<sup>27</sup>"NDI and Parliament Sign Accord," *Yemen Times*, p.2.

<sup>28</sup>Attempts by both these personalities to get their respective party members to also boycott NDI's programmes failed. Carothers notes the importance of recognizing where the will to reform is missing. Carothers, *Aiding Democracy Abroad*, p.306.

<sup>29</sup>Conversation with NDI Staff, Sana'a, Yemen, February 2001.

Democratic progress is perhaps stalling, if not reversing.<sup>30</sup> Key democratic reformers were dropped from cabinet in a recent shuffle, and a national referendum was used to push through constitutional changes despite massive irregularities. These included the government's refusal to revise the electoral list as required by law. Hundreds of thousands of electors - mostly opposition YSP party supporters who had boycotted the 1997 elections and therefore not been registered since the 1993 elections - were thereby prevented from voting.<sup>31</sup>

The outlook is bleak, and yet, the parliament is active. It includes voices that criticize the government, it has used its powers to stall the government's budgets, and it has served as a voice for the opposition, even during the civil war.<sup>32</sup> The parliament is a source of power that the executive must take into account. It is deserving of development support. The same can not be said for Morocco's parliament.

### **Work in Morocco**

The Institute's work in Morocco was preceded by a visit of Institute staff in 1993 to attend a locally organized conference on human rights. At that time, staff determined

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<sup>30</sup>National Democratic Institute for International Affairs, *Statement of the NDI Pre-election Delegation to Yemen's April 2001 Parliamentary Election*, (Sana'a: National Democratic Institute for International Affairs, 2000), p.2. The statement reads, "It appears to us that Yemen's democratic transition has stalled."

<sup>31</sup>Along with NDI in-country staff, I observed the referendum process over the course of a 10-day mission to Yemen in February 2001. No formal report or assessment was made, but NDI wanted a sense of what was happening and whether the parties were participating in the process.

<sup>32</sup>Baaklini et al, *Legislative Politics in the Arab World*, pp.211-213.

there was an insufficient level of opening to work full-time in the country. In 1997 NDI returned to conduct two weeks of consultations, following on the 1996 constitutional reform. The first objective was to provide election monitoring advice to political actors, but a second objective was to determine opportunities "...for future democratic institution building."<sup>33</sup> It was not, in fact, a comprehensive assessment: a legislative programme had already been decided on, according to the report of the meetings.<sup>34</sup> In any event, the consultations included only three MPs and the Secretary General of parliament - no speaker or deputies, and no minister of parliamentary affairs.<sup>35</sup>

NDI's began working in Morocco full-time in 1998, with a US\$644,000 programme of support to parliament and parties. The programme had two objectives: to help legislators become more responsive, informed lawmakers and constituent representatives, and to help parties become more responsive to their party members and the electorate in general.<sup>36</sup> The programme faced strong opposition from the Democracy Working Group (DWG) based in Morocco, made up of US Embassy, USAID and US Consulate staff. The DWG felt Morocco's parliament and parties were highly ineffective and unlikely candidates for democratic reform. NDI appealed directly to the State

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<sup>33</sup>Johnson and Deane, *Consultations with Moroccan Political Parties*, p.3.

<sup>34</sup>*Ibid*, p.17.

<sup>35</sup>*Ibid*, Appendix VI.

<sup>36</sup>National Democratic Institute for International Affairs, *CEPPS/NDI Quarterly Report, "Morocco: Enhancing Legislative and Political Party Capacity," USAID Cooperative Agreement No. AEP-5468-A-00-5038-00*, (Washington, DC: National Democratic Institute for International Affairs, 2000), p.1.

Department and made the case for a parliamentary and political party programme, in contrast to the expressed priorities - civic education in particular - of the US missions at work in the country.<sup>37</sup>

My work in Morocco was also based on a programme designed and in part underway before my arrival. My mandate was to execute and complete the programme that I inherited, develop stronger relations with the parliament and parties, and to intensify our work, with new funding if possible. NDI was also hoping to improve relations with the US Embassy and AID mission in Morocco, given opposite views on where best to conduct democratic development in Morocco. With the apparent slowing in Yemen's democratization in late 1999, by my arrival Morocco displaced the former as the Institute's preferred programme in the region, and was seen as the leading transition, even model, for the Middle East and Maghreb region.<sup>38</sup>

By the time of my arrival, NDI's previous programme was concluding and a new programme was in place with a budget of US\$300,000: \$200,000 for political party programmes and \$100,000 for parliamentary work. The latter budget allocation was initially conceived as a one-third contribution to an NDI-UNDP-Chamber of

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<sup>37</sup>Conversations with NDI Staff, Washington, March 1999; staff, Morocco, April 1999, and US Embassy and USAID officials, Rabat, Morocco, summer, 1999. NDI staff in Morocco also lobbied the prime minister to write a letter to NDI in Washington, lauding the Institute's work and asking for further cooperation. The letter was actually intended to show the DWG that the Institute's decision to work with parliament and parties was the right one, and that it was supported at the highest levels of government. Carothers notes that USAID mission staff see political institutes (like NDI) as sacred cows because of their political connections in Washington, as in this instance. Carothers, *Aiding Democracy Abroad*, pp.258-259.

<sup>38</sup>*Programme de renforcement des partis politique au Maroc*, p.1.

Representatives programme, equally funded in thirds. Unfortunately whatever agreement or interest that had existed on the part of the parliament (and ultimately the UNDP) had disappeared by my arrival. NDI was left to conduct a one-year parliamentary programme that was, practically speaking, one-third of a larger programme.

The lack of interest was a warning: there was no will on the part of the parliament to work with NDI. On arrival I attempted to meet parliamentary leaders - including leading caucus chairs and the speaker of the parliament. After three weeks of meetings with key NDI contacts, I had met just two parliamentarians. Attempts to obtain other meetings failed. I was finally able to meet the Deputy Speaker only after six weeks in the country. An aide in the prime minister's office designated to facilitate our work in the country would be unavailable for my first three and a half months in the country.

Red flags had also been raised in NDI's own documentation. An NDI report on a previous workshop with parliamentarians noted that attendance was "limited" and "sporadic."<sup>39</sup> That same report said that NDI had received "eager" requests for technical assistance from parties and members of parliament during the 1997 consultations the Institute had conducted, but only three parliamentary members had actually been consulted.<sup>40</sup> The report further characterized the 1997 elections as "reasonably open," notwithstanding the absence of a formal monitoring mission, the protests of Morocco

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<sup>39</sup>National Democratic Institute for International Affairs, *Mechanisms for Improving Caucus and Coalition Coordination for Governing Coalition Members and Caucus Effectiveness for the Opposition* (Washington: National Democratic Institute, May 1999), p.18.

<sup>40</sup>Johnson and Deane, *Consultations*, Appendix VI.

political parties to the contrary, and the opinions of Morocco watchers.<sup>41</sup>

NDI's glossing over of problems in Morocco extended to reports on the country's transition. A list of fourteen findings from a series of meetings conducted in Morocco in 1998 could have been gleaned from a Reuters press article. They included such observations as: Yousouffi's appointment represented a major change in Morocco; various 'sectors' lobbied for inclusion in the new cabinet; and, the effectiveness and scope of the new parliament remains to be seen.<sup>42</sup>

Other findings were either untested assumptions or simply erroneous, including a statement that the political atmosphere among political elite was 'dynamic.' The political atmosphere was anything but dynamic. The report also stated that legislative elections scheduled for 2002 were already helping parties focus on topics of membership, platform development and communications. Only by late 2001 were parties even beginning to discuss election issues and their preparedness. Finally, it said that "in many cases, the old [party] leadership..are gradually being replaced by younger, reform-

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<sup>41</sup>These included the Istiqlal party leader, Abbas Al-Fassi, who argued the election results were falsified (and presented NDI with documentation to this effect). Fassi claimed that the election rigging had denied the Istiqlal the plurality of seats and the control of the government. Another dissenting voice was that of Mohammed Hafid, head of the USFP youth wing. Hafid disputed his own win in the 1997 parliamentary elections. He claimed another candidate had actually won, and that the Interior Ministry had falsified the results to give the USFP more seats, leading to the appointment of USFP party General Secretary Yousouffi as Prime Minister. I met with Mr. Al-Fassi on April 3, 2000 and with Mr. Hafid on April 18, 2000.

<sup>42</sup>National Democratic Institute for International Affairs, *Morocco Trip Report*, (Washington, DC: National Democratic Institute for International Affairs, April 1998), pp. 3-4.

minded individuals.”<sup>43</sup> Moroccan political parties are almost without exception presided over by sexagenarians and septuagenarians if not octogenarians. Other findings served to qualify the report and the prospects of the parliament playing an effective legislative role. They included the King’s turn-around in restricting legislative authority to matters of economics and education, and the King’s continued insistence of control over the ‘sovereign’ ministries of Foreign Affairs, Defense, Justice, and Interior.<sup>44</sup>

I quickly grew ambivalent about our ability to work in the country, and after four months informed NDI the Moroccans showed little enthusiasm for the Institute’s efforts. The warning signs continued. Repeated attempts to plan NDI programmes and seminars met with rebuffs and deferrals, leaving the Institute ultimately simply to set dates and plan the programme without parliament’s agreement, trusting parliamentarians would participate once the activities occurred. This did ultimately happen, but only after much protest.<sup>45</sup>

The parliamentary programme I initially adopted called for three seminars, but NDI reduced it to one seminar (for ‘reporting’ purposes this was two seminars, held back to back with the same speakers). These were conducted in the face of the opposition of the parliamentary leadership and generally scant enthusiasm, including protests by the

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<sup>43</sup>Ibid, p.4. In point of fact, I attempted to conduct a party communications programme for the parties in late 2000, but no parties were interested (not even parties in the government coalition).

<sup>44</sup>Ibid, pp.3-4.

<sup>45</sup>On one occasion I sat in the Deputy Speaker’s office in Rabat two days before a seminar he was hosting, with a Member of the Australian parliament, and the Deputy Speaker called from Eastern Europe to cancel the programme.

secretary general of parliament.<sup>46</sup> Nonetheless, the seminars conducted in parliament had greater participation than any previous NDI activity with the parliament, and received positive reviews from participants. No one from the parliamentary leadership attended.

Given the lack of interest in cooperating with NDI, it was felt a trip abroad for key parliamentarians might stir interest in our work, build allies for future support, and press the points raised in the previous seminars. NDI therefore conducted a study mission to the UK to visit the British Parliament, in cooperation with the British Embassy. This was in the place of the third seminar proposed in the original programme, but NDI made application to re-programme the funds.

The study mission included key caucus members from both the government and opposition including a deputy speaker, a former minister and opposition party leader, and one of only two women parliamentarians. Designed to emphasize themes raised in the seminars in parliament, the programme was a success, judging from the enthusiasm and participation of the members. Organized by the Foreign & Commonwealth Office, the itinerary was well-designed, based in large part on NDI recommendations. Regrettably, the deputy speaker attended less than half the meetings.

Ultimately a will to reform appeared not to exist in parliament, and certainly no will to work with NDI was evident. The chamber is administratively controlled by a secretary general - verbally hostile to NDI - who was appointed directly by King

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<sup>46</sup>Conversation with Parliamentary Staff, Rabat, Morocco, November 2000.

Hassan.<sup>47</sup> The current government controls parliament, and has no desire to see itself challenged by it, while the opposition is mostly the former palace-aligned parties who likewise have little will to reform.

This is a fundamental criticism of aid programmes that is made by Carothers: the lack of perception and discernment of whether a will to cooperate exists or is forthcoming. Carothers says democracy aid practitioners, what has been called a forward-operational focus mode, either fail to see or wilfully ignore such indicators. That shortcoming is serious, as the biggest obstacle in legislative development is, he writes, "the paucity of interest in reform among the main power holders in the legislatures of many transitional countries."<sup>48</sup>

The lack of a proper legislative assessment had given NDI little or no capacity to judge this or the actual needs of the parliament. Instead, the Institute and its staff were left to discover it on the ground *after* the programme had been conceived and funded. Rhetoric surrounding the role and import of the legislature even stood in the face of a democracy assessment conducted for USAID by an academic consultant in the US who had published extensively on Morocco, and Arab parliamentary development in general.<sup>49</sup>

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<sup>47</sup>Conversation with NDI staff, Rabat, Morocco, April 2000 and February 2001.

<sup>48</sup>Carothers, *Aiding Democracy Abroad*, p. 183. Carothers writes "If leaders have scant interest in reforming the major state institutions...[legislative strengthening] is unlikely to achieve noteworthy results." p.306.

<sup>49</sup>Denocaux, *Democracy Assessment of Morocco* and Baaklini et. al., *Legislative Politics in the Arab World*.

Ultimately, I completed the year in Morocco, conducting our programmes with parliament in the face of opposition, and planned for new programmes as the Institute opted to remain. Notwithstanding the lack of enthusiasm from parliamentarians and particularly the leadership, the Institute's parliamentary seminars featured higher participation and 'programme activity' than the Institute's previous two years in the country, due in part to our willingness to push ahead in the face of the lack of interest.<sup>50</sup>

Comparing the two cases, Yemen possessed a measure of will but little capacity; Morocco possessed great capacity, but no will. In neither case were the programmes conducted on the basis of a systematic study of the democratic openings occurring, nor were initial or follow-on programmes the result of detailed assessments of the legislatures the programmes were intended to aid. The Institute's work relied on the core strategy of democratization that assumes strong legislatures simply matter.

A 'right' reading or analysis of the transitions underway in Yemen and Morocco would have led to different approaches in both countries. As the Yemeni parliament had some power and was more apt to use it (to stall the budget, for example), it would have made sense to work more closely with it, and not parties. In Morocco, with a parliament that can not matter, NDI should have adopted USAID's arguments for civil society.

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<sup>50</sup>NDI Morocco's party programmes faced similar challenges. Nonetheless we conducted over 20 programme seminars, including over 400 participants. Funding doubled, and a second field representative was hired. NDI's work 'succeeded' (measured by seminars and participants) through sheer belligerence on NDI's part in extending our programmes to new members and repeating them more frequently (including on occasion outside the Rabat-Casablanca corridor), and by by-passing party elites who demonstrated little or no will to cooperate.

As Baaklini, Denoueux and Springborg note, functioning, capable legislatures “can do little of consequence in the absence of a broader democratic dispensation....” and poorly less endowed legislatures can make impact when they have more centrality, but less capacity.<sup>51</sup> The distinction is important. As Melia writes, “The more ‘central’ a legislature is to the governance of a country, the more powerful it is. ‘Capacity’ refers to those attributes that determine the extent to which parliaments actually fill the available political space: from the political will of parliamentary leaders, to the organization’s structure and procedures.”<sup>52</sup>

NDI’s approach to legislative development in both Yemen and Morocco made assumptions of centrality (in Yemen and Morocco) and capacity (in Morocco), but did not properly assess those in reality. A careful reading of the transitions underway, and the history and role of the legislatures in them, was missing.

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<sup>51</sup> Melia, Review, p.2.

<sup>52</sup> Ibid, p.2.

## Chapter 4 - Critical Assessment of the Literature

In 1970 a volume on comparative legislatures began with the warning "...a notable lacuna involves the place of legislative assemblies in the development of political systems."<sup>1</sup> The same lacuna exists 30 years later in respect of legislative assemblies in the latest wave of transitioning democracies. Packenham, writing in the mid-seventies, said that even where studies were conducted of legislatures, they were focused on the US Congress, and that the most important questions regarding legislative activity, particularly in terms of its impacts on the rest of a particular political system, were essentially unstudied.<sup>2</sup> More recently, a prolific examiner of new legislatures wrote "...the variables associated with the legislative institution - how it is internally structured, what procedures it adopts, how it transacts its business, what resources are available to the various political actors - are topics rarely explored by either scholars or policymakers."<sup>3</sup>

That in itself tentatively confirms one of the key contentions of this thesis: that

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<sup>1</sup>Allan Kornberg and Lloyd D. Musolf, "On Legislatures in Developmental Perspective," *Legislatures in Developmental Perspective*, ed. Allan Kornberg and Lloyd D. Musolf, (Durham: Duke University Press, 1970), p.3. The authors add that writers on comparative politics had only just begun to consider political development as a phenomenon.

<sup>2</sup>Robert A. Packenham, "Legislatures and Political Development" *Legislatures in Developmental Perspective*, p.521.

<sup>3</sup>Abdo I. Baaklini, "Legislature Structure and Constitutional Viability in Societies Undergoing Democratic Transition," *Designs for Democratic Stability: Studies in Viable Constitutionalism* (Armonk, NY: M.E. Sharpe, 1997), pp. 127-128. As with him, so with me: "It is beyond the scope of this [work] to address the entire range of issues associated with the legislative institution building required for a stable democratic regime." p. 128.

there is a gap between practice and theory,<sup>4</sup> which will be considered later. between academically-grounded understandings of legislatures in new democracies and the practice of legislative development or strengthening. My focus bridges these two understudied subjects. The caveat remains: while democracy aid has grown extensively it remains both “understudied and poorly understood.”<sup>5</sup>

In considering the academic literature concerning legislative political development assistance in transitioning and consolidating democracies, we face two questions. The first concerns the role and impact of legislatures in transitions. The second concerns what kind of democracy assistance is being or should be offered to new legislatures (in new democracies). On the first, little has been written; on the second, even less again.<sup>6</sup> But first, a brief reflection on legislatures in general.

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<sup>4</sup>For a consideration of the gap between rhetoric and practice in the much broader context of American foreign policy, see Jason G. Ralph “‘High Stakes’ and ‘Low-Intensity Democracy’: Understanding America’s Policy of Promoting Democracy,” *American Democracy Promotion*, pp.200-217.

<sup>5</sup>Carothers, *Aiding Democracy Abroad*, p.8. Even within the field of practitioners, the ‘forward operational focus’ is observed. As a large caveat in the NDI Guidebook for Implementing Legislative Programmes admits, “This book addresses only one part of the legislative development work, [sic] project implementation. The decision of whether to engage in such projects in a particular country and the design of such projects is made by different people at different points in time. The review of that process is left for another day.” [page ii] That review will be most valuable, and could contribute to better implementation.

<sup>6</sup>G.R. Boynton and Chong Lim Kim, “Introduction,” *Legislative Systems in Developing Countries*. Eds. G.R. Boynton and Chong Lim Kim (Durham: Duke University Press, 1975), p.15. Boynton and Kim note that while knowledge of western legislatures is limited, “it is very considerable when compared with our knowledge of legislatures in other parts of the world.” Reasons that they suggest include: the requirement to obtain a general understanding of developing countries before focusing on their legislatures; that legislatures in developing countries were deemed unimportant [thereby begging the question?], ineffectual and thereby ignored; and that legislatures were unstable. Joseph LaPalombara notes the work is an achievement “...in view of the paucity of even the most elementary information we may wish to have about legislative bodies.” J. Blondel, *Comparative Legislatures* (Englewood Cliffs: Prentice-Hall, 1973), p.x.

Legislatures *can* matter. They are often the first institutions disbanded after military coups, can serve as forums for dispute and controversy to generate opposition to executive branches, and are entry-channels for the recruitment of new elites who often challenge old ones.<sup>7</sup> As one academic wrote,

A serious legislature is a principal arena of political action. It does the job it was hired to do for a democracy if it is appropriately organized, informed and motivated: where it acts as a check to the executive without being an immovable obstacle blocking the way to action: when it represents the variety of the population with all of its oppositions and contradictions while yet providing the means for their resolution.<sup>8</sup>

The basic functions of legislatures can be summarized as legislation, accountability, representation and conflict management.<sup>9</sup> In *minimal legislatures* - such as in transitioning and new democracies - those functions are perceived as more limited: propose, enact, study and revise were some of the terms suggested by Thai legislators in a study in 1971.<sup>10</sup> This will be considered in more detail later, but in sum these functions serve to mitigate against the control of the executive - "...resistance to

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<sup>7</sup>Boynton and Kim "Introduction," *Legislative Systems*, p.19. The authors refer to Gary Hoskin's work on the Columbian legislature and recruitment of new elites in the 1930s. Mezey, Goodman and Hopkins corroborate this in their respective studies of Thailand, South Vietnam and Kenya. Regarding disbanding, Mezey writes "...a determined attempt [on the part of the Thai parliament in 1971] to influence public policy in this manner [politically responsive] can create the conditions for the closure of the legislature by the Government." Michael L. Mezey, "The Functions of a Minimal Legislature: Role Perceptions of Thai Legislators," *Western Political Quarterly* 25.4 (December 1972), p.700.

<sup>8</sup>Martin C. Needler, "Conclusion: The Legislature in a Democratic Latin America," *Legislatures and the New Democracies in Latin America*, ed. David Close (Boulder: Lynne Rienner Publishers, 1995), p.158.

<sup>9</sup>David Close, "Introduction: Consolidating Democracy in Latin American - What Role for Legislatures" *Legislatures and the New Democracies in Latin America*, pp.2-4.

<sup>10</sup>Mezey, "The Functions of a Minimal Legislature," p.692. Such institutions, and their legislators, rarely perceive themselves capable of or responsible for "independent study and sifting of alternative public policy proposals."

absolutism and tyranny..." - and to provide a measure of citizen input into government.<sup>11</sup>

But if legislatures matter, how, why, to what degree, and to whom they matter varies widely depending on the political system in which they operate. The US Congress is perhaps unique among legislatures. Most only vet laws, ensure some measure of accountability of the executive (a task increasingly performed by a free press, and civil society), represent constituents and serve as ombudsmen for government functions, and vent conflict/debate, as noted above. They are not the principal creators of legislation or policy.<sup>12</sup> Most parliaments are often relegated to a symbolic role when it comes to their input in policy making. It may even be that they only matter simply because they exist, *peu importe* what they do.<sup>13</sup>

One significant contribution to the literature on legislatures is Blondel's *Comparative Legislatures*, published in 1973. The book was an attempt to revive the study of legislatures, and offers a comparative review of legislatures in both democratic and nondemocratic regimes. It does not however consider their role in transition and

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<sup>11</sup>Close, "Introduction...", p.4-5.

<sup>12</sup>Close, "Introduction," pp.2-4. In his concluding article in the same volume, Martin C. Needler lists seven functions - legislate, legitimize, elect (as electoral college for executives), monitor, educate the public, socialize/train politicians, and constituency servicing (including mediation/ombudsman function) (pp.154-155). In general, as Boynton and Kim write, "...the relative ineffectiveness of the legislatures in exercising influence on policy matters within their political systems" is very real. Boynton and Kim, "Introduction," p.22.

<sup>13</sup>Kornberg and Musolf suggest something similar: even where legislatures are facades, it may be that they will develop into something else later. "On Legislatures in Developmental Perspective," p.29 See also David Olson, "Paradoxes of Institutional Development: The New Democratic Parliaments of Central Europe," *International Political Science Review*, 18, 4 (1997): 401-416.

consolidation.<sup>14</sup> Nonetheless it is a valuable contribution. As Blondel writes, the topic is important: "Legislatures (or assemblies, or parliaments) pose perhaps the most fascinating problem of all structures of government, for they have been and continue to be both the most decried and the most revered, the most hoped for and often the least successful institution in contemporary government."<sup>15</sup>

Blondel says some of the difficulties facing legislatures are their comparative lack of strength in the face of other institutions, particularly the executive, and their relative ineffectiveness and inconsistency deriving from their eternal debating and squabbling. Yet their faults belie a certain resiliency: when shut, they spring back; when maligned, they endure.<sup>16</sup> The paradox of weakness and resiliency, he says, is explained in matching the rhetoric of legislative functions as described above to a more restricted reality, bridging the 'form' and the reality.<sup>17</sup>

The "axiomatic" ideal of legislative functions, dating from the seventeenth century, was held to be lawmaking: executives ruled the country, but legislatures made the rules.<sup>18</sup> Legislatures ultimately could therefore contribute to liberal democracy in several ways: first, the executive would be limited to acting in accordance with the will

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<sup>14</sup>Blondel, *Comparative Legislatures*, p.xi. The work is dated and democratization as a subdiscipline was hardly developed.

<sup>15</sup>Ibid, p.2.

<sup>16</sup>Ibid, p.3

<sup>17</sup>Ibid, p.3

<sup>18</sup>Ibid, p.4.

of people's representatives; second, the general rules of society would have the general approval of the population, via the people's representatives; and third, such legislatures would be the only practical means - direct democracy being impractical - to control the executive.<sup>19</sup>

A decline in the centrality or significance of the role of legislatures created disappointment in the face of such high hopes. That disappointment had three sources, including the general decline of legislatures stemming from the "indictment of *members* of assemblies," pressure from executives, and complicated national questions that stressed representatives and impacted on their will. A second source of disappointment in legislatures stemmed from the rise of rubber-stamp legislatures in the Soviet Union and other dictatorships, where assemblies were "parodies" of true legislative bodies.<sup>20</sup> In Third World states rubber-stamping was matched by a decorative role. The third source of disillusionment related to legislatures that were held in check by strong party discipline and the "fiats of strong executives" that backed them.<sup>21</sup>

But again, legislatures prove resilient in the face of disappointments. Blondel notes that in the 138 countries in existence at the time of his work, only five never had a legislature. Only thirty were then without one, and among those four were in formation

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<sup>19</sup>Ibid, p.5. Close writes "Two of the five general functions of a politically significant legislature merit special attention in relation to democratization."...controlling the political executive and providing representation of citizen interests. Close, "Introduction..." in *Legislatures and the New Democracies*, p.5.

<sup>20</sup>Ibid, p.6.

<sup>21</sup>Ibid, p.6.

and four others were deemed to be temporary.<sup>22</sup> Where they were dispensed with, they were eventually reinstated, albeit in varying forms (sometimes because rulers needed the legitimization that comes with having a legislature, or they were disbanded with the desire to reform them). In short, "Some sort of natural law seems to force leaders of modern politics sooner or later to create legislatures or to be overthrown and replaced by men who will, in turn, create an assembly. The idea of the legislature is thus inherently...resilient."<sup>23</sup> Add to this, as Carothers writes, the hope, the "...underlying assumption...that more competent, efficient legislatures - whether part of democratic systems or not - would further the economic and social development of Third World countries."<sup>24</sup>

The question of *how* legislatures matter, though, is a contentious one, as captured in Obler's "Legislatures and the Survival of Political Systems: A Review Article."<sup>25</sup> In it he examines the study of legislatures in the discipline of political science in the 1970s. He suggests that academics obsessed with trying to show legislatures matter without giving real evidence, and concludes with a damning statement that the 'fate of nations'

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<sup>22</sup>Ibid, p.8.

<sup>23</sup>Ibid, pp. 8-9. At the time of publication (1973) apparently only Cuba, Burma, Syria and Iraq had been without parliamentary bodies for at least a decade. Kornberg and Musolf suggest "The reason why legislative institutions exhibit such regenerative powers, in our view, is that they are perceived by those who aspire to power or already have tested it as a legitimizing force, as a necessary condition for maintaining not only themselves but also a given order, regardless of its form or objectives." Kornberg and Musolf, "On Legislatures in Developmental Perspective," *Legislatures in Developmental Perspective*, p.28.

<sup>24</sup>Carothers, *Aiding Democracy Abroad*, p.24.

<sup>25</sup>Jeffrey Obler, "Legislatures and the Survival of Political Systems: A Review Article," *Political Science Quarterly* 96.1 (Spring 1981), pp. 127-140.

simply does not rest on parliaments.<sup>26</sup> He goes on to say:

They [academics] grope for ways in which the legislative process affects the capacity of political systems to survive. And the links they find are, too often, tenuous and remote....it can be argued that "comparative legislatures" as a subfield will atrophy as long as its primary mission is to establish that legislatures have a substantial impact on political life....If we are to care about legislatures, we must do so for a reason: we must show that what legislatures do is tied to issues and values other than the survival of any political system....<sup>27</sup>

Obler is wrong, I think, in an important respect. The question of whether legislatures contribute to or detract from the viability of political systems is itself important. This is particularly true in transitional and consolidating democracies, *even if what legislatures do is of no concern to the people in the streets*. Legislative development occurs in this very context, and simply means: working to assist legislative institutions in nascent democracies, because of the assumption, grounded or otherwise, that it is important. Obler himself concedes this at one point that the study of legislatures should explore how they impact on "...the preservation of representative democracy...or the erosion of authoritarian rule."<sup>28</sup> Legislative development assumes legislatures do indeed have impacts of this nature.

The role of legislatures in transitions - while not studied extensively - enters into the equation here. For example, Attila Ágh has written that parliaments in East Central

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<sup>26</sup>Ibid, p.138.

<sup>27</sup>Ibid, p.138.

<sup>28</sup>Obler, "Legislatures and the Survival of Political Systems," p. 139.

European have been key in democratic transitions.<sup>29</sup> He suggests five functions that impact directly on democratic transition and consolidation:

1. The *legislative function*...above all in the constitution-making process, that is, the establishment of the basic rules of the political game for the whole transition and for the consolidation of democracy.

2. The *controlling function*, in which the parliament ...has balanced the executive in order to prevent the rise of a new power monopoly.

3. The *conflict management function*, which has been particularly important in the period of deep socio-economic crisis associated with democratic transition. The transition has been accompanied by acute conflicts...[t]herefore...parliaments have had to be the major means of conflict resolution. It is also unavoidable that the parliaments have been the central targets of all mass protests and demonstrations.

4. The *socialization function*, involving the schooling of the new elite after its recruitment process by providing an 'arena' for its 'natural selection' and establishing the rule of 'parliamentarized' elite behaviour.

5. The *legitimation function* can be regarded as the most essential one in the first period of the democratic transition, since the young democracies have emerged from a legitimacy gap or vacuum and badly need a strong legitimation device. Parliament as a central site provides a forum for the major political actors and the mutually legitimize themselves and the new democratic order. The creation of a parliamentary framework for democracy should facilitate at the same time the building of a bridge between the parties and ordinary citizens in the forum of a social and political dialogue, in and through the parliament.<sup>30</sup>

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<sup>29</sup> Attila Ágh, "Parliaments as Policy-making Bodies in East Central Europe: The Case of Hungary," *International Political Science Review* 18, 4 (1997), p.417.

<sup>30</sup> Attila Ágh, *The Politics of Central Europe* (London: Sage Publications, 1998), p.93-94. Re: the socialization function, Morocco's parliament is ignored by society in general, an indicator of its marginalization. Yemen's parliament, on the other hand, is often the scene of protests and demonstrations. The legitimation factor should play more into NDI's work.

Parliaments in East Central European and the Balkan region have, he adds, been *the* most important institutions in the democratization process in that region.<sup>31</sup> Yet he concedes they were weakened by institutional and cultural deficits. The institutional deficit is ‘formulated’ by immature political parties represented in the parliament, and missing systems and procedures, which Ágh calls “half-made internal parliamentary institutions.”<sup>32</sup> A focus on internal systems and procedures features in some of NDI’s work, and could have proved successful in Yemen where internal rules were ignored and by-passed.

The cultural deficit, he says, is more problematic and larger. It also captures more public attention. Ágh defines it as behavioural, and faults the elites in new parliaments who manifest undemocratic behaviour and thereby undermine the new parliaments, in effect delegitimizing them and making them unpopular.

There are at least three causes for this. First, elites want to institutionalize their own parties and demobilize the masses, such that politics remains remote and alien to the general population.<sup>33</sup> Second, elites engage in obscure political and ideological debates that distance parliament from practical socio-economic issues. Third, new elites practice zero-sum games of political competition, and fail to practice compromise and

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<sup>31</sup>Ibid, p.89.

<sup>32</sup>Ibid, p.90.

<sup>33</sup>Ibid, p.90.

consensus-oriented behaviour, furthering hindering parliamentary development.<sup>34</sup>

More generally, parliaments in transition will only inadequately fulfill the essential functions. They remain half-made institutions, with low efficiency and lacking the required internal workings. They have contradictory rules and procedures, and often rush poorly drafted bills into law which then require subsequent amendments or revocations.<sup>35</sup> Such inadequate performances serve to further undermine parliaments in transitional democracies, and possibly the transitions themselves.

Olson also writes about a number of institutional paradoxes that afflict parliaments in new democracies, paradoxes resulting from a larger one which he calls the *opportunity-capability gap*, the ultimate paradox of new parliaments, with increased demand or opportunity for action but reduced capacity to perform.<sup>36</sup> Olson goes on to say that parliaments are critical bodies in the determination of the shape of policy and politics in transitional democracies.<sup>37</sup> But the problems parliaments face impede their ability to contribute adequately to institutionalization, in particular in respect of their

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<sup>34</sup>Ibid, pp.90-91.

<sup>35</sup>Ibid, p.94.

<sup>36</sup>Olson, "Paradoxes of Institutional Development:...", p.402. The six paradoxes are: (1) new members in outmoded facilities; (2) the move from single party to multi-party systems; (3) new conflicts and old rules; (4) committees as structures of expertise and power; (5) the executive puzzle of "president, cabinet, and parliament"; and (6) the active parliament and the disbelieving public.

<sup>37</sup>Ibid, p.402.

policy-making and related functions.<sup>38</sup> The study of that subject is still inadequate.

Elections and broad democratization questions have occupied most research while the observation of the institutionalization process of new democratic parliaments has gone unexamined.<sup>39</sup> The place and function of legislatures is certainly not settled, but if legislatures matter in transitions, then helping *develop* them will matter as well.<sup>40</sup> Enter legislative development.

Legislative development is but one component of democracy aid. The latter is simply the effort to aid institutions, processes and principles.<sup>41</sup> It includes training, technical assistance, conceptual education, and practical advice and sharing of experiences.<sup>42</sup> Legislative aid is defined more specifically, by NDI for example, as the attempt to "...foster representative, transparent (open), competent, and accountable

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<sup>38</sup> Ágh, "Parliaments as Policy-making Bodies", p.429-431. Ágh suggests it is small comfort in the fact that inadequacies of parliaments vis-à-vis policy making occurs in the parliaments of advanced democracies, perhaps because he calls parliaments the "first really democratized institution."

<sup>39</sup> Olson, "Paradoxes of Institutional Development," p.413.

<sup>40</sup> David Olson, *Democratic Legislative Institutions: A Comparative View* (New York: M.E. Sharpe, 1994), p.10.

<sup>41</sup> Carothers, *Aiding Democracy Abroad*, p.vii. Democracy aid has been "Variously called democracy assistance, democracy-related assistance, democracy promotion, political aid, political assistance, political development aid, and support for democratic development." Burnell, "Democracy Assistance: The State of the Discourse," p.4. See also Gordon Crawford, *Foreign Aid and Political Reform: A Comparative Analysis of Democracy Assistance and Political Conditionality* (New York: Palgrave, 2001) for an overview of the critique of political aid.

<sup>42</sup> Carothers, "Taking Stock of Democracy Abroad," *American Democracy Promotion*, p.191.

legislatures.”<sup>43</sup> The goal is to make legislatures more responsive and active, both vis-a-vis the electorate and the executive.

Legislative development works on the premise that legislatures matter and that they can actually be ‘contributed to’ or strengthened. Practitioners have made these assumptions independent, it seems, of the literature, relying on either intuition or their experience ‘at home.’ Aid practitioners like NDI turn to legislative development because their own experience with a strong congressional model reinforces assumptions of the potential of an effective parliament in a new polity.<sup>44</sup> Practitioners therefore work with parliaments because they think they are key institutions that will actually produce change.

Legislative aid to parliaments abroad can also develop goodwill for the US, building relationships between Congress and parliaments worldwide. Legislative aid is also an easy sell to Congress, the final source of appropriations for legislative and indeed all political development aid.<sup>45</sup> Shapiro and Macedo write that “It might be widely accepted that democracy is a good thing, yet it is equally apparent that democrats have

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<sup>43</sup>National Democratic Institute for International Affairs, *Guidebook for Implementing Legislative Programmes* (Washington: National Democratic Institute for International Affairs, 2000), p. 3.

<sup>44</sup>Carothers, *Aiding Democracy Abroad*, pp.177-178. This stems partly from the core strategy and model, focusing on institutions that donors are experienced with ‘at home.’

<sup>45</sup>Carothers, *Aiding Democracy Abroad*, p. 178. For example, NDI included Jim Dyer, lead Republican staff member of the House of Representative’s Appropriations Committee in an election mission to Yemen in 1997. I later visited him in Congress to update him on our work abroad.

much work to do in improving the performance of democratic institutions.”<sup>46</sup> It is precisely this help that democratic aid aims at giving.

Springborg, who specializes on legislatures in the Arab world and is therefore especially relevant to this thesis, characterizes legislative development as strengthening the supply side of the democratic equation.

An appropriate strategy of legislative development should rest on the proposition that legislatures should be vital links or transmission belts between civil society and government. **The process of who gets what, when and how in democratic political systems consists of three steps.** First, demands are articulated and aggregated in civil society. Second, these demands are processed by legislatures into public policy. Finally, executive bureaucracies implement these policies under legislative oversight. Each of these three functions is an appropriate target for institutional capacity building.<sup>47</sup>

While Springborg seems to be saying that legislative development strategy should focus on legislatures as links between civil society and government, he also suggests that stimulating the demand side of the political equation raises the expectations of the electorate in systems already challenged by unmet demands. To conduct ‘internal’ legislative strengthening on the capacity of parliaments to function, on the other hand, is to strengthen the ability of formal political institutions to ‘respond’ as opposed to helping ...civil society, for example to articulate or make demands.<sup>48</sup> NDI adopted this

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<sup>46</sup>Ian Shapiro and Stephen Macedo, “Introduction,” *Designing Democratic Institutions*, p.1. This volume looks at the important question of how democratic principles work or fail, and “how to improve the designs of democratic institutions.” p.1. It does not, however, consider it in the context of transitional or consolidating democracies.

<sup>47</sup>Robert Springborg, “Legislative Development as a Key Element of Strategies for Democratization in the Arab World,” *Arab Studies Journal* (Spring 1995), p.97. Emphasis added.

<sup>48</sup>Springborg, “Legislative Development”, p.96.

overly simplistic and Americentric language in Morocco in particular. in making its case to USAID and the State Department, two of the Institute's main funders, about the focus of our work there. NDI was keen to work with the parliament, or the supply side of the political system, whereas the funders preferred to work with civil society and NGOs, i.e. the demand side.<sup>49</sup>

Springborg makes several arguments for developing supply versus demand: he says that supply will work to help development appropriate demands; that supply is an easier form of political development for practitioners; that supply is policy neutral whereas demand is generally not (supply is not inherently about content, but rather systems and processes (unlike demand); and finally, supply is less threatening to host governments, which are reluctant to increase or heed demands made on them.<sup>50</sup>

Writing in 1970, two academics noted that "at every step of the way...hypotheses must be tested against actual situations and their relevance checked through the close association of scholars and practitioners."<sup>51</sup> That same caution still stands, apparently unheeded. Indeed some would argue that legislative development can hinder a new polity's progress: legislatures may even resist change in a country undergoing

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<sup>49</sup>NDI did this 'unawares' of the Springborg argument, but rather based on its own intuition. Yet a more careful assessment in Morocco would have shown the reverse was true there.

<sup>50</sup>Springborg, "Legislative Development," p.96.

<sup>51</sup>Lloyd D. Musolf and Fed W. Riggs, "Comparative Legislative Studies and Services: Notes for a Programme," *Legislatures in Developmental Perspective*, p.503.

transition.<sup>52</sup> This is often ignored by practitioners. Three additional functions that require careful consideration in the context of legislative development aid - rarely broached, and certainly not thoroughly examined - are presented in papers in the volume *Legislative Systems in Developing Countries*: goal-setting, conflict management, and integration in a given polity. "...the legislature as a goal-setting agency for society, the legislature and the management of conflict, and the role played by the legislature in the integration of the polity."<sup>53</sup> These issues should feature in legislative assessments.

Most academics, as Boynton and Kim note, assume legislatures are important, and then proceed to study the internal organization and workings.<sup>54</sup> That assumption of importance occurs among practitioners of legislative aid as well (along with the focus on specific or technical aspects of legislatures), divorced from larger questions. The details of structure, membership, or operations are studied, but how such details play out in a consolidated or functioning legislature will not be the same in a new legislature.<sup>55</sup> An improved strategy for consideration suggested by the authors would include questions about what a given legislature does and how it matters in a given polity and system.

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<sup>52</sup>Pakenham, "Legislatures and Political Development," p.2. For example, did the premature conduct of elections *before their time* in Yemen in 1993 contribute to the civil war which followed?

<sup>53</sup>Boynton and Kim, p.27.

<sup>54</sup>Ibid, p.27

<sup>55</sup>Ibid, p.27.

based on new conceptualizations and different data and analysis.<sup>56</sup> Another question they raised was the role of legislatures in contributing to the stability (or durability) of political systems. Obviously a relevant question for legislatures in transitions, but one about which practically nothing is known.<sup>57</sup>

Baaklini examines two additional and fundamental challenges relevant to the work of legislatures in transitions. The first challenge is reconciling the functioning of the legislative body with the executive, and avoiding impasses that often arise in presidential systems where the powers are separate. The second challenge is ensuring that political parties play within the system (especially smaller parties that played 'outside the rules of the game during authoritarian times), through incentives to be part of the legislative process.<sup>58</sup>

One of the central features of a legislature in a presidential system is its role in policy-making.<sup>59</sup> When such assemblies are weak, it is because they have little or no capacity to either adequately study or consider policy issues, and certainly no capacity to make their own substantial recommendations.<sup>60</sup> While the policy influence of

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<sup>56</sup>Ibid, p.27. This is similar to what Carothers suggests in his latest work. Practitioners ask closed-ended questions like "How is the democratization process going?" when they should be asking open-ended questions like "What is happening here politically?" Thomas Carothers, "The End of the Paradigm," *Journal of Democracy* 13, 1 (January 2002), p.18.

<sup>57</sup>Boynton and Kim, p.27, 28.

<sup>58</sup>Baaklini, "Legislature Structure and Constitutional Viability," p.128.

<sup>59</sup>Ibid, p.131.

<sup>60</sup>Ibid, p.131.

legislatures in parliamentary systems is low - and the control the executive exercises over them more problematic - legislatures and certainly individual members nonetheless need research and study capacities.<sup>61</sup> A proposal was made for a parliamentary research centre for the Moroccan chamber of representatives, supported for once by the parliamentary leadership and the UNDP, but NDI opted not to do it.<sup>62</sup> This was notwithstanding the Institute's own recommendations to parliament following a series of NDI seminars in October 1999. In a memo developed by the two international trainers who had participated in those seminars, they "[proposed] the elaboration of a three part programme to strengthen the legislative drafting capacity of the Chamber of Representatives...."<sup>63</sup> which would in turn have helped members in analyzing and critiquing legislation in general.

Instead, a programme previously executed in Namibia was substituted, on the

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<sup>61</sup> "To help the legislature to gain public trust...it must have the capacity to conduct research, get information, the capability to analyze the information that it gathers and in fact, it must have a strong information base for research and analysis. [Otherwise]...it is not able to effectively represent certain issues that are critical to the nation." Remarks by Dr. Baffour Agyema-Duah, Associate Executive Director, Center for Democracy and Development in Ghana, at the Emerging Democracies Forum, held in Sana'a, Yemen. National Democratic Institute for International Affairs, *NDI Workshop Report, Emerging Democracies Forum* (Washington, DC: National Democratic Institute for International Affairs, 1999). URL: [http://www.ndi.org/edf/transcripts/bpt\\_room2/5.html](http://www.ndi.org/edf/transcripts/bpt_room2/5.html)

<sup>62</sup> This stemmed in part from previous complications in obtaining UNDP programme support. NDI was reluctant to try again, despite an agreement of cooperation signed in New York in July 2000, URL: [http://www.ndi.org/about/press/2000/undp\\_7172000.asp](http://www.ndi.org/about/press/2000/undp_7172000.asp). NDI also said the programme did not have parliamentary buy-in, which it did, and that NDI did not do such programmes, which it did.

<sup>63</sup> National Democratic Institute for International Affairs, *Rapport suite aux tables rondes à la Chambre des Représentants du Maroc, Rabat, Maroc: 25-26 octobre 2000* (Rabat, Morocco: National Democratic Institute for International Affairs, 2000). "Initialement, le NDI propose l'élaboration d'un programme en trois parties visant à renforcer la fonction de rédaction des lois de la Chambre des Représentants....", p.2.

topic of media relations. The goal of that programme, designed and funded prior to parliamentary consultation or buy-in, was to improve the capacity of parliament (and committees in particular) to communicate its work to the wider public. I countered that parliaments are often weak and ill-respected because they do not fulfill their proper functions, not because they have not issued press releases lauding the little they do. The substitution of the Namibian programme was in part an easy solution as the new field representative had recently worked in that legislature. It is also an example of failing to tailor legislative development to the particular institution, and failing to ensure the programme has internal support.

Legislatures ultimately lose legitimacy through incapacity and inaction (or corruption). They risk appearing stubborn if they simply block executive initiatives without good reason or without offering their own proposals, and are perceived as simply obstructionist, provoking executive reaction in direr circumstances.<sup>64</sup> When the Moroccan parliament conducted a ground-breaking inquiry into corruption in the banking and loans sector, it was lauded in the press throughout the country simply because it had done what a parliament is supposed to do. This was not lost on the members, who then realized they needed more resources for research to conduct such inquiries.<sup>65</sup>

In his article "Legislative Structure and Constitutional Viability" Baaklini makes

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<sup>64</sup>Baaklini, "Legislature Structure and Constitutional Viability," p.131.

<sup>65</sup>Conversation with members of House of Representatives, Rabat, Morocco, December 2000.

another key point, often not appreciated by legislative aid practitioners coming out of the US system: "Legislatures perform different functions under different political systems."<sup>66</sup> Needler writes that a legislature must be understood in its context, through consideration of the power structures and larger political system.<sup>67</sup> Understanding the place of the Moroccan parliament in that country's transition and political life would have arguably changed the focus of its programme.

Carothers notes that one of the great weaknesses of democracy aid is the "aid providers' lack of knowledge about the political...dynamics of the institutions they are trying to reshape..." and their "...determination to apply models that fit poorly with the local situation...." This happens because the practitioners *do not know* the local situation.<sup>68</sup> The simple repetition of the Namibian parliamentary media programme in Morocco - without parliamentary consultation or a proper assessment - is an example.

Carothers's is one of the most recent and well-known examinations of the current industry of democracy assistance. *Aiding Democracy Abroad: The Learning Curve*.

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<sup>66</sup>Baaklini, "Legislature Structure and Constitutional Viability," p.133. NDI appreciates this better than others, but there remains a strong emphasis on 'oversight', a uniquely congressional term. NDI's *Guidebook for Implementing Legislative Programmes* makes the point that while there is much that is different between transitional democracies, "[underlying the work is the]...assumption that underpins much of today's democratic development assistance ...[that] the path to democratic development is a shared one in which different countries have much in common. This assumption has been reinforced by the exchanges of democratic development experience...." (Guidebook Preface). See also Carothers, "The End of the Transition Paradigm," *Journal of Democracy* 13,1 (January 2002): 5-21.

<sup>67</sup>Needler, p.158.

<sup>68</sup>Carothers, *Aiding Democracy Abroad*, p.183.

published in 1999, seeks to examine basic questions in the field of democracy aid.<sup>69</sup> With respect to legislative development, he notes there are four common areas of assistance: training and technical assistance to members, direct training and technical assistance to staff, infrastructure support and finally and distinct from the above three, bottom-up approaches: helping outside actors such as NGOs, journalists and policy institutes in their approaches to legislatures.<sup>70</sup> All four approaches (see Figure 4.1) are captured in two broad goals. The first is to increase the effectiveness of the legislature, while the second is to make it more representative. According to Carothers, the first means helping legislators pass better laws, and improving on internal procedures in general.<sup>71</sup> The second goal - more representative - means helping legislators take into account the views of those who elected them, and generally involves constituency offices, hearings, transparency and public access to the institution and legislative process.<sup>72</sup>

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<sup>69</sup>Ibid, pp.vii-viii.

<sup>70</sup>Ibid, pp.180-181.

<sup>71</sup>Ibid, p.180.

<sup>72</sup>Ibid, p.180.

## Legislative Assistance Standard Menu

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### Building the Capacities of legislators

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#### Training legislators

- On substance: nature of democracy; specific political and economic topics; comparative legislative systems
  - On methods: legislative process; use of parliamentary committees; value of public hearings; constituency outreach; transparency; accountability
- 

### Building the capacity of legislative staff

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#### Training legislative staff

- On substance: budget analysis; policy analysis
  - On methods: legislative research; bill drafting; media relations; constituent relations
- 

### Strengthening infrastructure

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- Stock libraries
  - Underwriting new buildings
  - Providing office equipment
  - Developing new information systems
- 

### Bolstering input and scrutiny from NGOs and media

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- Supporting NGOs that promote parliamentary transparency and accountability
- Training journalists to cover legislatures
- Aiding advocacy NGOs that provide technical input on bills

Figure 4.1 Legislative Assistance Standard Menu  
Source: Carothers, *Aiding Democracy Abroad*, p.179.

Ultimately though, as Kornberg and Musolf write, and as mentioned above, even where legislatures exist as facades - let alone where they function well - broad goals can be circumvented: they can develop into something quite unexpected later. They may.

according to Sisson, develop different or new functions than those originally possessed.<sup>73</sup>

It will ultimately require more than the speculation of scholars and current aid practitioners to understand it:

If such speculations are grounded in empirical reality, then the continued study of legislative institutions, their processes and outputs, their roles and functions vis à vis other institutions in the political system, and their responsiveness to, and support from, general and specific publics remain important tasks **for legislative scholars and “practitioners” alike.** [emphasis mine].<sup>74</sup>

This is precisely what, with few exceptions, is not yet happening. There is little comparative information sharing with the work being done at present. Scott writes about the competition and tension within the aid practitioner network, sometimes spilling over into conflict.<sup>75</sup> Clashes occur over competing and contradictory efforts, different versions or elements of democracy being promoted, and specific goals, tactics, and other ‘strings’ and issues.<sup>76</sup> But Scott - erroneously I believe - suggests that such a network exists.<sup>77</sup> From my experience, that is not the case.

In “US Democracy Promotion: Critical Questions,” Steve Smith focuses on the theory underlying democracy promotion efforts abroad, writing that the field is mostly

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<sup>73</sup>John R. Sisson, “Legislatures in Developing Political Systems,” as cited in Kornberg and Musolf, “Legislatures in Developmental Perspective,” p.29.

<sup>74</sup>Kornberg and Musolf, “Legislatures in Developmental Perspectives,” p.29.

<sup>75</sup>Scott, “Transnationalizing...” p. 165.

<sup>76</sup>Ibid, p.165. In my three and a half years, I noted clashes with IFES and USAID, the latter quite detrimental to our work in Morocco.

<sup>77</sup>Ibid, p.166. Little to no such ‘cross-fertilization’ occurs or is encouraged.

immune to criticism.<sup>78</sup> While perhaps not a sacred cow, democracy *is* difficult to attack in theory.<sup>79</sup> In the final third of this chapter, however, I will look at the practice of democracy aid. I will consider some general criticisms, before focusing on three specific ones: the lack of systematic study, a simplistic core strategy, and inadequate assessment.

There are numerous miscellaneous criticisms which could each merit an independent study. They include the tendency of democracy promotion to give money to American organizations to do the work rather than to fund indigenous or national organizations (a disparity felt keenly by those with whom we work).<sup>80</sup> Criticisms can be made regarding democracy aid's rhetorical excesses which create high expectations, the serious overestimation of capacity or ability on the part of donors (and the US in general) to affect political life and events abroad; and the inadequacies of specific tools and tactics employed.<sup>81</sup> The latter include the tendency of democracy promoters to invest attention and focus on one or a few leaders in the hope that they will be able to *carry off*

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<sup>78</sup>Steve Smith, "US Democracy Promotion: Critical Questions," *American Democracy Promotion*, p.64. His critique expresses reservations about the *form* that democracy promotion takes abroad. While not strictly related to my thesis topic, it is perhaps sufficient to draw attention to the broad range and nature of his criticisms: first, his historical regard of the US government's policy is not positive; second, he suggests the definition of democracy used is inadequate [this and the next critique do in fact relate, and will be examined later]; third, the actual promotion is of a limited democracy; fourth, the fact that globalization complicates the simplistic notion of democracy used; and fifth, the complicated relationship between democracy and neoliberal economics ignored by aid practitioners. pp.65,67,72,74,77.

<sup>79</sup>Smith, "US Democracy Promotion," p.65, 67, 72, 74, 77.

<sup>80</sup>Carothers, "Democracy Promotion Under Clinton," p.23.

<sup>81</sup>*Ibid*, pp.22-24.

democracy. Carothers calls this 'great leader syndrome.'<sup>82</sup> There is also the bias towards high-visibility activities that will sell well back in the US, especially to democracy promotion funders. Field staff are encouraged to record activities with photos and are encouraged to send press clippings and articles back to Washington as 'signs' of programme success.

But while particular criticisms exist, three larger concerns stand out in the literature, confirmed in my experience: a lack of systematic study, inappropriate core strategy, and weak programme assessment. Paradoxically each of these areas as they now stand serve to enhance the work currently being conducted. The lack of systematic study gives the work an energy and dynamism not dependent on long reflective analysis beyond the scope of practitioners such as NDI. A simple 'Ameri-centric' core strategy simplifies the Institute's approach, focused on what it knows best, and facilitates quick programme execution.<sup>83</sup> Finally, a lack of pre- or post-programme assessment goes hand-in-hand with the forward operational focus and fluid, fast moving programme execution. Nonetheless, their faults remain.

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<sup>82</sup>Ibid, p.23. Sorensen raises the question of the role of leaders - the rise of Mandelas versus Mobutus, as it were - which mutes Carothers' criticisms. Good leaders can accomplish something others can not, often through great moral persuasion and competency. Georg Sorenson, "The Impasse of Third World Democratization: Africa Revisited," *American Democracy Promotion*, pp.287-307. See also, Daniel L. Hyman and Kenneth M. Pollack, "Let Us Now Praise Great Men: Bringing the Statesman Back In," *International Security* 25, 4 (Spring 2001), 107-146.

<sup>83</sup>There are also countries that are ambitious to implement a US congressional model, such as Nigeria and of late Indonesia. They are not interested in parliamentary systems where legislatures have little real control over what the executive does.

### ***Systematic Study***

The lack of systematic study refers to the failure of aid practitioners to properly study or consider where and what they are doing, and the failure to engage in strategic thinking. As Burnell writes, "the shortage of strategic thinking about how to best support democratization...." is a common complaint (and an appalling gap) among democratic practitioners.<sup>84</sup>

Practitioners of legislative aid have not engaged in systematic study, undergirded by reflection on functions of legislatures in transition, how and why they matter, or on how we can best aid them to do what they are supposed to do. Neither the body of literature on legislatures in transition nor legislative development have been considered, or discussed, nor even shared among practitioners in the field. Carothers writes that:

the actual direct influence of the scholarly work on democratization...has been low.....Very few of the project papers...contain any reference to academic writing on democratization. There has been little borrowing of concepts from the literature, nor has there been that much direct interchange of ideas beyond the occasional lecture by a visiting academic or the input of a small number of political scientists who have served as democracy officers with USAID.<sup>85</sup>

The consequences of this shortcoming are very real. Burnell notes that where the work has failed - often because understandings are "shallow" - there has been a hesitancy to acknowledge it and learn the appropriate lessons.<sup>86</sup> There are also challenges in where

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<sup>84</sup>Peter Burnell, "Democracy Assistance: State of the Art," *Democracy Assistance: International Cooperation for Democratization* Ed. Peter Burnell. (Portland: Frank Cass, 2000), p. 346.

<sup>85</sup>Carothers, *Aiding Democracy Abroad*, p.93.

<sup>86</sup>Burnell, "State of the Art," p.346.

and how aid practitioners promote democracy, but that also has gone unstudied. Questions about the suitability of democracy to particular countries and cultures are left unexplored as well.<sup>87</sup> From my experience, practitioners simply often do not know.<sup>88</sup>

While parliaments are the participant institutions of choice in modern democracies, that function is served in part by other means in countries in transition. For example, tribes often perform an advocacy and representative function.<sup>89</sup> Parallel structures of tribes and sheiks who are represented in parliament may be important but not are understood. NDI appreciated this to some degree and wanted to study it. Carothers even lauded the Institute's goal.<sup>90</sup> But the study was never done. Ultimately, the nature of the Institute is not to engage in such reflective undertakings. In any event, the donors do not often fund it.

Additionally, one analysis forecast the declining role of the parliament and the expanding role of the appointed consultative council.<sup>91</sup> NDI did not work with the consultative council despite invitations from its chairman to do so. We had a

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<sup>87</sup>Ibid, p.355.

<sup>88</sup>My experience in Madagascar was that 'we' simply did not know and understand the culture we worked in. Shortly after my posting in Yemen, I met with an Arab American who gave me a crash course on Arab culture and politics over coffee in Amman, Jordan. It was the only 'training' I received in this respect.

<sup>89</sup>Schwedler, "On Democracy," p.2. Emphasis added.

<sup>90</sup>Carothers, *Aiding Democracy Abroad*, p.105. The idea to study the tribes and their interplay into parliament and civil society is credited to David Nassar.

<sup>91</sup>Schwedler, "On Democracy," p.3

preconceived notion based on a US-inspired core strategy that sees appointed upper chambers as undemocratic. But as one Yemen scholar writes, “Understanding the political evolution underway in Yemen requires that one abandon fixed notions of precisely how change “should” take place.”<sup>92</sup> That analysis ended with a critique of the lack of systematic study or analysis of the environments in which legislative and political development sometimes occurs:

...for the political analyst, the political and social landscape of Yemen cannot be judged according to progress achieved along a continuum from a traditional society to a modern one.... This “success or failure” school of analysis cannot begin to appreciate the changes taking place within Yemeni society, and government accountability can be understood only within the context of the multiple and dynamic power structures within Yemen. The issue at hand is not the founding of participant institutions, but the actual exercise of power. Only then can one begin to appreciate the impact of the introduction of new participatory political institutions on Yemen’s political and social landscape.<sup>93</sup>

Even when democracy aid does look at legislatures, the attention accorded it is limited. Carothers’s critique gives electoral, political party, and civil society development respectively 16 ½, 15 and 40 pages of consideration. Legislatures are considered in just 8 ½.<sup>94</sup>

A cursory understanding of the transition underway in Morocco would have told NDI that the parliament was not an institution of power or influence, and was not likely to serve the cause of democratic reform. It was a tool of co-option in the whole facade.

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<sup>92</sup>Ibid, p.3.

<sup>93</sup>Ibid, p.4.

<sup>94</sup>Carothers, *Aiding Democracy Abroad*, pg. iv, 123, 248. This may also reflect bias of donors from working with legislatures, for a multitude of reasons: lack of interest, lack of results. Admittedly quantitative does not ensure qualitative, but in context it is a sign.

Unfortunately, aid practitioners “herald a new parliament while knowing little of the actual relations between the parliament and the citizenry.”<sup>95</sup>

Carothers acknowledges that the problem cuts both ways: the failure of organizations doing the work to undertake systematic study of what they are themselves doing, for a number of reasons, *and* the failure of academics on the outside to undertake systematic study of democracy assistance. The political science literature on democratization is abundant. The same can not be said for the literature on democracy assistance.<sup>96</sup>

The lack of study of democracy aid, either by practitioners or academics, weakens the work in four principal ways:

[1]...insufficient cross learning about promoting democracy among different regions or among different sectors in recipient countries.” [2] ...the dispiriting tendency toward constant reinventing of the wheel in aid organizations as personnel shift into and out of positions, particularly in groups working in the field for the first time. [3] People seem to believe that merely being a citizen of a democratic country qualifies them splendidly to promote democracy anywhere else. [4] Utilizing their own limited instincts and ideas about how democracy is supposed to work, they generate programmes with little help from any body of learning other than occasional reports containing lists of anodyne

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<sup>95</sup> Carothers, “Democracy Promotion Under Clinton,” p.23. When I went to Yemen, I was told we would be shifting focus to the newly elected parliament, despite not having actual funds to do the programme (my previous experience with NDI was in legislative development, but in Yemen we had only party development funds). Neither funding for, nor an understanding of, the Yemeni parliament went into this ‘assessment.’

<sup>96</sup> Carothers, *Aiding Democracy Abroad*, p. 9. Reasons includes the fact that academics are unaware of the growth of democracy assistance, the tendency to perceive such foreign aid as “self-interested interventions in internal politics,” or the view that it is a domain unrelated to traditional motivations of academic inquiry.

<sup>97</sup> In 1998 NDI conducted three ‘best practices’ meetings for field representatives working with political parties, legislatures, and civil society respectively. These were the first meetings of their kind, and were invaluable.

lessons learned ranging from “Be sensitive to the local environment” to “Democracy is not achieved overnight.”<sup>98</sup>

Even where academic or professional assessments exist, NDI was apt to ignore them. A *Democracy Assessment of Morocco* prepared by a US academic and consultant for USAID in Morocco in 1998 stated “This report does not suggest that parliamentary development be a primary focus of USAID’s D/G [Democracy/Governance] activities.” NDI ignored this recommendation and disputed with both the mission and USAID in asserting its prerogatives to work with the parliament and political parties in the country, based simply on its biases of what should be done, but no strong assessment of what could be done.

The “scarcity of systematic study” ultimately means the political development industry is unable to provide basic answers to two basic questions: whether it works, and if ‘we’ know what we are doing.<sup>99</sup> Even a series of NDI meetings, grouping legislative and political party field representatives to assess our work, avoided these questions. So do the quarterly and final reports on programmes, which look more at what was done. NDI’s largest internal assessment to date has examined relations between the Institute

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<sup>98</sup>Carothers, *Aiding Democracy Abroad*, p.10.

<sup>99</sup>Ibid, p.10. Given that the best trainers I had used in programmes abroad were three academics who had experience in politics as parliamentarians, I suggested to NDI that we use similar trainers in the future. I was told such academics would cloud their contributions with theory and would be impractical trainers.

and its biggest funder, USAID. It looked principally at questions of internal management and culture.<sup>100</sup>

Training and teaching programmes should be based on a better research, but thus far the gap remains.<sup>101</sup> Ultimately, little of what is done relates to a theoretically grounded or empirically accurate knowledge of what legislatures actually do or are in transitional situations, or how they affect transitions. Carothers acknowledges this point early in his book, and gives reasons that can be summed up in the phrase ‘dissimilar enterprises’ of the academics and practitioners. This encompasses several points:

- the explanatory or backward-looking nature of academic studies versus the forward operational focus of aid practitioners;
- an academic focus on internal reasons for democratization versus the practitioners practice of external assistance and influence;
- competing theories of academics offer little or no basis of choice to practitioners;
- the low threshold of patience or interest among practitioners for academic jargon;
- the lack of time to consider academic literature, also a product of the forward operational focus; and finally,

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<sup>100</sup> Conversations with NDI staff, Washington, D.C., March 2001.

<sup>101</sup> Kornberg and Musolf, “On Legislatures in Developmental Perspective,” p.29. The authors also mention a proposal to create Comparative Legislative Study Centers around the US, with the goal being “the testing of hypotheses and the generation of new knowledge with respect to legislatures and legislative development....”

- “ideological rifts between the academy and the [U.S.] government.”<sup>102</sup>

Carothers writes that the field is inadequately studied, and the sharing of information limited, resulting in a weak body of knowledge in general.<sup>103</sup> He hopes it will change: “There remains a great need to connect serious academic thinking on democratization with the practice of democracy promotion. Many components of the subject remain woefully under-examined....”<sup>104</sup> Practitioners need the academy, and the academy can reinforce the field.

### ***Core Strategy***

Core strategy is another fundamental area of weakness in legislative democracy assistance. According to Carothers, if one were told there was democracy aid in a country, without being told the country name, one could guess the general assistance without knowing the country. A basic package of assistance exists, independent of the country being assisted, stemming from the adoption of a core strategy.<sup>105</sup>

This core strategy incorporates a model of both democracy and democratization which serves to guide the donors. The model of democracy - defined as a *democracy*

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<sup>102</sup> Carothers, *Aiding Democracy Abroad*, p.94.

<sup>103</sup> Ibid, pp. 332-333.

<sup>104</sup> Ibid, p.349. Even as early as 1966, it was suggested that practitioners and scholars should ‘talk.’ Packenham, “Legislatures and Political Development,” *Legislatures in Developmental Perspective*, pp.521-582.

<sup>105</sup> Carothers, *Aiding Democracy Abroad*, p.85. Elections, parliaments, judicial reform, are all elements of the basic package.

*template* by Carothers - includes three categories: elections, institutions and civil society. Notwithstanding the complexity and uniqueness of each transition in the world, this template is used to identify the key institutions and processes that are to be expected in any given democracy.<sup>106</sup>

This simplified template of institutions and processes model is then used in conjunction with a model of democratization, or assumptions of the sequence of political steps that bring about greater democracy. An initial political opening is followed by elections, followed by efforts to democratize political parties and other institutions. Eventually, efforts turn to the extension of democratic norms and practices among civil society.<sup>107</sup> Aid providers further simplify this process to supply and demand in a transition, as NDI did in Morocco.<sup>108</sup>

A third element part of the core strategy is the concept of institutional modeling, that is, the attempt to model institutions in new democracies after western ones.<sup>109</sup> It is here that what Carothers terms “America-specific conceptions” may most influence democracy aid programmes, in attempts to make legislatures ring with the strengths unique to the US Congress, such as legislative drafting, strong oversight and direct

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<sup>106</sup>Ibid, p.86.

<sup>107</sup>Ibid, p.87. See also Carothers, “End of the Transition Paradigm.”

<sup>108</sup>As noted before, NDI preferred to work with parties and the parliament to strengthen the supply side of the political equation, whereas USAID and the US Democracy Working Group in Morocco preferred to work on the demand side, with civil society in Morocco. Conversations, USAID, Rabat, Morocco, October 2000.

<sup>109</sup>Carothers, *Aiding Democracy Abroad*, p.90.

representation (as opposed to strong party caucuses as present in parliamentary systems).<sup>110</sup> This is why democracy assistance consists of so much training of actors in such institutions as legislatures simply to adopt and act as such actors would in a comparable western institution, the US Congress.<sup>111</sup>

There are obvious benefits to the concept of a core strategy. It essentially simplifies choices and programme contents for donors, providing a template of sorts when one attempts to decide what to do in a given country.<sup>112</sup> But a core strategy approach also contains flaws. It reduces democratization to a one-size-fits-all template that is not in fact appropriate to different democratic transitions.<sup>113</sup> What occurred in Namibia has not occurred in Morocco, yet the Institute proposed a programme of legislative development in the latter that was simply copied from the former. Other criticisms include the focus on formal institutions to the detriment of underlying processes, a tendency to ignore values and culture, and the unreflective application of institutional form checklists.<sup>114</sup> The favouring of a check-list approach to democracy

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<sup>110</sup>Ibid, p.85.

<sup>111</sup>Ibid, p.90.

<sup>112</sup>Ibid, p.85.

<sup>113</sup>Crawford refers to the concept of institutional modeling as the attempt by aid programmes to "reduce the deficit of institutions from ideal western forms." Gordon Crawford, *Foreign Aid and Political Reform: A Comparative Analysis of Democracy Assistance and Political Conditionality* (New York: Palgrave, 2001), p.75.

<sup>114</sup>Crawford, *Foreign Aid and Political Reform*, pp.76-82.

assistance includes institutional targets that miss or ignore “modulations in the process of change.”<sup>115</sup>

One example of the unsuitability of the American model is Russia, where Peter Rutland writes “...the checklist approach is rather naive in adopting a procedural conception of democracy, reducing it to a set of values and institutions. What is absent is any consideration of politics...”<sup>116</sup> Scott also makes this criticism, saying democracy practitioners work within the confines of a ‘western conception of democracy.’<sup>117</sup> That same checklist is applied in countries like Yemen and Morocco, among others.

The solution or response to check-list assistance is closely related to the other two criticisms I make here. Indeed, democracy assistance should be adapted to local circumstances, and not apply a strict model of what democracy (or democratization) should be. While there may be much in common between any two transitions, there is also much that is unique. More careful study of local circumstances, including distinguishing between different situations or experiences in transition. Some countries are progressing slowly, others are stalled, and still more are reversing. Democracy assistance should vary between such candidates for aid.<sup>118</sup>

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<sup>115</sup>Burnell, “Democracy Assistance: State of the Discourse,” p.25. He references both Carothers’s article “Democratization : The Question of Strategy” as well as his book *Aiding Democracy Abroad*.

<sup>116</sup>Rutland, “Russia: Limping Along Towards American Democracy,” p.246.

<sup>117</sup>Scott, “Transnationalizing Democracy,” p.164.

<sup>118</sup>Burnell, “Democracy Assistance: State of the Discourse,” pp.24-25.

Adapting the model of democracy and democratization to a larger understanding of what is actually happening in a given country requires a final step before determining the actual assistance to be given, that of proper assessment. Regrettably, reforms taking place within USAID, the principal US donor of democracy aid, deal mostly with questions of priorities and internal structures, and less with basic assumptions of the methods of aid conducted.<sup>119</sup> Goals of supporting local institutions to develop along western institutional designs or 'blueprints' will simply not work.<sup>120</sup>

### ***Assessment***

A third principal area of weakness in democracy assistance is the inadequate or flawed assessment of democracy aid programmes. In my experience, assessment has at least three stages. The first is the pre-assistance or needs assessment that attempts to study conditions of and opportunities for democracy aid in a given country. The second is on-going assessment during programme execution, which ideally allows the programme to adapt to changing circumstances on the ground. The third stage is post-programme assessment, to determine if a programme has met its objectives or produced results, intended or otherwise. This third level would also help determine future assistance and ensure programme continuity.

Assessment is different from the systematic study referred to earlier. Systematic

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<sup>119</sup>Carothers, "Aiding Post-Communist Societies: A Better Way?" *Problems of Post-Communism* (September/October 1996), p.16.

<sup>120</sup>Ibid, p.22.

study examines larger questions concerning the role of legislatures in a given transition or legislative functions in general. More work in this area would help bridge the gap existing between aid practitioners and academics. Systematic study would also give practitioners a more comprehensive understanding of a given country, including the 'larger picture' allowing a donor to determine later in a closer assessment where and if a democracy programme might best be targeted.

Assessment entails a more careful study of the practicalities related to democracy assistance. It is more focused on the needs and opportunities for assistance as well as questions related to a particular project underway or once completed. Assessment must also include an honest appraisal of what a given donor can expect to achieve in any democracy assistance programme. As Burnell writes, "While the assessment of requirements and opportunities in a country should be informed by a sound knowledge ...the potential for change and the challenges, so there must be a realistic appraisal by the democracy assistance provider of its own strengths and limitations as well."<sup>121</sup>

Unfortunately, the two major legislative aid programmes I conducted featured no assessment, and this may be reflected in the subsequent programmes. Given the general lack of assessment, it is difficult to know. Informed assessments of requirements and opportunities were not made. NDI did not possess a sound knowledge of Yemen, and even less so of Morocco. No proper assessment of either parliament undergirded our attempts to work with them. Indeed, in the case of Morocco, the Institute did not possess

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<sup>121</sup> Burnell, "State of the Discourse," pp.25-26.

such an elementary 'tool' for understanding the parliament's powers as the internal by-laws or rules of procedure.<sup>122</sup> Thus far, NDI's model of assessment of a national legislature is a checklist of questions heavily influenced by the American model.<sup>123</sup> Its assessment of needs and opportunities is mostly tied to the subjects for which funding might exist.<sup>124</sup> As Melia notes, it would be hoped that more attention will be given to this.<sup>125</sup> An approach that might be considered is one developed by the United Nations, in which a set of pre-conditions is used to help the organization determine whether and what form of aid to provide.<sup>126</sup> This could also serve in the systematic study phase.

Assessment during the actual programme stage is complicated by the lack of flexibility on the part of funders to change programmes already underway. When we discovered the parliament in Morocco was not interested in working with us, NDI had practically no leeway to re-programme the funds to offer assistance to civil society, even under the general rubric of a legislative theme. The response to any attempt to change

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<sup>122</sup>My work in Madagascar was preceded by an assessment mission, but it only examined the possibility of work with the parliament. I was also part of an assessment team to Togo, which also focused on the parliament. In that both aid programmes entailed an attempt to build a project on the basis of an assessment, they were positive. Yet no general country assessment, of wider needs and opportunities, was conducted. It may very well have been that aiding the legislatures in both instances was not appropriate.

<sup>123</sup>National Democratic Institute for International Affairs, *Outline for Baseline Assessment of a Legislature for NDI Programming* (Washington, D.C.: National Democratic Institute for International Affairs, July 1996).

<sup>124</sup>NDI had already opted to conduct work with the parties and parliament in Morocco, for example, independent of any assessment. This was also the case for Togo and Madagascar, fn.265.

<sup>125</sup>Melia, Review, p.5.

<sup>126</sup>United Nations, *Pre-conditions for Providing Assistance* (New York: Department of Political Affairs, Electoral Assistance Division, October 2000). URL: <http://www.un.org/Depts/dpa/ead/website4.htm>.

the programme was 'that's not what we said we would do in our proposal.' That the proposal was itself not developed on the basis of any assessment of what we should be doing in Morocco was made all the more stark.<sup>127</sup>

Post-project assessment is also weak or non-existent, in my experience. Often there are no budget allocations for post-programme assessments, and no time is allotted to evaluation. Where it is done, it generally includes reporting on procedures of conduct, or offering anecdotal comments from programme participants (those attending seminars for example). There is a tendency to report on what aid donors have done in a particular quarter, or with whom the aid practitioner conducted a meeting (often referred to as consultations in reports). Statistics such as the number of training sessions or participants are also highlighted.<sup>128</sup>

A failure to assess more qualitative aspects, including a lack of a will to reform or cooperate on project objectives, is ignored.<sup>129</sup> My assessment on the ground in Morocco was that the parliament was not interested in working with NDI. This was not acknowledged in NDI's reports on the programme, despite the same assessment by

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<sup>127</sup> Different funders have differing degrees of flexibility. The National Endowment of Democracy is more lenient, whereas others donors will allow only 10% of any line-item in a budget to be reprogrammed, within the confines of the project objectives.

<sup>128</sup> Golub, p.58.

<sup>129</sup> Carothers mentions this fundamental flaw several times in *Aiding Democracy Abroad*, especially pp.304-308.

USAID and the US Embassy in Morocco *before NDI had begun its work.*<sup>130</sup>

When asked to recommend a future programme in Morocco - adopting the glass is half full analogy and assuming the work might be of value - I recommended, based on my experience over the course of eight months in the country, that NDI support the creation of a parliamentary centre focusing on research capacities and institutionalizing legislative assistance. This was supported by the only other parliamentary donor in the country (the UNDP who expressed interest in funding it) and by the parliamentary leadership we both worked with. As mentioned above, the Institute instead substituted a programme that had been used in Namibia by my successor. It was not based on any assessment, and was not discussed with parliamentary contacts until *after* it was approved and funded.

Numerous factors limit the ability and interest of donors in conducting post-programme assessment, including the nature of projects proposed and the forward operational focus of aid practitioners (both compounded by the nature of contract work of the field representatives). Projects contain little or no assessment methodologies, apart from written reports - usually written by staff in Washington - discussing political events in a given country and programme activities, as well as future activities. Ultimately staff spend a year executing a programme, requiring the full year to complete the programme

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<sup>130</sup>Carothers notes the tendency of USAID to characterize the politically connected institutes such as NDI as 'sacred cows,' beyond reach because of their Washington connections. *Aiding Democracy Abroad*, pp.258-259. This was precisely the case in Morocco, where NDI's preference to work with parliament and political parties was strongly opposed by the Embassy. USAID and the long-term US Consul, together comprising the Democracy Working Group (DWG).

objectives (measured by the number of seminars proposed in the programme, for example). On completion of the contract, no time remains to conduct an assessment, other than in an anecdotal form.

The forward operational focus of the work means on completion of a programme, staff are already contemplating next steps, in the effort to obtain either new or on-going funding and to meet 'pressing' needs - as they see it - in working to advance democracy. That very phrase - working to advance - does not allow much reflection on past efforts. What is past is past, and a new day means new work, not rehashing past efforts.<sup>131</sup>

Another difficulty in good assessment is the micro-macro gap, or the challenge in determining the effects of individual democracy programmes on larger political systems.<sup>132</sup> If democracy aid is to mature, though, and achieve its high goals, it has to assess where it has come from as well as where it might go. Burnell writes:

Inevitably there will be growing demands for the effectiveness of programmes and projects to be identified, evaluated and compared. Increasingly such questions as 'is it working?', 'how well is it working?', and 'how do we know?', are bound to be asked. In short, what has been achieved to date and at what cost? How does the record compare with other and more broadly-based approaches to promoting democracy around the world, such as investment in education and economic growth, or the direct alleviation of poverty, which may hold keys to the success or failure of democracy assistance?<sup>133</sup>

For now, there are few formal reviews. Instead, practitioners often rely on the expertise

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<sup>131</sup> Again, Burnell writes "Impact assessments of their work could be difficult to justify in cost-benefit terms and fairly redundant..." *State of the Art*, p.350.

<sup>132</sup> *Ibid*, p.350.

<sup>133</sup> *Ibid*, p.353. As he notes, these questions also need to be answered if nothing else but to secure funding.

and judgement of the field officer.<sup>134</sup> Even then, reliance is on information supplied by the grantees themselves, as Golub notes, and grantees - including NDI - may not have the time, expertise or even inclination to examine their efforts and impacts, particularly whether their work is having unintended effects.<sup>135</sup>

## **Conclusion**

The literature on the results of democracy assistance is scant, yet the general consensus appears to be that the work is worthwhile, but limited, and certainly is not 'determinant' in any one country's transition. Where the path is already set, however, there may be value in giving assistance. Carothers believes this, and suggests that practitioners are learning other lessons as well. The learning curve is gentle and progress is slow, but it is positive. There is much that has not worked, but some has:

...democracy promoters initially brought to their work a surfeit of expectations, hopes and illusions. Typically they started out with only a shallow understanding of what they were doing, having little relevant experience, knowledge of democratization (as opposed to democracy), and, many times, exposure to foreign political settings at all. They launched many embarrassingly simplistic or misguided efforts and met few of their goals. Over the years, however, they have acquired experience and are now progressing along a learning curve. Democracy programmes are starting to have fewer obvious flaws and to reflect a pattern of constructive evolution.<sup>136</sup>

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<sup>134</sup>Golub, p.58. Sometimes even field officers are by-passed, as was done in Morocco when NDI's subsequent programme was not based on either an assessment or my analysis; it was indeed, entirely subjective.

<sup>135</sup>Ibid, p.59. Carothers summarizes five general shortcomings, which come close to my own criticisms: "...lack of local ownership of aid projects ....shallow understanding of the society being assisted.....lack of flexibility.....duration [of aid projects and]....high cost." *Aiding Democracy Abroad*, pp.260-264.

<sup>136</sup>Carothers, *Aiding Democracy Abroad*, p. 332.

But the pattern is “uneven, partial and often excruciatingly slow....”<sup>137</sup> And unfortunately, legislative development is the most difficult objective to achieve. Carothers says legislative aid is the least successful of all democracy aid “Its record,” he writes, “is riddled with disappointment and failure.”<sup>138</sup> New lessons are being learned but they relate to what I call *execution sensitivities and sensibilities*: immediate questions of programme management and administration as distinct from larger questions on legislative functions and roles in transitions, or how we can best assist them. Some reviews of the aid are nonetheless optimistic, suggesting such organizations as NDI have a limited role.<sup>139</sup> Part of that role is in shaping an international democratic culture.<sup>140</sup> This may be democracy assistance’s best achievement.

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<sup>137</sup>Ibid, p.332.

<sup>138</sup>Carothers, *Aiding Democracy Abroad*, pp. 181-82.

<sup>139</sup>James M. Scott and Kelly J. Walters, “Supporting the Wave: Western Political Foundations and the Promotion of a Global Democratic Society,” *Global Society* 14, 2 (2000), p.237.

<sup>140</sup>Ibid, p.237. See also Scott “Transnationalizing Democracy Promotion: The Role of Western Political Foundations.” Scott overstates it when he writes “Perhaps...the most significant consequence is the transnational norm-building that follows...in which political foundations and think-tanks play a part....the diffusion of liberal democratic norms that impact notions of the proper form of the state and the proper relations between state and society.” p. 166.

## Chapter 5                      Evaluation, conclusion and proposals

Legislative development work, is, as this thesis suggests, a new domain. It is also a difficult domain, one that Carothers calls the most problematic and least successful in the field of democracy aid.<sup>1</sup> But it matters, even if how it does is not fully understood:

...a full democratic transition must involve political society, and the composition and consolidation of a democratic polity **must entail serious thought and action about those core institutions of a democratic political society** - political parties, elections, electoral rules, political leadership, intra party alliances, and **legislatures** - through which civil society can constitute itself politically to select and monitor democratic government...<sup>2</sup>

But with respect to its failings, a USAID framework written in 1998 reached a conclusion similar to Carothers's, for reasons also noted in this thesis: "Experience is...limited and there is little conventional wisdom on when and how to provide assistance. Because adequate experience has not yet been amassed.... [Legislative aid] is one of the more controversial and challenging of contemporary donor programmes."<sup>3</sup>

What I have not wanted to do in this thesis is offer a narrowly pessimistic criticism of the legislative aid programmes I have participated in or witnessed. It would

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<sup>1</sup>Carothers, *Aiding Democracy Abroad*, p.181. Says Carothers, "If asked to name the area of democracy assistance that most often falls short of its goals, I would have to point to legislative assistance."

<sup>2</sup>Alfred Stephan, *Rethinking Military Politics: Brazil and the Southern Cone* (Princeton: Princeton University Press, 1988), p.4, as cited in Ketterer, "Morocco's New Bicameral Parliament," p.13. As Ketterer writes, "Despite years of scholarly neglect of the role of the legislature in the developing world, it is now well understood that an effective and representative legislature is critical to the long-term success of any democratic process." Emphasis added.

<sup>3</sup>Hal Lippman and Jan Emmert, *Assisting Legislatures in Developing Countries: A Framework for Programme Planning and Implementation* (Washington, D.C.: US Agency for International Development, October 1997), p.1.

have been possible, as Carothers writes, to offer an entirely lurid and negative assessment of democracy aid, a portrait of practitioners working with simplistic notions and schemes, foisting their idealism on places they do not know.<sup>4</sup>

Falling victim to that characterization has not been my temptation. My experience has been almost entirely positive, not just because NDI offered me the privilege of working in exotic countries at exciting times. I have witnessed dramatic political events up close and offered some solidarity to impressive people at all levels who are supporting their respective countries' democratic transitions. NDI is possessed of much enthusiasm, good will and optimism for democracy and for democracy promotion, not to mention expertise. At all levels one finds bright people committed to a cause. And they are interested in doing better, and are doing so, as Carothers says: the 'democratic assistance learning curve' is positive.<sup>5</sup> That is true for NDI as well as other practitioners.

Organizations like NDI have done much good. The Institute quickly responded to needs in new emerging democracies, and has targeted legislative bodies when other donors were reluctant to do so. The Institute advocated the proper place and functioning of representative, legislative institutions as key to successful democratic development, even when it was not fully understood. In both Yemen and Morocco, NDI was one of the first and few to commit to helping these nascent democratic institutions. The danger

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<sup>4</sup>Carothers, *Aiding Democracy Abroad*, p.259.

<sup>5</sup>Ibid. p.332.

in not supporting and reforming legislatures may be a loss of confidence on the part of the electorate in representative bodies, executive control, and ultimately democracy itself.<sup>6</sup>

NDI has also developed in the conduct of its legislative programmes. The Institute has endeavored to grasp the challenges of legislative aid, even if it is mostly in terms of management. A conference was held for legislative field representatives to share their experiences and appropriate lessons learned from the combined wisdom of the representatives. The fruit of that conference was a *Guidebook for Implementing Legislative Programmes*.<sup>7</sup> NDI's first Director of Governance noted that NDI matured in its conduct of legislative assistance during the time she held the position. Increasing numbers of NDI field representatives were senior staff who served as in-house parliamentary consultants abroad as opposed to workshop organizers. NDI work was increasingly focused on the 'implementation of practices,' such as public hearings, as opposed to workshops and roundtables.<sup>8</sup>

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<sup>6</sup>Abdulaham Bafadel, *NDI Workshop Report, Emerging Democracies Forum* (Washington, DC: National Democratic Institute for International Affairs, 1999). URL: [http://www.ndi.org/edf/transcripts/bpt\\_room2/4.html](http://www.ndi.org/edf/transcripts/bpt_room2/4.html).

<sup>7</sup>National Democratic Institute for International Affairs, *Guidebook for Implementing Legislative Programmes* (Washington: National Democratic Institute for International Affairs, 2000). As noted earlier however, the conference and guidebook focused on operational questions such as programme execution, as opposed to an increased understanding in legislative functions in transitions, or legislative models in different experiences. This is suggested in the title by the word *implementing*.

<sup>8</sup>Conversation with NDI Director of Governance, June 2000. Governance is incidentally the term used by NDI and including both legislative development and local administration programmes. My successor in Morocco is a good example of someone serving as an in-house consultant, working closely with parliamentary members including presiding officers to offer immediate and detailed assistance. NDI even maintained an office in the Namibian parliament, where she was based prior to working in Morocco.

The Institute is also systemizing its information on legislative development, and has worked at making much of it available through the internet to its representatives and others.<sup>9</sup> Relationships with the UNDP and World Bank are intensifying, to garner a better sense of best practices in legislative development, though those lessons have yet to be shared more widely or publically.<sup>10</sup> This has included, more recently, a programme to conduct a Staff Training Seminar with the UNDP, based on the *Guidebook on Strengthening the Representative Capacity of Legislatures*.<sup>11</sup> Yet the guidebook is by its own admission a practical guide, on strictly practical issues.<sup>12</sup>

Unfortunately, larger questions exploring representation in transitional parliaments, notions of effective representation or even case studies of past programmes to develop more representative parliaments are not examined. One document can not be everything, but assumptions of what constitutes a good legislature in a representative democracy need exploring, particularly in new democracies where expectations (or capacities) may differ from western conceptions.

Notwithstanding the successes and progress in what is arguably a difficult

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<sup>9</sup>For example, NDI's work is increasingly available on the internet at URL: <http://www.access-democracy.org>.

<sup>10</sup>"UNDP Launches Initiatives on Good Governance," *UN Wire*, 19 July 2000. NDI legislative staff nonetheless described the attempt by the World Bank to develop a curriculum for legislative development as a 'cookie-cutter' approach. Conversation, NDI Staff, Washington, DC, April 2000.

<sup>11</sup>National Democratic Institute for International Affairs, *Guidebook on Strengthening the Representative Capacity of Legislatures* (Washington: National Democratic Institute for International Development, October 2001).

<sup>12</sup>*Ibid.* p.3.4.

domain, there remains - as the literature and my experience suggest - room for improvement.<sup>13</sup> Burnell begins his concluding article in *Democracy Assistance: International Co-operation for Democratization* with the words "Ten or more years into the flourishing of democracy assistance as a fashionable international art form, **some serious questions need to be asked** [emphasis added]."<sup>14</sup> Recognizing and reflecting on them will be the next important step in the 'industry.'

Legislative development as conducted by NDI can be strengthened by a measured consideration on three counts: systematic study, core strategy, and proper assessment. My experience also suggests something else: the academic literature does not appear off the mark in its assessment. This gives hope that future study on related questions can be accurate and bear impact on the conduct on legislative aid, and democracy aid in general.<sup>15</sup>

While my work in Madagascar did not figure in this thesis, in some ways it encompasses all of the criticisms I make above. I was offered a position in April 1996 to execute a legislative strengthening programme there. I was hired for a number of reasons. I had worked in the Canadian parliament for a few years as a legislative aid and

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<sup>13</sup>Carothers notes that his criticisms of democracy aid are intended as constructive critical inquiry and are therefore issues for debate, not proofs of the futility of democracy aid. *Aiding Democracy Abroad*, p.60.

<sup>14</sup>Burnell, "State of the Art," p.339.

<sup>15</sup>This is no doubt true because the literature abounds with references to the work of Carothers who is the principal assessor of democracy assistance thus far. Carothers bases his critiques on his own experience working for numerous aid practitioners.

therefore could be expected to know what a parliament 'is' or should be. I spoke French, which NDI required to work in the former French colony. I also had some teaching experience, with English as a Second Language and lecturing first year political science. Finally, I had organizational experience in politics and campus ministry, required for managing the logistics in organizing a parliamentary seminar or conference roundtable.

I did not, however, have experience in transitional parliaments and had neither studied nor even read about their role and work in new democracies, a direct prerequisite for the job.<sup>16</sup> Many NDI staff have no such experience, until they are first hired by the Institute. I had never been to Madagascar, nor any other developing country apart from Guatemala where I had studied unrelated questions of religion, democracy and human rights. But I did have, not unlike the Institute, assumptions about what a legislature should be, and was willing to work on that basis. I was hired. An newspaper article on NDI's new representative in Azerbaijan in 1999 noted he knew nothing of that country's politics or history.<sup>17</sup> The same could have been said of me in Madagascar.

The Madagascar programme had been preceded by an NDI team including staff, a former legislator from a transitional legislature in Africa, and a former Canadian parliamentary staffer then working for NDI. The survey mission visited the country - at the invitation of USAID and the parliamentary speaker - in December 1995 to assess the

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<sup>16</sup>National Democratic Institute for International Affairs, *Report of the NDI Survey Mission to Madagascar: December 3 to 14, 1995* (Washington, D.C.: National Democratic Institute for International Affairs, 1995), p.19.

<sup>17</sup>Geoffrey York, "The Dream Merchants," *Globe and Mail*, October 16, 2000.

parliament's functioning and what NDI might do.<sup>18</sup> Meetings were conducted with numerous parliamentary contacts such as party leaders, the speaker, and committee chairs, in addition to US Mission staff (Embassy and USAID) and other 'political' actors outside the parliament including journalists and NGO activists.<sup>19</sup> The programme recommendation was a basic programme of democracy education, consisting of two seminars on basic legislative themes, and a study tour to either South Africa or Namibia, where NDI was already working.<sup>20</sup>

This experience typifies the approach of aid practitioners. Various assumptions undergirded the work: that the legislature was the appropriate national actor with which to work, that it should behave like legislatures we 'knew' from our experiences, and that we could actually assist it. NDI possessed no systematic or grounded knowledge of Madagascar's challenges in democratizing. The assessment was limited in scope and was based on a predetermination to work with parliament. In fact, the legislative survey or assessment mission - to determine the content of a legislative aid programme - was included in the project proposal written before the team went to Madagascar. Working with the legislature was predetermined. That same proposal identified the primary

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<sup>18</sup>*Report of the NDI Survey Mission to Madagascar*, p.1. While I would not suggest the speaker did not in point of fact invite NDI in this instance, similar claims are made in most programme proposals and reports, but are not always the case. NDI's follow-on in Morocco said it was a programme conducted at the request of the parliament, which was not the case. The usual procedure for democracy assistance is USAID decides to make monies available, the intermediary (such a NDI) figures out what it might do, and then the local partner is asked if they want such a programme. The practitioners then make the claim that the programme is in response to a request. Carothers, *Aiding Democracy Abroad*, pp.257-260.

<sup>19</sup>*Ibid* p.1.

<sup>20</sup>*Ibid*, p.2. This meant either South Africa or Namibia.

objective of the parliament to be increasing its effectiveness, through the presentation of international perspectives on legislative functions, including “questions relating to the politics of how a legislature functions in a democratic political culture.”<sup>21</sup>

Elements of the core strategy such as the Ameri-centric legislative focus were included in the programme, including emphasis on law-making and executive oversight, very much in play in the US Congress but less evident in most parliaments, particularly in those with poor resources.<sup>22</sup> The second recommendation for a parliamentary programme included a listing of functions of an MP that placed legislating first.<sup>23</sup> On completion of the programme, no post-assessment was conducted, and NDI conducted no further programmes.<sup>24</sup>

The work will always be a challenge, not just because of all the other competing demands for development resources, though that too. Rather, “...there is the contingency of democracy’s progress on so many other variables, exogenous and domestic, structural as well as human agency - variables which for the most part lie beyond the potential

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<sup>21</sup>National Democratic Institute for International Affairs, *Democratic Consolidation in Madagascar: The Role of an Effective Legislature: Project Proposal*, (Washington: National Democratic Institute for International Affairs, December 1995), p.8.

<sup>22</sup>*Report of the NDI Survey Mission to Madagascar*, p.2. The Survey Mission, while highlighting features of the US Congressional model, did note the necessity of including parliamentarians as trainers from other parliamentary models, p.19.

<sup>23</sup>*Democratic Consolidation in Madagascar*, p.17. For an additional assessment of the political situation in Madagascar before NDI’s programme, see *Evaluation de la politique et de la gouvernance à Madagascar*, (Washington: Associates for Rural Development, April 1994).

<sup>24</sup>The National Council of State Legislature and Centre for Legislative Development at SUNY conducted a programme follow-on to NDI. Jeremy D. Meadows, *Malagasy National Assembly Capacity Enhancement: Final Report* (New York: State University of New York at Albany, 1999). See also

reach of democracy assistance.”<sup>25</sup> But ultimately, asking the right questions is as much a part of the democracy aid practitioner’s arsenal as providing the appropriate answers.<sup>26</sup> Proper and careful response to the three criticisms raised in this thesis would be a partial response to ensuring that legislative development meets the high goals it is premised upon.

There remain important questions for future study, and a number of policy recommendations flow from the material I have covered. They can be summarized as comprehensive analysis of current legislative democracy aid, undergirded by systematic study on the role of legislatures in new democracies; the development of a set of preconditions for legislative aid (which can be somewhat particular to each practitioner); and a needs assessment model for assessing how a particular legislature might be assisted, including some allowance for revision once a programme is underway.

A need exists to undertake a comprehensive review of legislatures in transition, including their roles and functions. This could include a detailed consideration of functioning legislatures - parliaments that are both central to national politics and have capacity to be heard - in a series of new democracies in the consolidation or transition phase, and also in smaller, consolidated democracies, such as Costa Rica. Additionally, a detailed study of the aid to legislatures, and an attempt to quantify and qualify legislative democracy aid, would be beneficial. What is it achieving? How is it

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<sup>25</sup>Burnell, “State of the Art,” p.350.

<sup>26</sup>Ibid, p.351.

impacting legislatures? What are those legislatures then doing in the democratization process of their respective countries? How should legislative aid be done, and what should it entail? Building a comprehensive set of indicators of the effectiveness and efficacy of transitional legislatures and undertaking a comparative study of them would go a long way to understanding and revealing the import, if any, of legislatures in new democracies.

That in turn will affect the conduct of democracy assistance to such legislatures. The hope that this might be done is shared by those in leadership positions in such organizations as NDI. The Institute's past vice-president, in a review of a book on Arab legislatures and new democracies, expressed his hope that academics and practitioners will "examine the ways in which the myriad efforts to enhance the role of legislatures in democratizing countries do or don't actually help."<sup>27</sup>

Aid practitioners have noted positive developments in legislative performances in new democracies, but there is little systematic analysis. Legislatures *appear* to be more responsive to constituent needs, more likely to withstand executive dominance, and more activist in conducting inquiries or voting against government bills.<sup>28</sup> But more

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<sup>27</sup>Melia, Review, p.5. Practitioners are not prone to ask questions of this nature. For example, on two occasions I wrote colleagues working with legislatures seeking examples of successes in legislative development that impacted positively on democratic transitions and increased public confidence in them. No one responded to the request, even after it was fielded by the Legislative team at NDI in Washington. Melia asks: "Does the failure to consider these questions imply a recognition that the work is of limited value?"

<sup>28</sup>Christopher Fomunyoh, "Democratization in Fits and Starts," *Journal of Democracy* 12, 3 (2001), pp. 45-46. Fomunyoh, NDI's Central, East & West Africa Regional Director, also notes the tension between true democratization and liberalization, another issue for further study.

study is required: "Little is known - although much is believed - about the impact of democracy assistance on institutional development."<sup>29</sup>

Finally, as Carothers notes, there is a need to examine more closely the question of the origins of democracy aid. He suggests that it may be that democratization has produced democracy aid, as opposed to the reverse.<sup>30</sup> Does it matter? It does if practitioners are more focused and guided by the availability of money before consideration of the work that might be valuable.

Any reconsideration must include a critical consideration of the transition paradigm and core strategy implicitly held by aid practitioners, which assumes a sequence of events in transitions which no longer hold. Revealing the underlying bias or assumption is the question posed by most practitioners in a given country: "How is the democratic transition going?" That question should be, Carothers suggests, "What is happening politically?" That would result in a more open-ended and accurate analysis.<sup>31</sup> In Yemen - and even more so in Morocco - it would have suggested things were not going as NDI hoped.

The questions remain valuable. Democracy aid is a growing field, with voices in Canada recently calling for the creation of an NDI-type institute to do political

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<sup>29</sup>Sarah Mendelson, "Evaluating Democracy Assistance to Eastern Europe and Russia," PONARS, Fletcher School of Law and Diplomacy, October 1999, p.1 URL: [http://www.csis.org/ruseura/ponars/policymemos/pm\\_0087.pdf](http://www.csis.org/ruseura/ponars/policymemos/pm_0087.pdf).

<sup>30</sup>Carothers, *Aiding Democracy Abroad*, p.44.

<sup>31</sup>Carothers, "The End of the Transition Paradigm," p.18.

development work abroad.<sup>32</sup> Any such development must be executed in consideration of the criticisms of democracy aid that do exist. With respect to legislative development aid in particular, donors (and Canada if we join this growing field) should be encouraged to develop a more comprehensive model of legislative assessment. The assessment currently used by NDI is a set of questions on topics such as legislative constitutional powers, structure and organization, the legislative process, committees, and legislator profiles. Other questions concern the number of bills debated, amended and/or adopted per session.<sup>33</sup>

Unfortunately, questions are simply never answered before programme work begins, or as in Yemen and Morocco, no assessment is conducted before programmes are approved. Other organizations possess their models of assessment, but they were not used in NDI's work. There was neither an attempt to incorporate them into NDI's assessments (when they were in fact done) or to garner from them a fuller sense of legislative assessment challenges. Questions related to the centrality and capacity of legislatures are not often asked.<sup>34</sup>

Another important question is why is there such an abundant literature on

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<sup>32</sup>Jeffrey Simpson, "Time to go the extra mile for democracy," *Globe & Mail* Wednesday, 28 November 2001, p.A19.

<sup>33</sup>*Outline for Baseline Assessment*, p.1.

<sup>34</sup>Melia, Review, p.5. Examples of other legislative assessment tools are the UNDP's *How to Conduct A Legislative Needs Assessment*, October 1999, URL: <http://magnet.undp.org/docs/parliaments/How%20to%20conduct%20needs%20assessment.htm>, and Hal Lippman and Jan Emmert, *Assisting Legislatures*.

American democracy and American foreign policy, and yet so little on American efforts to promote democracy?<sup>35</sup> American democracy promotion efforts both during and post-Reagan were and remain far-reaching. Smith wonders how much democracy aid actually stimulated the spread of democracy.<sup>36</sup> That relates to the relationship of democracy assistance, democratization, and the availability of democracy aid money noted above by Carothers.

Democratic aid practitioners, particularly the US, can not ultimately rewrite 'cultural stories or social histories, and legislatures are certainly and appropriately 'independent' entities. Democracy aid may not even be a variable, so its role should not be exaggerated.<sup>37</sup> A deeper understanding of its impacts would reduce the risk of exaggeration, and allow for appropriating of the successes that are real. As NDI's president noted in a recent lecture, "Democracy promotion is a cause-oriented activity...it requires optimism and enthusiasm."<sup>38</sup> Matching that optimism and enthusiasm with a deeper understanding on legislatures and legislative aid can only improve the efforts of practitioners.

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<sup>35</sup>Smith, *America's Mission*, p.346. Smith is particularly critical of American scholarship in ignoring this important question, particularly with respect to a comparative framework or to historical depth, pp.347-348. He proposes, on pp.365-367, three analytical tools for understanding and taking seriously 'American ideal democratic internationalism.'

<sup>36</sup>Smith, *America's Mission*, p.304.

<sup>37</sup>Smith, *America's Mission*, p.344.

<sup>38</sup>Kenneth D. Wollack, Lecture Remarks, Carnegie International Endowment for Peace, Washington, D.C., 11 January 2000. URL: <http://www.ceip.org/files/events/democracy-paradigm.asp>.

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