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**THE ROLE OF LEGISLATURES IN
ARAB DEMOCRATIC TRANSITIONS**

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NEAR EAST BUREAU

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SECTION I NEGOTIATED TRANSITIONS TO DEMOCRACY

Negotiated transitions to democracy are under way in the Arab world. Ruling elites have initiated negotiations with oppositions, not to bring about democracy, but to retain power. As other means of control lose their effectiveness, and as the distribution of power shifts from the state toward civil society, ruling elites are seeking to define the terms of access to institutions of political decision making.

Political bargaining over access gradually diminishes the power of incumbents and may ultimately bring about a fully democratic system. Ruling elites who attempt negotiated transitions may be removed, converted into one of several competing elites, or elevated to a constitutionally proscribed, reigning, but not ruling, monarchy or presidency.

Negotiated transitions are propelled by two interrelated factors. The first is social mobilization, the consequence of increased education, vocational mobility, exposure to the media, and resulting public awareness. Mobilization detaches individuals from fatalistic outlooks and traditional social moorings, and prepares them for new loyalties and commitments, especially those that promise greater control over public policies and institutions affecting their lives. Arab countries have very high rates of social mobilization.

The second dynamic is a sustained and significant shift of resources from states to civil societies. In the radical nationalist, socialist phase of development, Arab states held overwhelming shares of their country's material resources, whereas civil societies lacked the wherewithal to support large-scale, autonomous, social and political organizations. Since that time, socialist development models have been discredited, the oil boom has collapsed, and partial structural adjustment has taken place in most Arab economies. These events have occasioned the transfer of resources from states to civil societies, weakening the former and endowing the latter with the material resources to support autonomous organizational life.

Growing political awareness and the redistribution of resources have made certain political institutions and processes—the rules of the political game—obsolete. Unable to satisfy revenue requirements from exogenous sources, states are now having to raise revenues from within their own socioeconomic systems. Social contracts, guaranteeing material goods in return for political quiescence, have broken down because governments are not able to fulfill their end of the bargain. To impose

increasing levels of taxation, governments must concede more representation. Bargaining over the terms of this trade is driving the transition to democracy.

Negotiated transitions in the Arab world are gradual and less dramatic than elsewhere. Because of their incremental nature they have been overlooked, overshadowed by rapid transitions in East Europe, or by dramatic restorations of civilian rule in Latin America. But when viewed in their own right—rather than compared to the unique condition of collapsing empire in East Europe, or the historic alterations between civilian and military rule in Latin America—Arab negotiated transitions have made steady and impressive progress. In the transition to democracy, progress takes the form of four distinct stages.

A. Stages of Transition: *al Mithaq*

The first stage may be termed *al Mithaq* (The Pact). It begins when the incumbent elite declares new rules of the political game. It is brought about by manifestations of civil dissatisfaction with regime performance and/or limitations on political participation.

When pacts are issued, incumbent elites are still comparatively strong. They believe that by *declaring* rather than *negotiating* new rules for political access, they will forestall further demands. They are offering *consultation*—not *representation*—in exchange for political quiescence. Concessions do buy time, but they also initiate a process that generates demand for subsequent concessions.

The pact stage of negotiated transitions may go through several iterations and be prolonged, or it may be declared once, and then quickly give way to a later stage. Egypt's experience with pact semi-democracy has been protracted. In the wake of his catastrophic defeat in the June 1967 war, Nasser confronted popular demonstrations against his regime for the first time. He responded by orchestrating a "National Pact of Working Forces" in 1968, in effect legitimating political roles for various social forces.

Nasser's democratization never moved beyond this initial stage. Nor, ultimately, did Sadat's, although at one point it appeared as if it might. The "October Working Paper," drafted in the wake of the October 1973 war, was a liberalized revision of Nasser's pact. It led to relatively free elections in 1976 and the legalization of political parties the following year. But when faced with mounting opposition to his dealings with Israel, Sadat backtracked from his commitment to democratize.

At the outset of his presidency, Mubarak renewed the spirit and much of the substance of Sadat's earlier pact. That brought political quietude for several years. Increased political demands, driven by social mobilization and the availability of resources in civil society, have now rendered pact semi-democracy obsolete in Egypt. That country is on the brink of the second stage of a negotiated transition.

Jordan had a briefer, more productive experience with pact semi-democracy. A few months after serious rioting in the South of the country in April 1989, King Hussein appointed a 60-member Royal Commission to draft *al-Mithaq al-Watani* (national pact or charter). He instructed the commission to construct a framework for legalizing political parties, stipulating that only parties that recognized Jordan as a constitutional monarchy would be tolerated. In short, by declaring the rules of the game, the King sought to ensure that the liberalization he initiated in the wake of the riots would not spin out of control.

Operating according to the rules in the pact, the Jordanian political system quickly demonstrated that increased access for the opposition was not incompatible with a ruling monarchy. As a consequence, the government gained confidence and entered into negotiations with the opposition over further liberalization measures, thereby taking Jordan into the second stage of negotiated transition.

The pact declared by Tunisian President Ben Ali in the early period of his rule amounted to a cautious, much welcomed liberalization. But the government backtracked in the face of a challenge by Islamic activists, and the pact was for all intents and purposes still-born. Hence political processes in Tunisia, including the spring 1994 elections, do not enjoy widespread legitimacy.

A characteristic of the pact stage of negotiated transitions is the limited nature of pluralistic association and the relative weakness—or complete absence—of legal opposition political parties. In this stage access to the legislature, and the autonomy and power of that institution, are strictly limited. Governments permit democratic activities within organizations that are functionally organized, such as professional associations, Chambers of Commerce, student unions and the like, but discourage the formation and/or strengthening of political parties that might aggregate the interests of some of these groups. At the early stages of pact democracy this may be a reasonably stable arrangement. In preceding authoritarian eras even functional organizations were "corporatized," i.e., brought under strict governmental control. Thus, pact semi-democracy is an improvement, but only a transitional one.

Political participants ultimately tire of semi-democracy that permits elections and freedom of speech in functional organizations, but does not allow access to legislative and other decision-making bodies. Participants also resent manipulation and government policies of divide and rule—tactics that are used as a means of control. Ultimately, participants demand to play a direct role in negotiating with the government over the conditions of political access. When that process begins, the second stage of interactive transition has begun.

B. Stage Two: *al-Hiwar*

al-Hiwar (The Dialogue) or *al-Hiwar al-Qawmi* (National Dialogue) is initiated by incumbent elites to enhance their legitimacy and gain endorsement for specific policies. Access is offered to the opposition in exchange for support. The dialogue that ensues determines the terms of political access in exchange for acceptance of governmental incumbency and policy preferences.

Opposition leaders who participate in dialogue are less concerned with substantive policies, over which they have had little past influence, and more concerned with the rules themselves. Oppositions are politically heterogeneous; in some cases, their policy preferences are closer to those of government than to those of other opposition forces. What unites them is the desire to obtain guarantees for more effective political participation. These guarantees are focussed on:

- Constitutions and constitutional relationships between branches of government, especially the executive-legislative relationship;
- Laws and other restrictions governing the formation and operation of political parties;
- Rules and regulations defining how elections to participatory bodies are conducted;
- Role and prerogatives of the press;
- Guarantees of personal political freedoms.

Although covering somewhat disparate areas of political participation, these guarantees do have a central objective, namely, access to, influence within, and power for the legislature. When access is provided, the third stage of interactive transition has been reached. Table one depicts the comparative progress of selected Arab countries in negotiating the rules of the political game.

TABLE ONE
THE STATUS OF NATIONAL DIALOGUE
IN SELECTED ARAB COUNTRIES

Countries that have negotiated and established most of the institutional arrangements, thereby transferring political dialogue to the legislature

L E B A N O N

Countries that have partially negotiated such arrangements and begun to construct and revitalize institutions--especially legislatures--on this basis

J O R D A N, M O R O C C O, Y E M E N

Countries that are just beginning to negotiate agreements and have yet to produce tangible institutional results

E G Y P T, T U N I S I A

al-Hiwar is a response to a crisis of system legitimacy. In the Arab republics these crises are deeper than in either Jordan or Morocco, so dialogue in the republics is surrounded by greater fanfare than in the monarchies. But whether dramatic or low-key, formal or informal, dialogue reflects a stage of accommodation between incumbent elites and oppositions that obtains throughout most of the Arab world.

In its first phase, a national dialogue is likely to bring together government and moderate, but not radical, opposition forces. The political distance is typically too great to be bridged suddenly and without extensive confidence-building measures. Yet the very act of dialogue between the government and moderates helps to build confidence. It also threatens to isolate radical forces, providing an incentive for them to participate.

Unless they take the form of a peace treaty between warring sides in a civil war, as in Lebanon, dialogues and the broader process of negotiated transitions are likely to be gradual and uneven compared to democratization in East Europe or Latin America. Paradoxically, a dramatic breakthrough to democracy may prove less enduring than a gradual, interactive transition, which may undergird the development of a greater commitment to the rules of the democratic game.

al-Hiwar varies according to the time required for it, and the degree of institutional formality in which dialogue is conducted. Table Two on the following page indicates the pace and formality of dialogue in various Arab countries.

In Lebanon, the Ta'if Accord was negotiated between Lebanese political elites under the sponsorship of Syria. The accord represents the outcome of a dialogue carried out in a highly formal and structured environment.

In Yemen, national dialogue was completed with dispatch because it was impelled by unification. Negotiations over both processes—which were inseparable—were conducted in formal settings and resulted in legal and constitutional changes with profound institutional implications. Despite mounting pressure on these new institutional arrangements as a result of a prolonged political crisis, they have endured, testifying to the validity and importance of dialogue itself.

Egypt's President Mubarak, following re-election in October 1993, announced his desire to conduct a dialogue with the opposition. His immediate purpose was to win endorsement from the secular opposition for structural adjustment and his campaign against Islamic militants. His long-term goal was to broaden his base of political support. The opposition responded by demanding that the agenda be expanded to include the rules of the political

TABLE TWO:
NATIONAL DIALOGUE:
PACE AND DEGREE OF FORMALITY

	FORMAL	INFORMAL
RAPID	LEBANON YEMEN	JORDAN
SLOW	EGYPT ALGERIA	MOROCCO TUNISIA

game: constitutional provisions, laws governing electoral systems and the conduct of elections, and guarantees of political freedom, especially the right to form political parties freely.

The stage was thus set for dialogue in which the currencies to be traded were substantive (economic and counter-terrorist policies) and procedural (the rules of the political game). Fearful that such a tradeoff would jeopardize their privileges and power, leaders of the ruling National Democratic Party sought to impose stringent conditions to dissuade the opposition from engaging in the dialogue. President Mubarak, however, overruled his own political lieutenants, suggesting how important he perceives that dialogue to be.

Attempts to instigate national dialogues can fail. In January 1994 Algeria's transitional Higher State Committee, formed in the wake of the coup that aborted the 1992 elections, sought to avert total political collapse by convening a Committee for National Dialogue. The two primary forces in Algerian politics—the army and Islamists—refused to participate, however, and the committee failed in its objective.

Despite the setback in Algeria and the still tenuous situation in Yemen, national dialogue in the Arab world has become a favored path away from political impasse. In Lebanon the impasse brought civil war, which the Ta'if Accords ultimately terminated. The Egyptian elite hopes that the country's low-intensity civil disorder will end as a result of the national dialogue scheduled to begin in April 1994. Both government and opposition in Algeria now appear to be seeking an end to a state of near civil war by reconstituting the dialogue that broke down in January. Table Three on page 10 arrays selected Arab countries according to their success in completing the national dialogue.

When national dialogue succeeds in establishing accepted rules for access to decision-making arenas—of which the national legislature is far and away the most important—it is superseded by a third stage of negotiated transition.

C. Stage Three: Assertion of the Legislature's Authority

Assertion of legislative authority occurs in three separate areas. First, the legislature supplants informal or extra-legislative venues that were created to host the national dialogue in the absence of a representative legislature. Once access to the legislature has been opened up, it becomes the principal arena for further modification of the rules of the political game.

The second manifestation of growing legislative authority is its assertion of power vis-a-vis the executive, a step that may

TABLE THREE
NATIONAL DIALOGUE: DEGREE OF SUCCESS

Unsuccessful

Successful



or may not require amendments to the constitution. Finally, the legislature undertakes to (re)construct itself, modernizing its procedures while obtaining more resources to enhance its capacities.

Lebanon is the only Arab country in which USAID is represented in which this third stage is fully under way. Jordan and Yemen are just entering it, while Morocco appears to be on the verge. If Egypt's impending national dialogue results in free and fair conditions for the 1995 parliamentary elections, it may enter the third stage at that time. Tunisia has yet to begin a national dialogue.

D. Stage Four: Sustainable Democracy

The fourth stage has not been reached by any Arab country. It requires the complete institutionalization of access to and power of representative bodies. As long as the basic rules of the game remain hotly contested, with the executive threatening to limit access to elected bodies and curtail their rule-making and other functions, democratic practices cannot be deemed sustainable.

Institutionalization of democratic practices typically requires an extended period. In the Muslim Middle East, Turkey has had a form of democratic government for almost half a century, with some but not all the attributes of sustainable democracy, as suggested by intermittent military intervention into Turkish politics.

E. Negotiated Transitions: Advantages and Implications

Negotiated transitions currently under way in much of the Arab world have the potential to eventuate in sustainable democracies. It is a process supported both by incumbent elites and by oppositions. It is a low-risk transition, for it does not require economic collapse or a sudden and dramatic change in the political dramatis personae. Moreover, its incremental nature militates against breakdown, unless the transition moves too slowly to accommodate growing political demands. But even recalcitrant elites are likely to be prodded into compromise by increasingly restive oppositions. In Algeria, for example, prospects for accommodation through national dialogue remain, in part because the incumbent elite is unable to restore its authority by other means.

Negotiated transitions are unlikely to proceed in unidirectional fashion. Two steps toward greater liberalization are likely to be followed by one step backward. Incremental improvements, with periodic setbacks, are to be expected in transitions that result from lengthy bargaining between elites and oppositions.

At first glance, incremental change appears to be a liability, especially when compared to rapid and dramatic democratic breakthroughs, such as those in Eastern Europe. But breakthroughs are made possible by collapsing state authority, typically accompanied or caused by economic chaos. The product not of negotiations, but of sudden, dramatic alterations in the political balance of power, breakthroughs leave open a host of questions about political and economic relationships. They may signal the beginning of the process of democratization and economic reform, but they are not an end state. The end state remains to be negotiated and may not always result in the consolidation of sustainable, free market democracy.

Negotiated transitions, on the other hand, are driven by internal dynamics little affected by external factors. These transitions depend on the emergence of representative, decision-making institutions with the capacity to assume the various roles they are being assigned. Enhanced access to such bodies, and their growing power vis-a-vis the executive, is a necessary but insufficient condition for negotiated transitions. Elected representative bodies must develop capacities to make public policy and oversee its implementation. These institutions, especially national legislatures, are thus key instruments of Arab democratic transitions.

SECTION II

CENTRALITY OF LEGISLATURES TO NEGOTIATED TRANSITIONS

Legislatures are vital to negotiated transitions. The most hotly disputed rules of the game (those governing political parties, elections, the media, and freedom of expression and assembly) all regulate access to legislatures and affect the exercise of power therein. The other primary rule—the constitution—governs the power of the legislature vis-a-vis the executive branch.

Political actors focus on the legislature for several reasons. First, legislative bodies are already constitutionally endowed with some powers, but for the most part, these are not being fully exercised. Second, in many countries the legislature formerly played a vital political role. It may have been central to the nation's political history and occupy grand, if decaying, premises, symbolizing at least a quasi-democratic past.

A third reason is that most Arab transitions have now passed through the pact stage of semi-democracy into national dialogue, or appear to be on the verge of so doing. In the pact stage, access to the legislature is severely restricted. Oppositions are offered the sop of participation in other fora, such as professional associations, student organizations, think tanks, and the like. But so-called "club" or organizational democracy is drawing to a close. Oppositions are no longer content with debates that have no power to affect policy.

Government recognition that this period is ending occasions the beginning of national dialogues focussing not on club democracy—which was on the frontline some years ago—but on access to parliament. Recent political struggles over electoral laws, which have occurred in all Middle East and North African countries where USAID operates, symbolize the transition to *al-Hiwar*.

The struggle over legislative access symbolizes the beginning of various stages of negotiated transition in which the legislature becomes central to overall efforts to democratize. Once access is gained, the contested issues become the power of the legislature and its internal structuring. In this next phase legislatures will be called on to perform tasks for which they may be ill prepared.

A. The Interrupted Development of Arab Legislatures

National dialogues have been instituted to bridge the gap between rulers and ruled. Dialogue has already shifted the center

of political gravity toward the legislature in some countries and can be expected to do so in others. While it may be years before the balance of power between executive and legislative branches approaches equality, well before that time, legislatures will be called on to perform an expanding array of political functions.

Many Arab legislatures were founded generations ago and at some stage in their history were vibrant political institutions. Yet most have been in a state of hiatus for more than a generation. They have been dominated by single parties or eclipsed by the executive before they could evolve into modern institutions with the panoply of technical and personnel resources characteristic of their Western counterparts.

Now events have thrust Arab legislatures into the middle of a political transition. They must simultaneously contend with the transition to a multiparty system, modernize their operations, and assume a greater workload. Those that are better prepared or rapidly develop their capacities will hasten and deepen the transition to democracy. Those with weak institutional capacities or inadequate responses to new challenges will delay and even deter the broader process of democratization.

B. Legislative Functions

Legislatures must perform a variety of functions if they are fully to discharge their duties in a democratic system. Principally, these include: contributing to public policy, reviewing the budget, overseeing the executive, providing services to constituents, and educating their members and the public.

B1. Contributing to Public Policy

By interacting with civil society and other branches of government, legislatures contribute to making public policy in such areas as the economy, environment, health, and so on. To do so effectively, legislatures require analytical capabilities, techniques for providing information to legislators, bill drafting, and other skills.

While Arab legislatures have had neither the power nor the capacity to perform these functions adequately, they have already made some contributions to policy making. In areas of "high policy," e.g., foreign policy and military and security issues, legislatures invariably defer to the executive. With distributive issues, however, such as education, health care, public works, and agriculture, or with extractive issues like taxation, they have effectively proposed, debated, and amended legislation.

B2. Reviewing the Budget

The budget is at the heart of the national political process; it shapes priorities and allocates resources among competing groups and programs. To make a significant contribution to the budget process, legislatures need professional staff who can develop budget information systems and perform fiscal analyses.

Most Arab legislatures have no authority to alter budgets proposed by the executive without the permission of the cabinet, although they can reject a budget in toto. In fact, they rarely do so, for the direct consequence may be the dissolution of the legislature. Typically, legislatures recommend changes to the cabinet, which may accept some of their recommendations, or promise to take them into account during implementation.

Individual Arab legislators act as lobbyists for programs and services for their districts and constituencies. Even in legislatures dominated by one party, they often form blocs to press for certain programs. Although they have little technical and professional support and operate under serious restrictions, they often create special leadership committees to respond to the proposed budget. The legislative budget committee normally is busy and prestigious.

B3. Overseeing the Executive Branch

Legislatures should function as counterweights to the executive bureaucracy, establishing control to prevent the bureaucracy from concealing its actions or usurping the powers of other institutions. It is not enough for legislatures to enact programs and policies into law; they must ensure that the bureaucracy implements legislated programs.

Legislatures practice oversight directly through discrete institutional activities, such as audits of executive agencies by legislative central audit boards, and indirectly as a byproduct of other activities, such as budgeting and policy making.

Arab legislatures are usually authorized to exercise oversight, but they do not do so systematically. Auditing and program evaluation tend to be dominated by the executive, even though nominally reserved for the legislature. Nevertheless, through the budget process and constituency work, legislators do perform oversight functions. In all Arab legislatures with which USAID may be concerned, recent cases of high-profile investigations have revealed government mismanagement and corruption. The Egyptian legislature, for example, investigated collusion between government officials, building inspectors, and contractors in the wake of the 1992 earthquake.

B4. Providing Services to Constituents

By providing services to constituents, legislatures can enhance their linkages to civil society while providing oversight of the executive bureaucracy. In many Arab legislatures, these services are informally well developed, because prevailing political and social norms expect them to be provided. Yet few resources are dedicated to this function. Each member of the legislature uses personal means and networks to respond to demands from constituents. No staff or system of information is in place to perform this function.

B5. Educating Members and the Public

In developed democracies, legislators are skilled in the art of negotiation and compromise and informed about issues of public policy. Debates between members are broadcast or reported in the print media. Committee reports and proceedings are also disseminated to civil society.

The educational function is not well developed in Arab legislatures. Broadcasting of debates and publication of legislative reports are intermittent and frequently done in such a way as to reinforce the authority of the incumbent elite. Also, because legislatures have not been central to the political process, they have not attracted the best available talent.

C. Constraints to Legislative Effectiveness

Obstacles impeding the effectiveness of Arab legislatures are both external and internal. External constraints come from the constitutional and political frameworks within which legislatures operate. Internal constraints consist of resource deficiencies and residual political relationships formed in earlier, authoritarian eras.

C1. External Constraints

The roles legislatures play in Arab political systems are circumscribed by constitutional and political factors. Their importance varies considerably from country to country.

In **Lebanon**, the legislature is constrained more by its own internal deficiencies, including limited access to information and other support, than it is either by the constitution or the political system. The constitution assigns to the legislature a broad range of powers, among others, power to elect the president of the republic and approve the formation of the cabinet.

The legislature also has numerous means to hold the government—and the military—accountable. It provides a power base

for its own speaker, who is one of three "presidents" in the presidential troika. It is one of the major arenas in which the troika and other political forces contest for power. Constitutional and political constraints on the Lebanese parliament are not substantially different in kind or magnitude from those constraining legislatures in Western democracies.

In **Jordan**, external constraints contest with internal ones to impede legislative performance. The constitution places the King at the center of the political system. He exercises control over the cabinet, legislature, and legislative agenda. He appoints the Senate and selects its president. He nominates the prime minister and the cabinet, subject to a majority vote of confidence by the Assembly. He can suspend the Assembly, dissolve it, or extend its term as he sees fit.

The King can undertake all of these constitutional steps without risk of serious political repercussions. Constitutional provisions provide the legal basis for action, while his personal political capital ensures political support. For the time being, the legislature can only function in the narrow constitutional and political space granted and tolerated by the King.

But political will, whether exercised by the King of Jordan or other Arab leaders, does not operate in a vacuum and is not usually capricious. It is determined by calculating which actions are preferable—i.e., which ones will obtain desired results at the least political cost. Adventurous, arbitrary decisions carry a price. Heavy-handed attempts to subordinate the legislature to the executive are risky, involving major expenditures of political capital. This political calculus implies that legislatures have room to maneuver, as indeed the Jordanian case illustrates.

Despite the constitutional and political constraints imposed on it, the Jordanian Assembly is not a rubber stamp. The 1989 Assembly, for example, played a significant role in forming and dissolving cabinets chosen by the King. The Assembly managed to derail formation of a new cabinet under Prime Minister designate Tahir al Masri. It also debated the Gulf War and passed resolutions of support and condemnation; it debated the issue of peace with Israel and adopted resolutions relevant to it; and it continues to debate intra-Arab and international issues. While these debates and resolutions are not binding on the government or the King, they can express general public sentiment, imposing political limitations on the cabinet and perhaps the King.

In the past five years the Jordanian legislature has become more representative of political forces in the country. It has become somewhat more autonomous vis-a-vis the executive and has been able to exercise greater power over government and policy making. Nevertheless, serious constitutional and political

hurdles continue to prevent it from assuming all the roles appropriate for a legislature in a democratic system.

In **Egypt** the legislature suffers from yet greater external constraints. The constitution of 1971 and its various amendments assign a predominant role to the executive. As defined constitutionally, this hybrid system has characteristics of presidential and parliamentary systems, but the mix works to the advantage of the president. The Assembly cannot force the cabinet to resign through a vote of no confidence. On the contrary, the president can dissolve the Assembly.

The upper house, or Shura Council, is not entirely a representative body, as one third of its members are appointed and most of its membership are former senior government officials. The constitution requires that fifty percent of the lower house be "workers" or "peasants," a provision critics view as further enabling the executive to dominate the legislative branch. Moreover, access to the legislature is impeded by restrictive party and electoral laws, which are the subject of intense political controversy and will be at the heart of the National Dialogue.

Thus, dominance by the executive branch constitutes the primary external political constraint for the Egyptian legislature. The legislature's role in the budgetary process exemplifies the inability of the institution to assert itself in the face of executive superiority. The constitution requires legislative approval of the annual budget, but this power is vitiated by several factors. For example, the budget document is based on general estimates, not actual obligations of funds. The executive is left with a wide margin of discretion to determine real expenditures, reducing the budgetary process to a perfunctory, superficial exercise.

C2. Internal Constraints

Internal constraints—namely, the legislature's human, organizational, and informational resources—are another obstacle to legislative performance. They define how a legislature discharges its constitutionally and politically mandated functions. Whereas external constraints determine what a legislature can do, internal constraints determine how well it does what it is allowed to do, hence, its efficiency.

The relationship between external and internal constraints is complex. One would expect that fewer external obstacles would mean fewer internal ones, and correspondingly greater resources for the legislature to discharge its roles. This relationship sounds logical, but empirically it does not obtain.

The Brazilian legislature under the authoritarian regime between 1964-88 had internal resources second only to the U.S. Congress. Yet during that period its role was minimal. The Costa Rican legislature, on the other hand, had few internal resources, but its role in the political system was critically important.

Similar relationships exist in Arab political systems. The Egyptian legislature, despite external constraints, has the most abundant and sophisticated internal resources. The Lebanese parliament has the most assertive role, but the fewest internal resources.

The relationship between external and internal constraints is determined not only by historical and economic factors, but by ongoing relationships between the legislative and executive branches. When the legislature is subordinate to the executive, the executive is less apprehensive about giving it resources. Very weak legislatures often obtain resources because they constitute no threat, while strong ones typically generate their own. Legislatures at a mid-level of development are more likely to suffer from resource deficiencies, for executives fear a further accumulation of power and stand in the way of legislative efforts to gain additional resources.

Human Constraints. Human constraints affect both elected members and legislative staff. Legislative skills of elected members may be in short supply. In countries with minimal or suspended legislative experience, elected officials may be inexperienced in hammering out agreements through negotiation, argumentation, and contestation. In countries where political parties have long been outlawed and driven underground, elected officials from these parties are likely to be ideologues, hard-liners, and individuals who practice the art of deceit and conspiracy. It takes time and experience for them to develop trust and enter into and accept negotiated compromises.

One of the tasks of the legislature is to designate its leadership. In the past, the executive effectively chose the leadership in many Arab legislatures, and that leadership acted on behalf of the executive. Now many legislatures will choose their own leadership in the context of multiparty parliaments. Important questions confront these institutions as to what kind of leadership will arise and what function it will perform.

Human resource constraints also operate at the legislative staff level. The Egyptian legislature appears to have the most elaborate organization and broadest staff support. Most Arab countries are closer to the Jordanian model, in which most kinds of support—including information support—are negligible.

Structural constraints. Political and administrative organization contributes to the internal constraints of Arab legislatures. Under authoritarian regimes, Arab legislatures relied on bureaucratic structures, and all legislative activities and resources were tied to the speaker. Within the context of a one-party or no-party legislature, internal structure did not matter, for had it been less authoritarian, the legislature still would not have exercised much power. But in a multiparty context, a bureaucratic structure at the center of the legislature is apt to stifle its ability to discharge its functions.

Information constraints. Information constraints have both human and technical dimensions. Legislatures, more than most political institutions, require a broad array of information to be able to function. Arab legislatures, however, suffer not only from deficits of information and inadequate information storage and management systems, but also from the inability to deliver information to internal and external consumers in a timely and effective manner.

D. Legislatures as Rule-Making Arenas

The fewer the external constraints on the legislature, the more likely it is to become the key arena where the rules of the political game are negotiated and modified. Indeed, it is possible to characterize Arab countries loosely according to their progress in reaching agreement on the rules of the political game, and in transferring political dialogue to the legislature. The categories include:

- Countries that have negotiated and established most of the institutional arrangements;
- Those that have partially negotiated such arrangements and begun to construct and revitalize institutions—especially legislatures—on the basis of these agreements;
- Those that are just beginning to negotiate agreements and have yet to produce tangible, institutional results.

In Arab countries with which USAID deals, Lebanon falls into the first category, Yemen, Jordan, and Morocco into the second, and Egypt and Tunisia in the third.

In **Lebanon**, the Ta'if Accords, subsequently embodied in constitutional amendments, established a "second republic" in which the new rules of the political game became widely accepted. These rules provide a central role for the Lebanese Chamber of Deputies. Modifications of the rules, when and if they occur, will be initiated, discussed, and approved within that body.

In **Yemen, Jordan, and Morocco**, in the past several years, legislatures have become more representative, autonomous of the executive, and powerful; hence they are venues that have captured an increasing share of the national dialogue. In each case, however, preeminence of the executive, combined with persistent weaknesses in the legislative branch, has prevented the legislature from becoming as central to the political process as the Lebanese legislature.

In Yemen, for example, at the end of 1993, the recently elected legislature assumed some of the responsibility for effecting a reconciliation between President Ali Abdullah Salih and Vice President Ali Salim al Bidh and their respective parties. The Committee for National Reconciliation, which issued its recommendations for a compromise solution in January 1994, was originally comprised of parliamentary members of the General People's Congress and the Yemeni Socialist Party, as well as legislators representing other parties. But since the legislature did not include representatives of all political forces with the power to affect the process, such representatives had to be added to the Committee, which then became only quasi-legislative.

Furthermore, the recommendations of the Yemeni legislature remain just that. It is not strong enough to impose its will on the executive, nor can it claim adequately to represent political forces in proportion to their real power.

The Jordanian and Moroccan legislatures meet the requirements of a rule-making arena (representativeness, autonomy, and power) to a somewhat lesser extent than the Yemeni legislature. Monarchs in these two countries have allowed their legislatures to discuss basic political freedoms and rules, but have arrogated to themselves ultimate power to determine important outcomes.

King Hussein, for example, dissolved the Jordanian legislature prior to issuance of a new electoral law in 1993 so as to avoid discussion of it in that body. King Hassan has prevented the Moroccan parliament from amending the (s)election system that endows him with considerable power, although the parliament did play a role in amending the constitution in 1992. Like the Yemeni parliament, the Jordanian and Moroccan parliaments include significant representation from opposition political parties.

In **Egypt and Tunisia**, the parliaments have not been deemed suitable venues for national dialogues because they are insufficiently representative or autonomous. The ruling RCD occupies all seats in the Tunisian parliament. Its Egyptian counterpart, the NDP, holds more than ninety percent of the seats in Egypt's lower house; yet the two largest opposition political organizations, the Wafd Party and the Muslim Brotherhood, are completely unrepresented in this body. Executives in both countries,

virtually without input from the legislature, have authored constitutions and their amendments; devised electoral systems and supervised elections; and written laws governing political parties, the media, and personal political freedoms generally.

Since the fall of 1993 the presidents of Tunisia and Egypt, under pressure from Islamist and secular opposition forces, have sought to initiate a national dialogue to broaden their base of support. These dialogues, which have yet to begin in earnest, will have to occur in special venues to ensure that the cards are not stacked in favor of the executive, and to provide for representation of the opposition.

The need for extra-legislative venues bears witness to the deficiencies of representativeness, autonomy, and power in the Egyptian and Tunisian legislatures. It is these very deficiencies that the dialogue is intended to remedy.

SECTION III
IMPLICATIONS OF ARAB DEMOCRATIC TRANSITIONS FOR USAID PROGRAMMING

A. The Centrality of the Legislature

Transitions to democracy are occurring throughout the Arab world. They follow a pattern in which national dialogue, initiated to broaden political support, evolves into greater representativeness, autonomy, and power of the legislature. This process is the result of the political needs and calculations of powerful elites, whose future will be determined by the outcome. Because of their political centrality, negotiated transitions to democracy are essentially internal matters. Foreign assistance cannot and should not attempt to steer this process. It will unfold in its various ways virtually regardless of what foreign assistance agencies do.

The path to democracy in the Arab world appears to pass through legislatures. It is there where foreign assistance can facilitate democratization. In most cases assistance will not be determinant, but it may expedite a process that otherwise would take longer to complete. In few cases could the blockage of institutional incapacity be removed by foreign assistance alone, or the path to democracy be opened solely by enhancing the capacities of legislative institutions. Foreign assistance can and should be just that—namely, assistance to a process that is under way, that results from indigenous rather than external factors, and is likely to culminate in a successful transition.

Above all, foreign assistance should not be based on an idealized concept of democratization derived from East Europe, Latin America, or any other regional experience with the politics of transition. In the Arab world there is wide variation in the process of transition that will affect how programs and projects are designed. But in all the Arab countries in which USAID is represented, transitions are of a negotiated nature. Instead of dramatic breakthroughs, one may expect a gradual accommodation between incumbent elites and oppositions, in which the legislature plays a key role.

Finally, as a consequence of negotiated transitions, legislatures are likely to become more enmeshed within Arab political systems, and their impact on other institutions and processes will increase. It is not by coincidence that political parties emerged from legislatures in the United States, the United Kingdom, and elsewhere.

As legislatures become more important, factions emerge within them, factions that then seek external support and are trans-

formed into parties. Parties involved in and influenced by the legislative experience develop outlooks and skills appropriate to democratic systems. Thus by providing assistance to legislatures, the development and maturation of political parties will be expedited.

Elections also are essentially downstream of parliaments. Voter turnouts for parliamentary elections in Arab countries are directly proportional to the representativeness, autonomy, and power of these parliaments. In Jordan, turnout in the 1993 election was above 60 percent; in Egypt, in all recent parliamentary elections, it has not been above 25 percent at best. The development of the legislature necessarily influences electoral development. It stimulates an interest in and commitment to the electoral process; it requires of political elites that they develop campaign skills and resources, and the organizational and policy prerequisites for these campaigns.

Thus, parliaments are not only central to negotiated transitions, but their development can be expected to have a ripple effect throughout the political system.

B. Background Information for Effective Programming

USAID may provide further assistance to Arab legislatures on a bilateral or regional basis. In either case, effective programming will depend in part on the availability of key background information. The most relevant information for each country includes:

- The current state of political transition;
- The role of the legislature in the context of transition, including major external constraints;
- The manner in which the legislature performs functions;
- Internal constraints on legislative performance;
- Current USAID assistance to the legislature.

Appendixes A through D represent a preliminary attempt to provide background information for Egypt, Lebanon, Yemen, and Jordan. Insufficient information is available on the Tunisian and Moroccan legislatures to include them at this time. More detailed information on all legislatures ultimately will be required for program and project design.

APPENDIX A
THE EGYPTIAN LEGISLATURE

A. The Current State of Political Transition

Egypt's political transition is stalled. Government and opposition are strongly divided over the rules of the political game. The opposition boycotted the 1990 parliamentary elections, protesting against discriminatory election laws and further undermining the representativeness and legitimacy of the legislature and the government as a whole.

Mindful of the need to expand its political base and reduce support for an illegal, underground, and violent opposition, the government has recently signalled a desire to begin a National Dialogue with opposition forces. To be successful, the dialogue will have to produce fundamental changes in the rules of the political game, allowing the legislature to become more representative, autonomous, and powerful.

The 1971 constitution was ratified when the economy was socialist and the polity authoritarian. It is not a suitable organic document for a free market democracy. Its fundamental flaw is that it tilts power too much in the direction of the executive and away from the legislative and judicial branches. Elements of the opposition demand that a constitutional convention be convened to draft a new document, while others contend that the present document, substantially amended, would be satisfactory.

A law governing political parties was passed by the legislature in 1977. It gives the executive arbitrary power to license and regulate political parties. It also has been used to prevent Egypt's largest political organization from becoming a legal political party. The law and the power it confers remain serious roadblocks on the path to National Dialogue, expanded political participation, and political legitimation.

Since 1984 two laws governing legislative elections have been struck down by the Supreme Court. The constitutionality of the present electoral law remains in question. It stipulates that votes for parties receiving less than 8 percent of the total vote are redistributed to the party with the most votes. This provision transfers votes for opposition parties to the government party. The present law, unlike its predecessor, allows independents to contest elections; but the government has offered its candidates as independents, then reincorporated them into the ruling party once they enter parliament. Finally, there is no

provision for independent monitoring and supervision of elections, which are conducted by the Ministry of Interior.

The media also suffers from restrictions. The government owns large circulation daily newspapers and weekly newsmagazines, as well as all electronic media. Censorship is institutionalized, especially for electronic media. Although the independent media is not censored, the government utilizes various means to impede its free and effective functioning.

Guarantees of personal freedoms are abridged by several highly contentious laws. Law 32 of 1964 subordinates all private voluntary organizations to the Ministry of Social Affairs, which uses its power to monitor and control them. An Emergency Decree, giving government the authority to exercise extra-constitutional powers, has been in place for more than a decade. An anti-terrorism law enables the government to try suspects before military tribunals, as opposed to civilian courts.

The rules of the political game, in sum, are not democratic, nor are they viewed as legitimate. They are, in fact, the central focus of contemporary political debate. Political maneuvering in preparation for a National Dialogue suggests that many, but not all, of these rules will be modified.

B. The Role of the Legislature

The constitution of 1971 and its various amendments assign a predominant role to the executive. The role of the legislature is constitutionally and politically circumscribed. The hybrid system specified in the constitution has both presidential and parliamentary characteristics, but both work to the advantage of the president. The cabinet, for example, is nominated by the president, but submits its program to the People's Assembly (PA). The PA cannot force the cabinet to resign through a vote of no confidence, but the president can dissolve the PA.

The Shura Council (SC) was created by President Sadat, in part to diminish the authority and prestige of the PA. That council, one third of whose members are appointed, continues to exist and poses a threat to the power of the lower house (PA).

The single most important political constraint to the effectiveness of the PA is that it is not truly representative of political life in Egypt. Of its 454 members, 412 are from the ruling National Democratic Party (NDP), while only 6 are from an opposition party, *al Tagam`u*, or The Alliance. Independents hold 36 seats. All formal positions of power and influence in the PA are held by members of the NDP. The internal structure of the PA is centralized and bureaucratic, such that the speaker controls allocation of available resources.

Despite these very substantial constitutional and political constraints, the Egyptian legislature has the potential to perform, and in some cases actually does perform, important political roles. It provides a formal arena in which government and alternative policies are debated. Debates are on record and are reported in the media. They often create substantial interest in matters of public policy and provide an outlet for the articulation of policy alternatives, even by members of the NDP.

Constitutionally, it is within the competence of the PA to nominate the presidential candidate, who then must be approved in a general referendum. The PA discusses policy statements by the president and comments on proposed general policies. It also receives, discusses, and approves government programs. It discusses and approves declarations of states of emergency and war. It considers and approves amendments to the constitution whether proposed by the president or requested by PA members.

The PA approves the bill of the Plan and Budget. It studies and approves the final accounts report presented by the Central Auditing Agency and the ministers of Finance, Economy, and Foreign Trade. It discusses and suggests amendments to bills. It considers and ratifies treaties and international agreements referred to it by the executive and specified in the constitution.

C. Performance of Legislative Functions

C1. Contributing to Public Policy

The constitution empowers the legislature—individually and through its committees—to propose bills in all areas of public policy. In practice, all major legislation originates in the executive and is transmitted to the legislature for approval. Once in the legislature it is considered pro forma by the whole body and immediately referred to committee for consideration. A committee report is then submitted to the whole assembly for approval.

Both within committees and in the plenary, bills are scrutinized and debated. Ministers and their representatives appear to defend their proposals. Members present suggestions and occasional amendments to proposed bills. It is up to the government to accept or reject proposals and amendments. Quite often an accommodation is reached with the executive to accept certain changes the legislature deems necessary.

Proposed legislation referred to the PA frequently deals with general policies and directions. Ministers are left to draw up the details and provide implementation guidelines and standards.

These may then be issued by executive or ministerial order without legislative approval.

Bills proposed by members of the PA face a number of impediments. Members do not have any assistance to draft bills. A bill presented by a member must first be approved by the Suggestions and Complaints Committee. If approved, it is referred to the Judicial and Constitutional Committee to determine that it does not conflict with existing legislation and meets certain constitutional and legal requirements. It is then referred to the plenary to be referred in turn to the appropriate committee. If approved by the committee, it is referred back to the plenary for final debate and approval. At every stage of the process the government party can derail an opposition bill, if it so chooses.

C2. Reviewing the Budget

The PA has no authority to change the budget without the agreement of the cabinet. It can, however, by an absolute majority, reject it. That has never happened. If it did, it would be considered a major confrontation with the executive, which could lead to the dissolution of the PA. In recent years ministers of Finance have used conditionality imposed by the IMF to reject attempts by the PA to introduce changes in the budget.

The budget requires the approval of the PA, like any other bill. Once received by the PA, it is referred to a special committee composed of the 11-member Plan and Budget Committee and the chairpersons of all other subject committees, of which there are 18. The addition of chairpersons weakens the coherence and effectiveness of the special budget committee.

Normally, the PA studies the budget and recommends changes and general policy guidelines to the cabinet. The cabinet is then free to accept or reject these recommendations. Quite often it accepts some general principles and sticks to its own proposals on specifics. It promises to take PA suggestions into account when implementing the budget, but since the budget document is based on general estimates and does not represent actual obligation of funds, the executive is left with a wide margin of discretion to determine real expenditures. As a result the budgetary process is largely perfunctory.

The PA has no capability to study various budgetary components or follow up on budget implementation. Even the Central Auditing Agency does not have the capability to do a performance or program evaluation audit; it simply undertakes fiscal auditing. These capabilities need to be developed both in the executive and legislative branches. As far as the legislature is concerned, it needs both analytic capability to study the budget once it is

presented, and oversight and follow up capability to evaluate budget implementation.

Another factor that weakens the effectiveness of the Plan and Budget Committee is the nature of Egypt's presidential system. If a disagreement develops between the cabinet or one of its ministers and the PA, the matter is referred to the president. If he sides with the cabinet, the issue is sent back to the PA for reconsideration. If it fails to be passed by a two thirds' majority, the issue is considered moot and the cabinet wins. If it passes with a two-thirds majority, the president can put the issue to a referendum. If it fails to receive the majority of the vote, the PA is dissolved and a new election is scheduled.

C3. Overseeing the Executive Branch

According to the constitution, the PA is expected to oversee the executive. With a few minor exceptions, this function has yet to be performed. Theoretically the PA is served by the Central Auditing Agency, which is required to present a yearly report on budget implementation and the performance of various departments in previous years. Although this report does not cover program evaluation or policy alternatives, it does provide significant information on the performance of the administration. Unfortunately, the report of the Central Auditing Agency is not made public; it is reviewed by the General Committee of the PA and then referred to the government.

C4. Providing Constituency Services

The performance of services for constituents is a well-developed function of the PA, since it fits within accepted political and social norms. In various ways constituents forward their demands to members and expect services in return. A standing committee to consider suggestions and complaints has been established.

Although providing constituency services is an accepted function, few PA resources are devoted to it. Members use their own resources to respond to demands from the electorate. No staff or system of information is in place; instead, an informal network of families and friends and the good will of bureaucrats are accepted means of serving citizens who call on members for help.

C5. Educating Members and the Public

The past two decades of legislative experience in Egypt has given rise to a small cadre of politicians who are familiar with negotiation, compromise, and public policy issues. This cadre represents a core of potential leadership for the future.

The PA in Egypt has embarked on a new experiment to make its debates public. Debates are televised on a delayed and abridged basis, and radio and the print media provide regular coverage of the work of the PA. Recently the Shura Council made its 81 reports published between 1980 and 1992 available to the public.

Unfortunately the work of committees, potentially a vital source of information for public education, remains secret. The public has no way of knowing what discussions and decisions have taken place. A modern information system in which committee agendas and minutes are recorded might help to address this issue and increase the educational contribution of the PA.

D. Internal Constraints on Legislative Performance

Legislatures with inadequate internal support commonly suffer from low morale. This is a chronic problem for members of the Egyptian PA and SC. They are aware of their lack of information, and they refer to the deficiency as a source of frustration when discussing proposed executive bills or debating public policy issues. They feel their effectiveness is weakened and their ability to persuade and convince is undermined. Some members manage to acquire information using personal channels, but institutionally, information is lacking.

Members of the PA do not have any personal staff. Members themselves are not paid a fixed salary, but are compensated only in session and when they attend a session or committee meeting. They have no offices, telephones, or other means of communication. If they are one of the few leadership positions, such as committee chairs, they have access to some staff. All other members are on their own. Requests for assistance must go through the administrative bureaucracy. Given the preoccupation of central staff with serving the legislature as a whole, member services are a low priority. All of these deficiencies result in low morale and widespread absenteeism.

The PA is organized in a hierarchical fashion, suited to a one-party rather than multi-party legislature. It is headed by the speaker, who is elected at the beginning of every legislative session by the PA at large. He is responsible for representing the PA and speaking on its behalf. He is empowered to maintain its security, preserve order, open and adjourn meetings, recognize members to speak, and convene committees and chair their meetings. All communications between a committee and any other internal body must pass through the speaker. In sum, the concentration of power in the hands of the speaker, in turn supported by a large secretariat, reflects a bureaucratic, authoritarian organization, rather than a multi-party parliament.

E. Current USAID Assistance to the Legislature

USAID/Cairo currently is considering the provision of assistance to the legislature.

APPENDIX B
THE LEBANESE LEGISLATURE

**A. The Current State of Political Transition
and the Role of the Legislature**

Until 1975, Lebanon enjoyed a liberal, pluralistic, and open political system. With a few minor amendments, and despite a brief but violent conflict in 1958, the 1926 constitution gave the country stable political institutions. Between 1926 and 1972, twelve legislative elections brought in deputies representing the various political and religious communities. Since 1943 when Lebanon received its independence from France, the amended 1926 constitution and the National Pact laid the basis for the constitutional order that prevailed in Lebanon until the end of the First Republic in 1991. The 1991 amendments to the constitution ushered in an amended constitutional order and the Second Republic.

The Lebanon of 1994 is constitutionally not much different from Lebanon of 1972, despite some constitutional changes that were introduced in 1991. Indeed, one could argue that the constitutional changes of 1991 were attempts to codify informal understandings that developed over the years and to clarify ambiguities that existed in the 1926 constitution concerning the relationship between the executive and legislative powers.

Throughout 16 years of civil war, not a single warring group denied the legitimacy of Lebanon's political institutions and constitutional order. The country continued to be ruled by one president, one prime minister, and one parliament, even when these institutions were incapable of implementing decisions uniformly throughout the territory. Competition among the various groups centered on how to associate themselves with the symbols of legitimacy represented by the institutions of the state.

According to the revised constitution, when nominating the prime minister, the president has to consult with all parliamentary groups in the presence of the speaker of the parliament. The prime minister is responsible for formulating his cabinet, presenting it to the president, and submitting it to a vote of confidence in the parliament. In short, the 1991 constitutional changes reinforced the role of the legislature and de-emphasized that of the president.

The power of the parliament and its leaders has been consolidated and strengthened. The speaker and vice speaker are now elected for the whole legislative term, i.e., four years, instead of on an annual basis. This change gives the speaker the power to

negotiate on an equal footing with the executive. The speaker participates actively in formulating the cabinet. Cabinet use of the urgent method for proposing legislation has been defined and watered down, giving the legislature more power to determine its agenda and more time to study proposed legislation.

A new electoral law was promulgated to replace the 1960 law. As a result, the number of deputies was increased from 99 to 128. In contrast to the previous law that allocated seats by a ratio of 6 Christians to 5 Moslems, the new law divides seats equally. It also enlarges the electoral district to make it coterminous with the *Muhafaza* (governorate)¹.

Lebanon has always had a privately owned, free press. The civil war reinforced this tradition and extended it to other media. Radio and television, which were the monopoly of the state before the war, are now equivalent to the print media. All major political parties and groups have their own radio and TV stations. The government is trying to organize this sector and regulate it, while keeping it independent and in private hands.

No changes were made to the laws governing political parties. They have always been free to organize, provided they inform the Ministry of Interior of their officers and internal rules.

Despite some flaws in the 1992 election, the new parliament immediately began to exercise its expanded powers. After the election a new cabinet was installed. Both the cabinet and parliament have been attending to public business with utmost energy. A preliminary review of the work completed in 1992-93 shows that the parliament has been holding continuous sessions, its committees have been reinvigorated, and its productivity has been increased in terms of the bills it has studied or passed.

The new parliament has maintained a watchful eye on the work of the cabinet. It has refused to grant the cabinet delegated legislative power, as the cabinet tried to press for on various

¹Lebanon is divided into five Muhafazas. The 1992 election was conducted on the basis of the Muhafaza with the exception of Mount Lebanon, which was divided into six electoral districts. The use of Muhafaza as an electoral district was intended to minimize sectarian influence and force candidates from various sects to cooperate to form a winning coalition. Mount Lebanon was left divided, favoring the Druze Walid Junblat and his candidates.

occasions². This undoubtedly put the parliament under great pressure to meet the country's needs for new legislation.

B. Performance of Legislative Functions

The Lebanese legislature is the major arena in which public policy is contested. It has begun to review the budget in greater detail than before. Its oversight of the executive branch is active, although hampered by inadequate information. The legislature is in the process of reinvigorating its central control agencies to oversee the executive bureaucracy. Legislators use a wide array of private networks and personal resources to provide services to constituents, although performance is hampered because the legislature itself does not have adequate resources for this activity. Finally, legislative debates and proceedings are a primary focus of public attention. They are covered extensively in the press and serve to stimulate debate and political action.

C. Internal Constraints on Legislative Performance

Compared to the Egyptian legislature, Lebanon's is relatively effective despite a lack of resources. In its present state it is analogous to American state legislatures some 30 years ago, before they were professionalized and their staff and other capacities expanded.

Like their American counterparts in that era, Lebanese legislators expect to draw on their own resources to carry out their functions. The advantage of this method is that it links legislators and the legislature itself to other organizations in the political system. The disadvantage is that performance suffers as a result of resource deficiencies.

In addition to resource deficiencies, the legislature confronts structural constraints. The office of Speaker previously controlled most resources, causing their misuse, abuses of power, and resource allocation on a highly partisan basis. While these

²Delegated legislation is a constitutional practice whereby parliament grants the cabinet power to pass legislation by legislative decree for a certain period of time and for certain subjects. The practice is intended to allow the cabinet to speed action on complex matters that would take a long time to consider, with no assurance of passage, if subjected to parliamentary debate. In the past, cabinets were given such delegated power; however, the cabinet of Prime Minister Hariri tried on several occasions to ask for it but was rebuffed. The new parliament and speaker viewed delegated legislation as an abandonment of their constitutional responsibility. Instead they promised quick action and continuous sessions to respond to the emergency situation after 16 years of civil war.

problems have been reduced, the relationship between the speaker and the administrative structure of parliament requires further clarification.

Another structural constraint results from the diffuse and unorganized nature of legislative membership. Of 128 elected members, only 40 belong to political parties; the remaining 88 are independents. The largest party bloc is that of Hizbollah, which has 8 members.

Represented political parties cover an extremely wide range of ideological perspectives. Compared to legislatures in which there are two, three, four, or five parties, the Lebanese legislature must facilitate agreements among a plethora of interests and alliances. Because there are so many parties and independents, and because so many of the legislators are new, legislative leadership is slow to emerge and be recognized. In the absence of coherent leadership, it is difficult to conduct business effectively.

Structural constraints will be alleviated through the emergence of legislative leadership. Appropriate training programs, information, qualified staff, and other resources would hasten that process. Providing appropriate resources would not only aid the performance of specific functions, it would advance the institutionalization of the legislature.

D. Current USAID Assistance to the Legislature

USAID has provided a grant to the Center for Legislative Development of the State University of New York at Albany to deliver assistance to the Lebanese legislature. Assistance consists of training and commodities for one of the legislature's central agencies; provision of an electronic voting system that will be delivered and installed by the end of summer, 1994, and a local area network for computerized information management. In addition, a comprehensive needs assessment will be completed in 1994.

APPENDIX C
THE YEMENI LEGISLATURE

**A. The Current State of Political Transition
and the Role of the Legislature**

For the past four years, Yemen has been undergoing a transition from an authoritarian to a pluralistic, open political system. The transition is taking place through a series of negotiated agreements and in the context of a unified country. In May 1990, South Yemen, ruled by the Yemeni Socialist Party, and North Yemen, ruled by the General Popular Congress Party, entered into an agreement to unite and share power. Since then a constitution has been drawn up and ratified by general plebiscite. Electoral, party, and press laws have been adopted as part of the transition. In April 1993, a free and fair election was held to choose the 301 members of the legislature.

Three features can be seen in the composition and role of the executive and legislative branches and the relationship between them. As elaborated in the constitution, the political system is characterized by:

- Integration and overlapping of powers rather than separation;
- Features of both presidential and parliamentary systems, with a prominent role given to the president;
- A presupposition of consensus and cooperation among the branches of government, rather than majoritarian domination and conflict.

Executive power is shared by a president, a prime minister, and a Presidential Council of five members. Members of the Council are elected by the Assembly, and the Council then elects the president from among its members. He becomes president of the country and commander in chief of the armed forces.

The Council of Ministers is headed by a prime minister who is appointed and dismissed by the president. In consultation with the Presidential Council, the prime minister nominates his cabinet for approval by the president. Before it is installed, the cabinet must obtain a legislative vote of confidence.

A number of changes were made to the legislature in the new constitution and ensuing political arrangements. Added to the 159 members from the North (128 elected and 31 appointed in 1988) were 111 members from the People's Assembly from the South.

Another 31 members were appointed by the president to make the total number 301. The name of the legislature was changed from a Consultative Assembly to a Chamber of Deputies or Parliament, signifying a change in role to a full legislative institution.

The constitution reserves considerable power for the legislature. Its members can propose legislation, debate issues, and amend, reject, or approve proposed legislation submitted by the cabinet. The legislature can request information from the cabinet, question ministers, and in accordance with procedures specified in the constitution and the internal rules of the legislature, submit the cabinet to a vote of confidence.

The legislature is empowered to debate and approve the cabinet program. This program must be submitted to the legislature before the cabinet can be granted a vote of confidence. The legislature can debate, approve, or reject the government's budget and development plan. It also can elect its leaders, and create permanent, ad hoc, or special investigatory committees as it deems necessary.

There are several constitutional limitations on the power of the legislature. It can be dissolved by the president under conditions specified in the constitution. Bills approved by the legislature need the approval of the Presidential Council before they are promulgated into law. If not rejected within 30 days, they become law; if rejected, either in whole or in part, they are returned to the legislature for reconsideration. The legislature can override a total or partial veto by an absolute majority of its members.

Although the legislature is entitled to adopt its own internal rules, these rules need to be approved and promulgated into law, similar to any other law, before they become effective. Thus, in effect, the Presidential Council has veto power over the internal rules of the legislature.

Another limitation on the power of the legislature concerns budgeting. In considering the budget, the legislature cannot alter its provisions without cabinet approval. It does have the right, however, to suggest changes and present recommendations. Also, the legislature can reject the entire budget, thereby precipitating a crisis.

To avoid this type of confrontation, or specific amendments that may throw the budget off balance, the cabinet and the legislature must reach an accommodation. Normally, the legislature will present its suggestions to the cabinet, and the cabinet will respond with the promise to take these recommendations into account when implementing the budget. The budget document in Yemen expresses only general principles and

directions. Thus far, there has not been any legislative oversight of budget implementation. Because of the country's broader political crisis, a budget for 1994 has been neither proposed nor approved.

The political context in Yemen provides both opportunities and constraints for the legislature. Its primary political advantage is that it is widely perceived to be a representative body, and an appropriate forum for negotiating the rules of the political game. Thus, the legislature has played the key role in seeking to end the crisis precipitated by conflict between the president and vice president.

The legislature's principle political constraint is that the writ of the Government of Yemen does not run throughout the country, or even very widely where it does run. The legislature, like other institutions of government, is unable to implement much of what it decides.

Despite continuing governmental weakness, the transition in Yemen has reached the stage where there is widespread agreement on the rules of the political game. There is also a forum—the legislature—in which the rules can be applied and modified by democratic processes.

B. Performance of Legislative Functions

Insufficient information is available on the new legislature to assess how it is performing its functions.

C. Internal Constraints to Legislative Performance

The new legislature inherited structural, human, and physical and informational constraints from its predecessor. Its primary structural challenge is to change a centralized legislative bureaucracy (the legacy of a one-party legislature) to an administrative organization that serves the needs of a multi-party system. Adaptation is difficult because appropriate, alternative models of legislative organization are not readily available. The model that has been copied, and with which most Yemeni legislators are familiar, is the executive bureaucracy model. It would be helpful if Yemenis were exposed to other organizational models while they are in the process of legislative reform.

Human and physical/informational resource shortages must severely inhibit legislative effectiveness. An assessment of its predecessor revealed that its 17 standing committees had no professional staff whatsoever. A Technical Office was in the process of being established, in part to provide secretarial support for committees. There was no plan at that stage to

provide additional support in the form of information or specialized expertise.

In the previous legislature, over 90 percent of the staff did not have a university education. Recruitment appears to have been based on personal considerations rather than merit. Remuneration was inadequate, so most staff moonlighted. Although nominally under central control, staff received little supervision or direction. Job performance standards were nonexistent. Few of the 250 or so members of the legislative staff had offices. Modern equipment to assist staff in their duties consisted of a total of two desktop computers and two photocopy machines.

The Yemeni legislature still suffers from inadequate resources to a greater degree than any other Arab legislature with which USAID may be concerned. The shortage of human, informational, and physical resources makes it extremely difficult to perform vital legislative functions.

D. Current USAID Assistance to the Legislature

USAID has provided a grant to AMIDEAST to strengthen the capacities of the Yemeni legislature. The grant has been used to purchase and install a voting machine and bring Yemeni legislators to the United States on short-term study tours.

APPENDIX D
THE JORDANIAN LEGISLATURE

A. The Current State of Political Transition

King Hussein sought in the past to dilute the power of the Jordanian Assembly by counterbalancing it with the appointed Senate; placing severe restrictions on political parties considered subversive by the regime, e.g., leftists and nationalists; manipulating elections to insure a compliant body; and using constitutional mechanisms to weaken its power and prevent its institutional development. When all measures failed and the Assembly adopted a defiant attitude, it faced dissolution and suspension.

In spite of this stormy relationship and the precarious existence of the legislature, the King has always attempted to maintain a veneer of constitutionalism and rule of law. Every major action he has taken has been preceded by a constitutional amendment. While amendments appeared orchestrated simply to legitimize the King's actions, they kept the regime within the framework of the constitution and the law, preserving its commitment to constitutional rather than completely arbitrary monarchical rule. Partly as a result of the King's respect for constitutionalism, political actors are generally committed to working within the confines of the law to seek changes within and to the constitution.

Another positive factor for the political development of the Jordanian Assembly is the King's non-exclusionary policy toward both opponents and supporters from the political elite. There has been a conscious attempt not to exclude any significant group from power for a prolonged period. Even when the King resorted to selecting senators or appointing ministers and senior government posts, he maintained diversity of representation. Sometimes even those who conspired against the regime were eventually given the opportunity to repent and serve the monarchy. This policy prevented the development of permanent losers or winners.

A third factor that favors pluralism and democratization is the King's policy of distancing himself from the day-to-day decisions of the cabinet and its relationship with the Assembly. While retaining ultimate power to intervene if needed, from the early 1970s, the King began to let the cabinet manage its own daily operations and face the consequences of success or failure.

This independence explains the successive changes in cabinets and ministers. Criticism of the cabinet by the Assembly, or even by the general public, is not viewed as criticism of the monarch

or the regime. Indeed, opponents of a particular cabinet position often appeal to the King as an impartial arbitrator. Unlike military dictatorship or single-party rule, where criticism of the cabinet or a government functionary is interpreted as criticism of the head of state and the regime, in Jordan the King has avoided day-to-day politics. The cabinet and senior government officials serve as shock absorbers and become expendable in times of crisis.

In 1993, Jordan passed new party, electoral, and press laws. The party law essentially permits any party without connections to external interests to organize and contest elections. The press law facilitates a free press. The electoral law, although modified by the King after he dissolved the Assembly, is based on multi-member districts and one-person, one-vote principles.

It is arguable that the new electoral law produces outcomes more closely reflecting public support than the preceding law, which permitted multiple voting. The 1993 elections were conducted in a climate of active but responsible campaigning and were free and fair. The elections were contested by all political parties. A new multiparty legislature is now in place.

A negotiated transition is under way in Jordan. It has already elevated the importance of the legislature, which is now the venue in which the rules of the political game are likely to be discussed and amended.

B. The Role of the Legislature

The Jordanian democratic experiment is predicated on a central role for the legislature. Yet in spite of significant steps in that direction, such as the free elections of 1989 and 1993 and the legalization of political parties, serious constitutional, political, and institutional hurdles still prevent the legislature from assuming its full constitutional role.

Constitutionally, the King remains at the core of the political system. He controls the legislative agenda and exercises significant control over the cabinet and legislature. He appoints the Senate and selects its president. He nominates the prime minister and the cabinet, subject to a majority vote of confidence by the Assembly. He calls the Assembly to session, and prolongs, shortens, and suspends sessions as he pleases. He can suspend the Assembly, dissolve it, or prolong its terms. Finally, the King is solely responsible for determining his successor in accordance with relevant constitutional provisions.

The King can undertake all of these constitutional steps without risk of serious political repercussions. Constitutional provisions provide the legal basis for his actions, while his

personal political capital brings him the support of the political community.

At one time or another, the King has exercised all the constitutional powers described. He has amended the constitution several times to grant himself needed authority, and he has suspended, prolonged, postponed, or dissolved and reconvened the Assembly. Furthermore, he can indulge and tolerate the Assembly or censure and rebuke it. In short, at least for the time being, the King can accelerate the process of democratization or arrest it at will. The Assembly can only function in the constitutional and political space granted and tolerated by the King.

The Assembly has yet to develop the capacity to perform tasks that are constitutionally mandated and permitted by the King. Its internal rules are restrictive, preventing it from performing its legislative and oversight functions. Its committee system is underdeveloped, and its research, information, and support services are not yet functioning. Finally, members of the Assembly are given no support in the routine performance of its legislative functions.

Despite limitations, the Assembly has played a significant political role. It has participated in formulating and dissolving cabinets chosen by the King. Many of its significant blocs were represented in successive cabinets nominated by the King. The Assembly has derailed the formation of a new cabinet before it could be submitted for a vote of confidence.

Although the Assembly can influence cabinet formation, its power is by no means absolute. If it insists on withholding a vote of confidence, it can be suspended or dissolved. Furthermore, a two thirds' majority is required to withhold a vote of confidence from a cabinet that has already been formed.

The Assembly is able to hold debates on many important national issues. It debated the Gulf War and passed resolutions of support and condemnation; it debated the issue of peace negotiations with Israel and adopted resolutions relevant to it; and it debates many intra-Arab and international issues in which Jordan has an interest.

Although these debates and resolutions were not binding, they expressed the general sentiments of the public and may have imposed political limitations on the cabinet and perhaps the King. The actions of the Assembly were effective in these cases because the ideologies of its members constituted a sufficient basis to engage in debate on these lofty issues. They did not require specialized information in other areas of policy making such as budgets and taxation.

C. Performance of Legislative Functions

C1. Contributing to Public Policy

Each year the Assembly receives from the cabinet some 50 bills for consideration and approval. These are drafted by the executive and are normally assigned to a committee for study before being presented in a plenary session. The Assembly has no autonomous, internal bill drafting capability to enable it to present alternative legislation or introduce significant changes to executive-sponsored bills. It also lacks an independent information base, and is dependent on information supplied by the executive.

Cabinet ministers use the committee meeting to explain their proposed legislation and support it with evidence. The minister participates in the work of the committee as any other member. Committee work revolves around seeking explanations, elaborations, and clarifications. On occasion committees suggest changes and present them to the minister to be incorporated in the original bill as friendly amendments. If the minister refuses to adopt them, the Assembly needs a two thirds' majority to adopt unfriendly amendments. Usually an acceptable accommodation is hammered out.

Once a committee issues its report, the bill goes to the plenary. At present there is no record of debate within the committee. The committee rapporteur issues a brief outline of resolutions passed. Debate in the plenary is open to deputies who were not members of the committee. The overwhelming majority of bills reported by the committees are approved in the plenary.

Bills approved by the Assembly are referred to the Senate. Unless approved by the Senate as proposed by the Assembly (which is normally the case, since the cabinet usually prevails in both houses), amendments introduced by the Senate must be reconciled with the version adopted by the Assembly. If reconciliation fails, the Senate and Assembly meet in a joint session, where the bill requires a two thirds' majority to be approved.

The role of the Assembly in the public policy process is inadequate. Committees are poorly structured and supported. Committee members have few resources to study or elaborate the bills they receive. Debate in committee is usually dominated by ministers, as is the outcome. Rewards for hardworking committee members are nonexistent. Members do not receive extra compensation; they have no financial or staff support; even their committee contributions are not recorded for political credit. Committee sessions are closed to the public. To compound these weaknesses, committee members are usually barred from participating in plenary debates and do not benefit from media exposure.

Attempts to strengthen the public policy role of the Assembly must address the needs of committees for information, research, staff support, and financial and political reward. Structural changes must be made to the Assembly budget so that resources are allocated more productively among committees. At present all budgetary resources are controlled by the presidents of the two houses and the Secretariat, leaving little room for committees or their members to undertake independent initiatives in the performance of their duties.

C2. Reviewing the Budget

One of the most important functions of any legislature is control of the purse strings. It is through the budget that sacrifices, benefits, programmatic priorities, and performance standards are established and applied to the work of the administration. Yet in all these areas the role of the Jordanian Assembly is negligible and needs to be strengthened. In considering the budget, the fiscal committee has no resources to ask appropriate questions of the concerned minister. Recently it found itself relying on outdated reports prepared by the Court of Accounts, which is entrusted to report on government compliance with the financial provisions of the budget.

The reports prepared by the Government Accounting Office, theoretically an independent agency, usually contain a list of financial, accounting, and procedural violations that may have been committed by the administration, with recommendations for corrections. Because the GAO lacks resources to undertake performance evaluations in a timely manner, its reports are retrospective and largely irrelevant to the proposed budget, which by its nature is oriented to the future.

C3. Overseeing the Executive Branch

The Assembly in Jordan has little capability to oversee the executive, although the constitution grants it such power. In 1992, the Assembly grabbed headlines for several weeks in a well-publicized investigation of corruption. Former Prime Minister Zaid al Rifai, a close confidant of King Hussein, and several of Rifai's ministers were investigated and indicted by parliament.

To avoid sensationalism and possible retribution by the executive, the Assembly's oversight function needs to be made routine, as part of its daily work. A well-functioning legislature can discourage corruption before it occurs and enforce bureaucratic accountability and responsiveness. Strengthening the committee system and providing appropriate and qualified staff to work for committees would help to routinize the oversight function.

C4. Providing Constituency Services

The performance of constituency services in Jordan is not novel nor is it restricted to legislators. It has a long, cherished tradition. Tribal chiefs or notables are supposed to intercede on behalf of their tribes or communities to secure favors from those in power.

Unfortunately, this tradition carries negative connotations, since it implies the application of pressure or offering of inducements to secure illegal or undeserved advantages from government. It is associated with corruption and influence peddling. But if constituency services are provided properly they can make a significant contribution by linking citizens to the political system and ensuring that the bureaucracy is carrying out the law as intended. This process may also lead to corrective legislation in areas where appropriate laws are lacking.

Jordanian legislators report that their homes and offices in their districts and in Amman are usually mobbed with citizens seeking help, at least for those who have the means to afford offices. Many have complained that their salaries are consumed by serving coffee and tea to constituents.

Yet many members are unable to offer any assistance. They lack information on government ministries and the programs they manage. They have no communication capability to contact officials or constituents, and no staff to assist them. Since they are not in a position to oversee the bureaucracy to ensure that citizens receive their due, members become indebted to bureaucrats for services to which citizens are entitled. By exercising the constituency function, the deputy becomes subservient to the bureaucrat, instead of being his overseer.

Much can be done to enable the deputy to serve his constituents legitimately, with dignity, and without undermining his oversight function. Such assistance may include space, communications equipment, special allowances for communication with constituents and government officials, and staff assistance on a party or regional basis.

Above all, the proper performance of constituency services requires information about governmental programs and how to access them. Without such information the delivery of services will remain at the discretion and good will of the bureaucrat.

C5. Educating Members and the Public

A legislature cannot exist in a vacuum. It needs to establish linkages with other societal institutions to perform its functions, which include educating the public as well as its own

members. Its image is not only dependent on what it does, but on how others view and interpret its actions. It needs information from society, and in turn, it can provide information and education to citizens on important national issues.

The Jordanian Assembly has made modest attempts to establish linkages with universities, research centers, and the press. Relationships with universities and research centers may ultimately take the form of commissioned public policy research, training and internship programs, or orientation programs for deputies, conducted by experienced faculty, as is done elsewhere.

Relationships with the press require legislative ability to explain the rationale for its work, and the ability of the press to understand the legislative environment. These capabilities require training and internship programs, communications and reporting equipment for the press, joint seminars, and other orientation programs. In all cases the relationship needs to be properly structured to take advantage of the positive characteristics of the two institutions, while respecting their separate cultures and missions.

D. Internal Constraints on Legislative Performance

Legislative Staff. Legislative staff are a two-edged sword; they can be used to strengthen an institution or weaken it. What actually occurs depends on staff structure, conditions of recruitment, and the relationship between staff on the one hand, and on the other, the assembly as a whole, its leadership, committees, political parties, and individual members.

In politics information is power. Political strategy requires accuracy, confidentiality, and trust between members and staff. Like military strategy, politics takes advantage of timing and the element of surprise. Unless legislative staff are qualified and attuned to the needs of elected members, they may become an impediment rather than a contributor to legislative development.

The Jordanian legislative bureaucracy is dominated by the executive as a result of appointment and prevailing patterns of authority. Legislative staff have the same status as executive staff, i.e., tenure and selection in accordance with a mythical merit system. Once tenured, a staff member is there to stay until he or she retires or chooses to transfer.

Present staff have little in common with the members and institution they are supposed to serve. Senior staff have either been appointed recently by the executive, or were serving when the legislature was suspended or dissolved. Even the 18 new staff members now being recruited will be chosen according to civil service rules, with little input from leaders and members of the

Assembly. The selection procedure is a bureaucratic function coordinated among the secretary general, the Civil Service Commission, and the National Institute of Public Administration.

Resolution of this serious structural problem requires extensive discussions with legislative leaders and senior staff. It also requires sustainable technical assistance and training to develop alternate staffing patterns, including appropriate skills and orientations. Unless this issue is addressed early on, it may undermine the long-range viability of any serious legislative development program.

Dual obligations. Another weakness of the legislative support structure is that it has been asked to serve both the Senate and the Assembly, two institutions with diametrically different missions and orientations. The needs of the Assembly, an elected body representing the country's various districts and groups, are different from those of the Senate, an elitist institution appointed by the King.

Equipment and Physical Facilities. The Secretariat is housed in adequate space in the main parliament building. Its equipment, however, is inadequate and outdated. Senior administrative staff have telephones with outside lines, but their subordinates either do not have telephones in their offices, or have telephones connected to an internal telephone exchange. None of the senior employees have computers or any other machines (typewriters) to help them in their work.

E. Current USAID Assistance to the Legislature

USAID has not provided any direct assistance to the Jordanian legislature.