

OPINION

The reform agenda in the Arab world¹

Anoush Ehteshami

School of Government and International Affairs, University of Durham, UK

Introduction

Legislation is the bedrock of any civilized society and, when we look at the reform of legislation, the Middle East is no different from the rest of the international community. In order to facilitate and advance political reforms, and improve the governance structures of the state, regional governments have been considering ways of using legislation as a facilitator in the reform process. A number of states have already begun scrutinizing several aspects of their national laws, and in particular those relating to political parties, parliamentary and constitutional institutions, the media, and the role of women in civil society, as the prelude to the introduction of much wider reforms in the political arena, broadly defined. The fact that the atmosphere in the region was now ripe for the introduction of reform-oriented legislation was highlighted by a large gathering of activists in the Arab world in Lebanon in March 2004. Members of 50 civil society organizations from across the Arab world gathered in Beirut for a conference on reform and human rights. The gathering, organized by the Cairo Institute for Human Rights Studies and Lebanon's Association for the Defense of Rights and Liberties, issued a final declaration in the form of a letter to Arab rulers. The letter asserts the right of Arab citizens to live under representative government and to enjoy constitutional guarantees of freedom of thought, belief, and association, political pluralism, and minority rights. Equally importantly, it also called for term limits for executive office and for the full equality of men and women. The letter also demanded an end to extra-judicial procedures, emergency laws, and torture. What emerged from the gathering contains the many key elements of discussion pertaining to the role that legislation, and reform introduced through legislation, could play at this important juncture in the region's history.

Until recently, much of the focus on the process of reform has been on the larger countries: Egypt, Saudi Arabia, Syria, Morocco, and to an extent on non-Arab Iran and Turkey. In reality, several smaller Arab states have been showing strong support for legislative reform in the context of implementing wider changes in the political and legal frameworks of their countries. Kuwait, Jordan and Qatar, for example, have already embarked on this road. Jordan has already seen a royal committee recommendation amendment to the electoral and political party laws. The strategy outlined also included loosening state control over the media, creating a 'youth parliament', and improving the judicial system. Compulsory voting might be

**Corresponding Address*: Anoush Ehteshami, School of Government and International Affairs, University of Durham, Durham DH1 3HP, UK; Email: a.ehteshami@durham.ac.uk

introduced to ensure wider political participation. These progressive changes have since been overshadowed by the terror attacks in the country and the state's real concern with security and the massive influx of Iraqi nationals. But in Kuwait, despite the on-going conflict next door in Iraq, the reform process, has, if anything, accelerated since the early 2000s.

Legislation is the most appropriate tool for delineating boundaries between the state and the individual, between the state and civil society. In the Arab world, where the state has been the dominant political and socio-economic actor as well as the main employer for nearly half a century, legislation is the only means through which new rules and boundaries can be introduced. Legislation is needed for identifying individual rights and freedoms, as well as responsibilities. It is also needed for the setting of the freedoms and responsibilities of the state. Legislative reform therefore plays a central role in constitutional matters. Qatar's leader, Emir Sheikh Hamad bin Khalifa Al Thani, announced in June 2004, for example, that the country's new constitution, approved by popular vote in an April 2003 referendum, will come into effect on 8 June 2005. The constitution has established a 45-member parliament (the Shura Council), with limited legislative powers. Qataris are due to vote for its 30 elected members.

The political process

To enable political participation, legislation is needed not only for allowing the establishment of political parties, but also for enabling them to function within the boundaries set by the political system itself. From there, further rules of the game for participation in the political process are needed. Note in this regard that developments related to the status of political parties have occurred in several Arab countries recently, pulling Arab states in different directions. In Bahrain, for example, a proposal to legalize political parties was rejected by the parliament's legislative and legal affairs committee. Committee members argued that it was 'premature', to use their word, to legalize full-fledged parties for this could damage the 'newly launched democratic experiment in Bahrain, which favors a gradual practice of politics'. In a statement, King Hamad bin Isa Al Khalifa did not directly reject the idea of legalizing political parties, but said that the decision was up to parliament. Such a development would have made Bahrain the first Gulf Arab country to allow political parties. Political parties were required to 'comply with the Constitution, reinforce national cohesion and patriotism, and shun sectarian orientations'. Interestingly, unlike today, it was Sunni Islamist legislators who at that time dominated the lower house of parliament and who opposed the bill on the grounds that Islam condemns any division of the Muslim community, the *umma*.

In another Gulf Cooperation Council (GCC) state, Kuwait, it has been announced that 'political societies' will become fully-fledged political parties once the constitution has been amended. Of note here is that the Kuwaiti constitution bans political parties but political groups field their own candidates in elections. The government has so far rejected repeated calls by opposition groups to legalize political parties.

The Moroccan government has considered a new bill that would introduce restrictions on party formation. It would in effect ban religious, racial, regional, socio-professional, or linguistic references in party platforms, and would require parties to demonstrate that they meet what is referred to as a 'real' social need and

have a significant electoral base. At the same time, the proposed bill would also expand the interior minister's powers to dissolve political parties. Some observers believe that the law is primarily designed to curb Islamist parties as part of a broader government campaign to combat religious extremism, in the wake of recent terrorist attacks blamed on radical Islamist groups. Yet, in September 2007, it was the Islamist-leaning Justice and Development Party that triumphed—a pattern that tends to be repeated across the Arab world where Islamists are allowed to articulate a political platform.

In neighbouring Tunisia, a different story has been unfolding. President Zine Al Abidine Ben Ali was elected to a fourth consecutive five-year term in October 2004. At the same time, voters also gave his ruling party, the Constitutional Democratic Rally, an overwhelming victory in parliamentary elections held on the same day. The election results were essentially predetermined when the president pushed through a constitutional amendment, approved in a landslide referendum in May 2002, which in effect eliminated the three-term limit for presidents. The Tunisian paradox is that improved socio-economic conditions have gone hand in hand with a deepening political authoritarianism on the part of the administration since the early 1990s. The 1998 amendment to the electoral law stipulates that at least 20% of the seats must go to candidates in opposition parties. In practice, 20% has become the maximum that the opposition is allowed to win, with the ruling party, the Constitutional Democratic Rally (RCD), holding the vast majority of seats (currently, 152 out of 189). Thus, of the total 189 seats in the unicameral parliament, the RCD won 152, and the remaining 37 seats were distributed among the Social Democratic Movement, the Party of Populist Unity (PUP), the Unionist Democratic Union, Ettajdid, and the Social Liberal Party (PSL). In Jordan, on the other hand, the core of political reform is the new election and political party laws. Here, it is accepted that political modernization cannot occur without effective political parties. The Jordanian government has even considered creating parties with similar agendas into three strong parties on the right, left, and centre of the political spectrum. Interestingly, King Abdullah himself has championed a campaign to combat political apathy. A ministerial committee, led by the Minister for Political Development (the Arab world's first), has prepared a strategy to implement the king's reform vision. It calls for a national dialogue on: political reform; revising the political party law to introduce tighter controls on funding and to make registration dependent on a distinct platform and demonstrated grassroots support; and amending electoral laws to encourage voting, especially by women and youth.

Media and the political process

Thus, as the arena for political participation widens, so too does the rubric under which political activity can take place. A related area of importance is the role that the media plays in the reform process, and linked to this is the reform of the media itself. Thus far, media reform has had two dimensions: extension of ownership rights through liberalization of the sector, and the introduction of rules which regulate the activities of the media in all its forms. Evidence shows that several Arab countries are reforming their media laws in anticipation of the bigger role expected of this sector across the region. On 25 November 2004, the Moroccan parliament, for example, passed a law to liberalize the country's audiovisual sector as part of the broadening of the reforms. The legislation has opened up the

government's own radio channel and two television stations to investors, although no investor is permitted to own more than 51% of the capital of any audiovisual company. Meanwhile, political parties are discussing amendments to the press code in order to ease reporting.

In Kuwait, an amended Press and Publications Law has received approval. The strengths of the bill lie in the fact it will become more difficult for the government to close publications and to imprison journalists. The bill also relaxes licensing restrictions, thus allowing a much wider participation of groups and individuals in the media sector. The Ministry of Information is also drafting legislation for allowing privately-run television and radio stations to operate in Kuwait. The Bahraini parliament has considered an amended press law that limits the cases under which journalists can be subjected to criminal prosecution. The law, introduced in January 2004, abolished jail punishment for press violations and stipulated that no newspaper be seized or suspended except by court order. But in both countries there are still fairly clearly defined boundaries in place. In Kuwait, criminal penalties have been proposed for defaming the Emir, or religion (notably Islam), or for reporting news that could undermine the national economy. In Bahrain transgressions against Islam and the king are to be punishable acts.

The Jordanian government prepared a draft law in March 2004 that would ban detention of journalists and would make it harder to suspend publications. This step followed measures introduced in 2003 in which the government revoked temporary laws enacted in 2001–2002 that criminalized press violations. It also abolished the Ministry of Information, replacing it with a Higher Media Council that formulates media policy, and created an audiovisual committee to oversee the licensing of private radio and television stations. In Egypt, President Hosni Mubarak announced at a February 2004 conference of the press syndicate that prison sentences for journalists convicted of libel would be abolished, but the promised reform has yet to be enacted. In November 2004, the Omani government approved the establishment of the country's first journalists' association. The Saudi government has also formed a journalists' association, although its ability to assert press freedom has not been all positive since its establishment in 2003. Its board was elected in June 2004, with nine board members elected, including five editors-in-chief of the main Saudi newspapers and two women. At the same time, the Saudi government gave a green light for the establishment of the National Human Rights Association, the Kingdom's first human rights organization. The association's remit includes reviewing complaints about human rights violations and monitoring the country's compliance with international human rights agreements. The prominent figure, Abdullah bin Saleh Al Obeid of the Majlis al-Shura, chaired the body, whose 41 members included ten women. Because independent citizen groups are illegal in Saudi Arabia, the association technically will not be a non-governmental organization, but in practical terms it has been functioning as a private body.

The other arena of importance is the relationship between the state and Islamist parties and groups, whose activities are largely restricted by the state. Despite many years of active presence, it is ironic that the role of Islamist opposition parties in legislative elections continues to vary considerably across the Arab region. In five countries (Algeria, Jordan, Lebanon, Morocco, and Yemen), Islamist parties are permitted to compete in elections. Algeria is the only country in which Islamist opposition candidates have run for president. In the 1995 presidential election,

Islamist candidate Mahfoud Nahnah received 30% of the vote, and they have since continued to retain a political presence. In Egypt, Islamist parties are banned, but Islamists have run for office as independent candidates, typically as members of the illegal but tolerated Muslim Brotherhood. On every occasion, they have scored very highly, despite governmental intimidation. Tunisia has a constitutionally recognized multiparty system which forbids religiously affiliated parties and candidates, and the Nahda party is banned there. Syria, which is effectively a one-party state, allows only candidates vetted by the ruling Baath party to run for office; these have never included any Islamist candidates. In Bahrain and Kuwait, all political parties are illegal, but Islamist candidates compete openly in elections with the backing of political and religious societies, or as independent candidates. In Kuwait, Shi'a and Sunni Islamist blocs now have a firm grip on the legislative process. In Bahrain, one sees a similar pattern. In its 2006 Majlis al-Nuwab poll, Shi'a groups did organize themselves akin to a political party, winning majority of seats in the *majlis* (seventeen seats), effectively sharing power with the Sunni bloc (twelve seats). Parties are also illegal in Oman and Qatar, where no opposition candidates of any kind have run for office.

Iraq's attitude towards new political parties remains convoluted, but given the prominent role played by religious parties since the fall of Saddam Hussein's regime, Islamist parties have attained some form of legal status. The United Arab Emirates does not have a tradition of elections at the federal level, and its limited poll in 2006 has not changed the political landscape there, despite broader political activity in such sheikhdoms as Sharjah.

Glass half-full or half-empty?

In the last analysis, the Arab world needs effective parliaments and independent parliamentarians, drawn from as wide a spectrum as possible. This is needed in order for reformist policies pertaining to the political life of the country to be enacted. Such bodies must be 'authentic' in their terms of reference, and nevertheless be representative. Parliamentarians themselves must be free from state pressure, accountable to the electorate and elected through open and free elections. The process of elections must be transparent, as indeed must be the debates of the legislators and their relationship with the executive. This effective and accountable parliament would then be well-placed to initiate debates about reforms. At the same time, as we have seen, some Arab countries have tended to follow a rather socially conservative agenda, thus preventing the introduction of liberalizing policies and legislation. The rejection of the political parties bill in Bahrain and, until recently, that of extending the franchise to women in Kuwait, stand as testimonies to the complex nature of 'parliamentary democracy' in the Arab world. At the same time, both cases also illustrate the tensions that still exist between the Islamist tendencies in the Arab world and other social and political forces. The state cannot afford to alienate either side if it is to see through to fruition inclusive reform agendas, enhancement of the media, freedom of speech and association, and the introduction of political parties as the main engines of the political process and its main mediators. By the reckoning of most commentators, there is still a long way to go, and the experience across the region remains too patchy for comfort.

Note

1. Data and some commentary are derived from discussions with key stakeholders in the region, and also from: Ehteshami and Wright 2007, the *Arab Reform Bulletin* (Carnegie Endowment for International Peace), the *Arab Reform Brief* (Arab Reform Initiative), the *Durham Middle East Papers* on reform, and the initiative sponsored since 2005 by Durham University and Sir Richard Luce Memorial Fund on the reform process in the GCC states.

Reference

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