Legislatures on hold – role and potential of national parliaments in the Arab transformation processes

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Abstract | The Arab Spring also gave fresh momentum for national parliaments in the Middle East and North Africa. After widespread disdain before, free and fair elections in Egypt, Libya and Tunisia provided the floor for parliaments' new empowerment and potential. However, legislatures have not developed their full power yet, partly because of low professionalism, partly because of weak political circumstances and restrictive legal constraints. In Egypt, the Supreme Court dissolved the people’s assembly shortly after its inception in June 2012. Now, after the removal of the Morsi government, discussions about the parliament’s future role are ongoing.

Due to their traditional low relevance, Arab parliaments have mostly remained disregarded also in academic analyses. Instead, Arab Spring research has primarily focused on governments, especially the role of Islamists therein, and civic participation. By that, academia, to some extent, has neglected the core institutions of any democratic polity, namely parliaments.

Following a neo-institutionalist approach, this paper will shed light on the underrated parliaments in Egypt and Tunisia, asking which factors induce their current shortcomings and how their role, appreciation and influence could be strengthened. Based on interviews with parliamentarians, academics and diplomats, it assumes that in the current times of political, economic and social uncertainty, people’s wish for ‘vigorous leadership’ still overexposes the demand for proper democratic representation. Hence, it is questionable that parliaments will play a more prominent role in the near future, mostly in Egypt, but also, to lesser extent, in Tunisia.

1. Introduction

The uprisings across the Arab world since 2011 have not only swept away longtime autocratic regimes and triggered major changes for the countries societies, but also opened new possibilities for the countries national parliaments. Until 2011, parliaments in the Arab region have experienced widespread disdain. Embedded in mostly undemocratic polities, their roles and functions were very much restricted. If ever existent, parliamentarians’ job was mainly to confirm governmental policies and pretending the existence of democratic façade institutions. Free and fair elections, the basic condition for having functioning democratic parliaments, were sufficiently realised only in Lebanon and Yemen (during the 1990s) and, since 2006, partly in Iraq and Palestine (Turkey not being considered here). Though the
primarily economic liberalization measures in many Arab countries since the mid-1990s led to an increased importance of free media discourses and a mushrooming of civil society organisations, they left parliaments’ importance widely unchanged.

The Arab Spring changed this picture dramatically, by also generating new chances for legislatives’ activities in more democratic environments. Since 2011, free and fair parliamentary elections have taken place in Egypt, Libya, and Tunisia, and less open elections were staged in Algeria, Jordan and Morocco. However, parliaments have not found their full power and effectiveness yet, might it be due to internal struggles and weak external circumstances, such as in Libya, or due to legal constraints as imposed by Egypt’s Supreme Court on the newly elected parliament in June 2012 that led to the dissolution of Egypt’s lower house, and later also the upper house; after several postponements and the complete revision of the constitution through a (handpicked) constitutional assembly in January 2014, elections for the new parliament are now expected for taking place in late summer 2014, with only one chamber left. The new electoral law, elaborated by a specific committee established by state president Abdel Fattah al-Sisi, contains stipulation that make a critical and independent legislative chamber highly unlikely, though.

Given the weak position parliaments in the Arab world traditionally had, this paper asks the question what role they played in the transformation processes of Egypt and Tunisia so far, and how their standing could be improved in future. After a general, theory-led evaluation of parliaments in democratization processes (chapter 2), the transformation history of Egypt (chapter 3.1) and Tunisia (chapter 3.2) are presented with specific focus on the respective national chambers, before similarities and differences between both ‘top performers’ among the Arab transformation states are discussed (chapter 4). As main finding, the paper concludes that only in Tunisia the perspective for influential parliamentary contributions to future policy making can be expected, meanwhile in Egypt all signs hint at a renewed power concentration solely in the hands of the state president and his entourage.

As a small contribution, this paper helps diminishing the existing gap in parliamentary research with focus on the Arab world. If ever, smaller studies and publications have been conducted only before the 2011 uprisings, such as the seminal edited volumes of Baaklini / Denoeux / Springborg (1999) and Lust-Okar / Zerhouni (2008) or the policy papers of El-Sawi (2000, 2003). Research on the parliamentary contributions during and after the Arab spring, meanwhile, is still in a very infant state.

2. Parliaments as crucial element of successful democratization processes

Parliaments have been hardly perceived as thriving factor in the Arab transformation processes, neither by local activists and decision-makers, nor by international observers. Until 2011, ‘political power remained concentrated in the hands of either nonelected elites or those whose election had been all but guaranteed, with elected legislatures generally lacking significant power’.1 Election fraud, weak opposition parties and ‘incomplete parliamentarization’ were omnipresent,2 and parliaments mostly served as ‘as rubberstamps for executive dictates’.3

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1 Tessler / Jamal / Robbins 2012, 92.
2 cf. Langohr 2004, 186ff.
3 Khashan 2012, 921.
Hence it is not surprising that research so far focused more on governments or civil society actors in the Arab world than on parliaments, so existing literature is still in a very infant stage.\(^4\) However, this is shortsighted, as the ‘Herculean task of replacing current authoritarian regimes with democratic ones’\(^5\) lies beyond NGOs’ possibilities – fully functioning institutions are needed instead. While authoritarian regimes might be brought down by unorganized, yet united activism (‘civil society’), it remains up to a ‘political society’ to eventually establish lasting democratic polities.\(^6\) Here, the traditional institutions of democratic policies come into play, predominantly judicial and parliamentary ones.\(^7\) As Sayigh put it: ‘The rule of law cannot be established in the absence of a functioning parliament and judicial system’.\(^8\)

Parliaments connect people with the governments, they ‘express people’s expectations, analyze problems in depth and propose strategic legislative solutions, while steering government action in the direction of specific projects’.\(^9\) This double function of institutionalized representation (of people’s will) and control (of government’s action) is an indispensable condition for successful consolidation of democracy.\(^10\)

Regarding polity structures, most analysts follow Juan Linz’ (1990) argument that *winner-takes-all*-alike presidents (in presidential systems) rather polarize citizens than unite them.\(^11\) In semipresidential systems, permanent power struggles between president and prime minister tend to paralyze politics;\(^12\) yet, parliamentary systems seem to be most suitable for conflictive societies, as they provide the best setting for integrating different opinions into the political process.\(^13\) From this perspectives, parliamentary, or at least semiparliamentarian systems with a strong prime minister and a mere figurehead president, are clearly preferable over presidential systems when it comes to give parliaments a better leverage.\(^14\) The ‘input legitimacy’\(^15\) of parliaments is the highest of any political institution. However, their ‘output legitimacy’ is usually less appreciated, as people often expect clear governmental decisions to guide people through the difficult times of uncertainty.

Important for parliamentary potential in conflictive transformation states is the choice of the ‘right’ electoral system, as ‘there can be little doubt that electoral systems usually do have a major effect on the structure of the party system’.\(^16\) The three ideal models are proportional representation (PR), majoritarian and intermediate systems.\(^17\) Lijphart assumes that ‘[f]or divided societies, ensuring the election of a broadly representative legislature should be the

\(^{5}\) Langohr 2004, 200.
\(^{6}\) cf. Stepan 2012, 94.
\(^{7}\) cf. Brumberg 2002, 64.
\(^{8}\) Sayigh 2009, 3.
\(^{9}\) Squarcialupi 2000, 4.
\(^{10}\) cf. Azevedo-Harman 2011, 82.
\(^{11}\) Khmelko 2011, 194; cf. also Baaklini / Denoeux / Springborg 1999, 25.
\(^{13}\) cf. Houle 2009, 615; Cheibub (2006) refuses this stance, arguing that there was no difference in fragility between the different political systems.
\(^{14}\) Critics point out that parliamentary systems would bring the legislatives into certain ‘captivity’ as government and parliamentary majority are identical, meanwhile (semi-)presidential systems would provide for a clear power separation with better chances for parliaments to develop an own, independent profile; cf. Elgie 2012. Powell (2004: 94f.) warns of too much power concentration in a parliamentary (means: prime-ministerial) executive.
\(^{15}\) Easton 1965.
\(^{16}\) Helms (2008), 10.
\(^{17}\) cf. Horowitz 2003.
crucial consideration, and PR is undoubtedly the optimal way of doing so’.\textsuperscript{18} Introducing PR systems in countries where so far winner-takes-all systems prevailed would be useful to broaden representation, and hence strengthen parliaments.\textsuperscript{19} This ‘Duverger’s law’ is however taken into doubt by certain scholars, arguing that ‘constituency systems facilitate higher levels of satisfaction among citizens for the state and the regime, since under such systems voters have greater choice through their vote, which serves to strengthen the link between voters and the elected’.\textsuperscript{20} Also, they lobby for the use of ‘electoral systems that encourage cooperation and accommodation among rival groups, and therefore work to reduce the salience of ethnicity’.\textsuperscript{21}

In any case, functioning parliaments require functioning parties, as ‘constantly shifting factions, or a collection of independents, could defeat a government on specific issues, or vote ministers out of office, but it could not formulate a program or form a government itself’.\textsuperscript{22} The hitherto high party fragility in almost all Arab states would be lowered, and the problematic was\textipa{sta} system (personal relations based on kinship) would be reduced.\textsuperscript{23}

Finally, the existence of, and constitutional provisions for, second chambers can be of significant importance in transformation countries. For instance, they may serve as ‘safe harbors’ for former elites\textsuperscript{24} who have lost their privileges; in this sense, parliaments could help ease potential conflicts between old and new elites. Second chambers may also provide for better representation of different ethnic or social groups. Last not least, second chambers might be used for fair representation of divergent regions, which might support successful decentralization.\textsuperscript{25} Having a second chamber as arena for all these particular interests would ease those related obligations from the first chamber, the lower house, which then can develop easier into a real ‘national assembly’ that consequently moves legislation forward.

\section*{3. The role of parliaments in the Arab transformation processes}

In contrast to liberal democracies, parliaments in the Arab world has almost no possibility to check on the executive’s plans and actions; in contrast, in almost all Arab countries – Lebanon maybe the notable exception here – parliamentarians rather acted as if they were part of the government, and not their corrective. Dominated by members of the governing party, deputies were more interested in boosting their own standing and career, or bringing as many benefits to their local electorate as possible, that means convincing the decision makers within the governmental offices to channel more money into their specific region. The idea of counterweighting executive power, meanwhile, was rather underdeveloped.

Accordingly, their role was also of only little importance during the changes that were brought about by the 2011 uprisings. Analyses of, and debates about, the evolving events mainly concentrated on governments (Islamist vs. Secularist, military-dominated or civilian) and civil society actors (vibrant NGO scene, citizens’ rights defended through Grassroot

\begin{thebibliography}{9}
\bibitem{Lijphart2004} Lijphart 2004, 100.
\bibitem{Langohr2002} cf. Langohr 2002, 120.
\bibitem{Azevedo-Harman2011} Azevedo-Harman 2011, 71.
\bibitem{Herb2004} Herb 2004, 373.
\bibitem{Lust2009} cf. Lust 2009; see also Albrecht 2008, 23.
\bibitem{Imnan-Rubinfeld2012} cf. Imnan / Rubinfeld 2012, 808.
\end{thebibliography}
organizations, etc.). Parliaments received only minor attention, though indeed important differences can also be identified when analyzing Egypt and Tunisia as the Arab world’s two ‘best performers’ when it comes to democratic background.

3.1 Egypt

Traditionally, the parliament played only a subordinated role in Egypt’s political system. The first chamber, the Maglis al-Sha’b (People’s Assembly) was a mere rubber-stamp institution that mainly served as ‘democratic façade’ to give legitimacy to the regime, but otherwise did not express a single criticism against to massive shortcomings under Mubarak and previous administrations. In fact, it was not even able to unset neither the prime minister nor a single minister. Logically, public perception and appreciation was rather low. The same happened to political parties: Juxtaposed to the omnipotent and omnipresent National Democratic Party (NDP), the remaining 23 ‘opposition’ parties were tremendously under-financed, ineffective, and widely unknown to most Egyptians. Hence, interest in, and support for, their work was very limited, and a consequence from their weak social base plus the sheer number of parties is ‘that most have been unable to connect with enough people to stand out in a crowded field’.

Though the parliamentary elections of winter 2011/2012 – with more than 60 parties competing – were mainly conducted under the general expectation of having the more important presidential elections soon, the first sessions of the new post-revolution parliament were enthusiastically followed by the public; however, the reason for this was not only pure political interest but rather some scandalous events like box fights within the parliament or confused debates, such as the one about calls for prayers. The lack of effective political decisions, meanwhile, quickly turned observers’ initial interest into widespread disappointment. Indeed, the new parliament achieved only two successes, the preparation of the presidential electoral law and the configuration of the political rights law (which served the purpose to exclude former NDP members from political offices). The lacking willingness to compromise, particularly among the members of the Muslim Brotherhood affiliated Freedom and Justice Party, prevented a more fruitful and accepted work of the parliament, and also contributed to the following unprecedented demise of the Muslim Brotherhood from summer 2013 on; they ‘failed in large part due to its blind belief in majoritarian politics’.

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26 Personal discussion with Mazen Hassan, Assistant Professor for Political Science, Cairo University, Faculty of Economics and Political Science, 17 April 2014.
28 Muasher 2013, 3.
29 Personal discussion with Mazen Hassan, Assistant Professor for Political Science, Cairo University, Faculty of Economics and Political Science, 17 April 2014; in the negotiations over the exclusion law, al-Bishry 2012 identifies another mistake by the MB MPs who, according to his observation, took a too conciliatory stance towards former regime members in an attempt to rather appease the Supreme Council of the Armed Forces (SCAF). It was only when Shafiq, Mubarak’s last prime minister, showed up as a competitor to the MB’s nominee in the presidential race (Khairat al-Shater, later replaced by Mohamed Morsi), that the MB, through its parliamentary majority, brought the political exclusion law to the fore once again, under the pretext that it was a crucial revolutionary demand.
30 However, more disastrous were apparently the MB’s attempts to restrict the power (and independence) of the judiciary as well as the military. For example, two Islamist deputies proposed a draft law aiming at limiting the
In principle, the relations between the parliament and the new Islamist-dominated government turned out to be complicated. Governmental bill proposals reached the parliament often in the very last minute, so that parliamentary inquiries often were rejected due to time pressure. Then-MP Amr Hamzawy remembers that

‘[i]t was for this reason that I, as well other MPs, have demanded voting no confidence in the government, and forming a coalition government from the parties with considerable seats in the Council, so that we can hold it accountable, conduct oversight on its performance, and, hence, effectively develop its work’.

When the Supreme Court dissolved the lower chamber in summer 2012 due to unconstitutional procedures during its election, the upper house (Maglis al-Shura) took over legislator’s tasks. However, the restrictions in terms of qualification and experience applied even more here, and people turned completely away from spending any attention on the parliament. Not only executive control came to a halt, also legislative tasks were almost frozen, with massive negative consequences. On the one hand, domestic legislature got on hold, such as new NGO and Labor laws, but also external relations got strained: 33 ‘Preparations for the EU-Egypt Agreement on Conformity Assessment and Acceptance of industrial products (ACAA) did not progress significantly, since further progress depends largely on the adoption of new legislation’.

Instead, the events around President Mohamed Morsi with his infamous presidential decrees of November 2013 and the deteriorating living circumstances for many Egyptians (particularly the increasing scarcity of fuel and electricity, but also increasing tensions between certain Islamist factions and other religious groups) absorbed all public attention. Maybe for good: As then MP Amr Shobaki explained, the Islamist-dominated parliament dealt with such back warded question like whether English should be banned from school curricular or whether Cairo Ballet Company should be dissolved, both because they were not in line with the Egyptian, and particularly Islamic, culture.

After the power takeover of the military and the creation of an interim government under president Adly Mansour and prime minister Hazem Beblawy in July 2013, the new Egyptian constitution, finalized in December 2013 and approved in a public referendum in January 2014, provided for a unicameral parliament (House of Representatives, HoR) with at least 450 members. Articles 101 to 138 specify the details; most irritating might be the 5% of deputies who may be appointed by the president (article 102). Voting age starts with 18, candidates who run for membership must be at least 25 years old (article 102). Elections will take place every five years, deputies enjoy immunity during their tenure. The state Constitutional Court to giving just a priori, unbinding feedback on laws (cf. ACIJLP 2012). One month later, the Supreme Court declared the Maglis al-Sha’b unconstitutional due to mistakes in the electoral law, cf. Hamzawy 2012b.

31 International Crisis Group 2013, 12.
32 Hamzawy 2012a; translated from Arabic by Hossam Khalil.
34 European Commission 2013, 10.
35 Personal discussion with Amr Shobaki, Al-Ahram Center for Political and Strategic Studies, Cairo, 23 June 2013.
36 This of course only applies if no state of emergency is enacted by the president. ‘Under the state of emergency the president may order arrests, forbid meetings, and prevent citizens from moving and have them searched for contraband material. MPs are not immune from these provisions; under Mubarak, they repeatedly have been prevented by the police from attending meetings and election rallies’ (Baaklini / Denoeux / Springborg 1999, 240).
president’s term lasts four years, with only one reelection allowed (article 140). The HoR may revoke its confidence in the president with a two-thirds majority (which is a very new right for the Egyptian parliament), but a majority in a public referendum is required to really release the president from his obligations (article 161).

Protests against the abolition of Egypt’s second chamber were marginal. Many people welcomed this step, as the Shura Council was mainly perceived as a waste of money and just another option to pay high sums of money to ignorant and incompetent people before. In fact, turnout during the 2012 Maglis al-Shura election was at a devastating low 12%. However, the real reasons for its destruction were indeed different.

In fact, Egypt witnessed different phases during its modern history with partly bicameral chambers and partly unicameral chambers. It ‘got its first parliament and written constitution in 1866, long before many European countries had these things’. In the 1923 constitution, the bicameral parliament was adopted and competitive elections conducted, but the 1956 constitution revoked both, the second chamber as well as competitive elections. Then-President Gamal Abdel Nasser disbanded Egypt’s multiparty system and replaced it by the Arab Socialist Union (ASU) as new state party. Traditional parties like the Wafd party, which was vital in the 1922 movement for independence and well-respected during the 1920s and 1930s, was increasingly perceived ‘to be as corrupt as the rest of the political establishment, and was swept away by the Free Officers’.

The 1971 Constitution after Nasser’s death gave a little bit more power to the parliament (‘Corrective Revolution’ of May 1971) but left the unicameral structure – as well as the president’s unrestricted dominance – unchanged. Only in 1980 with some constitutional amendments, then-President Anwar al-Sadat, himself speaker of the unicameral parliament from 1961 to 1969, established the Maglis al-Shura, as popular saying has it, just to give benefits to his friends and fellows – the fact that two-thirds of deputies were appointed by the president himself gives these allegations a certain level of credibility. Needless to say that such a second chamber did not exert any control towards the government. However, Sadat’s presidency ‘led to relatively free elections in 1976 and to the legalization of political parties the following year. But from 1978 until his assassination on October 6, 1981, Sadat backtracked from his commitment to democratize in the face of mounting opposition to his pursuit of peace with Israel.’

Mubarak continued to use the Shura Council as supportive chamber and concentrated more on preventing the Muslim brothers from regaining any political influence, after they were somewhat rehabilitated under Sadat. The 1995 were hitherto unmatched in rigging and oppression against oppositionists, with 71 persons killed in clashes and hundreds seriously injured.

37 Discussion in the framework of a workshop at the Coptic Evangelical Organization for Social Services (CEOSS), Cairo, 26 February 2014.
38 Ibrahim 2007, 7.
41 Personal discussion with Georges Fahmi, Arab Forum for Alternatives, Cairo, 23 June 2014.
42 cf. Lust 2009, 123.
'It was not surprising, therefore, that in 1996 and 1997, after two years on the defensive, the Islamic militants began to strike again in the heart of Cairo and Upper Egypt, killing two police generals, scores of other policemen and officers, as well as a number of tourists in two violent incidents, raiding and massacring several Christian communities in Lower and Upper Egypt.'  

The unexpected success of the Muslim Brothers in the 2005 parliamentary elections, were 88 officially independent, but in reality MB-affiliated candidates made it into parliament, gave way to another governmental clampdown on Islamists. Under changed administrative and legal conditions, the 2009 elections restored absolute NDP dominance, the regime seemed to be stable in its seat again.

As postulated in the 2012 constitution, the Maglis al-Shura was entitled not only to take part in the legislative process, but also to approve the proclaiming of the state of emergency, in case of the absence of the House of Representatives, and to approve the President's resolutions as regards the appointment and displacement of the Supreme Audit Institutions (SAIs) and independent bodies.

During the consultations for the new constitutions within the ‘Committee of the 50’ (Lagna 50), Ahmed Abd Raboh, Assistant Professor for Political Science at Cairo University and one of the last publicly outspaking critics of the developments in Egypt, got invited to discuss with the Lagna 50 why the Maglis al-Shura should be kept also in future. His arguments being welcomed with sympathies, it looked as a majority wanted to keep Egypt’s second chamber, and indeed during the first (yet preliminary) voting of the Lagna 50 a majority voted in favor. But then a rumour made it through the media that Amr Moussa, former foreign minister and head of the Lagna 50, was preparing for becoming next Shura president. Public opinion turned against this stance and refused to have the idea of having a highly expensive Shura council “just to give people another well-paid position”. And so the second (and final) voting within the Lagna 50 turned out to be negative, the Maglis al-Shura was dissolved.

This must be seen as a missed chance to provide for better representation for religious sects, social classes or regional territories. Now, these representative questions are loaded upon the shoulders of the remaining unicameral chamber, the Maglis al-Sha’b, and it will rather harm its effectiveness and relevance than boost it.

In general, the 2014 constitution contains less safeguards for the parliament than the 2012 constitution. In the earlier version, for example, the parliament was not to be dissolved during its first year of existence. The 2014 constitution allows dissolving the Parliament immediately after being elected, and enables the state president to dissolve it without restrictions. This makes the parliament susceptible to dissolution at any time. The 2012 Constitution, also, restrained the Supreme Constitutional Court from dissolving the Parliament on procedural grounds; this safeguard has also been revoked in the 2014 constitution.

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44 Ibrahim 1998, 382.
47 In fact, Amr Moussa is currently also seen as very likely candidate fort he post as president oft he Maglis al-Sha’b; personal discussion with Georges Fahmi, Arab Forum for Alternatives, Cairo, 23 June 2014.
48 Personal discussion with Ahmed Abd Raboh, Assistant Professor for Political Science, Cairo University, 21 June 2014.
49 Personal discussion with Mazen Hassan, Assistant Professor for Political Science, Cairo University, 17 April 2014.
50 cf. al-Jazeera 2014.
According to the revised electoral law, enacted in June 2014, the Maglis al-Sha’b will have a total of 567 seats, the highest seat number in Egypt’s parliamentary history. Among them, 420 seats (78%) will be allocated to individual candidates, one from each of the 420 constituencies. 120 seats will be allocated for candidates from closed (‘absolute’) party lists, and 27 seats will be appointed by the state president (under Mubarak and the SCAF rule, only 10 deputies were appointed by the president, and the 2012 constitutions ruled that all deputies had to be elected).

One welcoming step was the abolishment of the former quota of 50% workers and farmers. But apart from this, the new electoral law has several weaknesses. Overall, the stipulation that candidates from religiously-discriminating or violent organization can be excluded is exclusively directed against Muslim Brothers. But also apart from this, three things are problematic and cast a massive shade on Egypt’s future democratization prospects.

First, and most obvious, it is hard to argue why the president should appoint any member (the constitutions allows for “up to 5% of MPs designated by the President”). Observers argue that this was included in the constitution to further assure a president-friendly majority in the parliament. Not less problematic, meanwhile, are the two other groups of parliamentarians, the 420 independent candidates and the 120 list-based candidates.

Among the individual candidates, those with the best financial means, nearest relations to the regime and closest traditional (tribal) ties will dominate the elections in their constituencies. Hence, we can expect to have most of the 420 MPs already being close to the regime. And also the 120 party list seats will be dominated by regime figures, as they will compete in four big constituencies: 2 with 45 seats each, 2 with 15 seats each. Herein, seats will not be allocated according to the proportional representation (as it was in the 2011/2012 parliamentary elections), but the party list with 50%+1 will gain all seats of this constituency (‘closed’ or ‘absolute’ party list system).

In addition, each list that competes has to fulfil certain quotas, in a 15 seats constituency for example at least 3 Copts, 2 workers and or farmers, 2 Youth, 1 handicapped, 1 expatriate, plus at least 7 women (“conditioned list”). These conditions can hardly be met by smaller parties or lists, so newly established independent parties are discriminated by the electoral system already. ‘Instead of helping to open doors for new or small parties, the law creates a winner-take-all system in which all of a large bloc of seats are rewarded to the party that gets the most votes in a district’. Finally, even business circles and influential interest groups are allowed to create lists for the elections, so the political parties, who usually lack sufficient financial means, cannot compete with powerful business actors (or similar players which are usually close to the regime). This, again, will lead to even less appreciation of political parties among the population, as it becomes clearly visible that parties are not the appropriate tools to turn to when following

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51 Personal discussion with Mazen Hassan, Assistant Professor for Political Science, Cairo University, 17 April 2014.
53 In contrast to the current regulation, the electoral law that was elaborated after 2011 allocated 2/3 of seats to party lists, and only 1/3 to individual candidates.
54 If no party reaches 50%+1 in the election, a second round will be held between the two best party lists. This does not only unnecessarily increase the expenses spent on the elections but will probably also lead to an extremely low participation rate in the second round, hence counterbalancing the expected effect of having ‘high legitimacy’ for the eventually elected candidate; cf. Faris 2012, 151.
55 cf. Taha 2014; for the districts with 45 seats, the minimum quotas are as follows: 9 Copts, 6 farmers/workers, 6 youth, 3 disabled and 3 expatriates, 21 women.
56 Kirkpatrick 2014.
political goals. The argument that Egypt was not ripe for too much parliamentary power as parliaments first needed to develop more capacities – already used in the 2012 debates about keeping the semipresidential system or shifting to parliamentary system – loses a lot of its credibility: for sure parties sufficient power is missing in Egypt these days, but the willingness to start changing this lacks even more. Maturity, one could say, comes with practice.

In sum, the next parliament will most likely be dominated by “independent” deputies of whom almost all are close to, and supportive for, the regime. The prime minister and his cabinet will be weak compared to the president, and the parliament will be weak compared to the prime minister. Hence, the parliament will remain a rubber-stamp institution whose main task is just to confirm the president’s actions and proposal. That, in the end, is not that much different from how the parliament acted under Mubarak and before. A stimulus for more democracy in Egypt, therefore, cannot be expected. This goes even more as the parliamentary administration – independent from the political background and self-understanding of the MPs – has been widely dysfunctional, and will remain to be so.

Yet, opposition forces are disputing whether it makes sense to run for the next parliamentary elections or not. Newcomers like the Free Egyptians Party or the Egyptian Social Democratic Party expressed their refusal, and also representatives of traditional parties such as the Wafd Party argue ‘that the new draft House of Representatives law kills any hopes of creating a vibrant political life or a strong multi-party system in Egypt’. Hope is raised that even if only few oppositionists can make it into the parliament, they will gain knowledge and expertise that might help them showing more professionalism in the following elections. In fact, the lack of expertise among all MPs (not only the oppositionists) is one of the major obstacles to more efficient and effective parliamentary work, particularly after the dissolution of both, the former National Democratic Party and the Muslim Brotherhood (their Freedom and Justice Party, respectively), as they were the only political parties that were well structured and organised. All other parties lack sufficient professionalism.

Currently, the internal regulations of how the parliament should fulfil its work are under the revision of a special ‘Committee for Legislative Amendments’ created by president al-Sisi in mid-June 2014. Though deliberations are not definite yet, it must be expected that the new internal regulations will widely resemble the procedures during the Mubarak era, when the parliament’s president as an almost omnipotent actor who decided almost everything. This referred not only to the question how standing or ad-hoc committees were composed of, but also such decisions of who from the MPs should participate in international meetings with, let’s say, the European Parliament in the framework of the Euro-Mediterranean parliamentary cooperation. Usually, the Egyptian delegation mainly consisted of representatives from the

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57 Personal discussion with Ahmed Abd Raboh, Assistant Professor for Political Science, Cairo University, 21 June 2014.
59 Hamdy 2011, 35; Hamdy also shows that the change to parliamentary system would bring remarkable enhancements for Egypt in the areas of economic inequality, political rights and civil liberties.
60 Essam El-Din 2014.
61 Personal discussion with a member of the Egyptian Current Party, Cairo, 9 June 2014.
62 Rabeea 2012 sees the dilemma of being in need for new and young deputies, on the one hand, and having experience and professionalism on the other hand as one of the principle problems that made the 2012 parliament suffering from most.
National Democratic Party plus some regime-loyal ‘oppositionists’, which was often used as instrument to punish those deputies who behaved too independently or voiced too much criticism against the regime before.63

3.2 Tunisia

Though the Chamber of Councilors, Tunisia’s second chamber (which was established only in 2005) got dissolved shortly after the demise of Ben Ali in early 2011, parliamentary institutions were at the center of the Tunisian transformation process from the beginning. After Ben Ali’s demise in January 2011, the High Instance for the Realization of the Objectives of the Revolution, Political Reform and Democratic Transition (‘High Instance’), a group of different societal representatives,

‘gradually evolved after March 2011 into a proto-parliament, eventually comprising 155 members including representatives of opposition parties, civil society, trade unions, youth, and the various regions. The High Instance had a mandate to approve any legislation adopted by the interim executive, and to demand clarifications’.64

Initial discussions about the future political systems were reflected in the debates about the interim constitution (Law on the Provisional Organization of Public Authorities), enacted in December 2011 by the newly elected National Constituent Assembly (NCA) to govern the interim period until a final constitution had been put in place. Herein, the decision was taken to have a weak head of state (President Moncef Marzouki) but a strong prime minister who should be directly responsible to the parliament65 – Tunisia was on its way to change from a strict presidential system under Ben Ali to a parliamentary polity now, where ‘the power to govern is vested mainly with the prime minister and his cabinet’. 66

The initial enthusiasm for a strong parliament dramatically weakened when Islamist Ennahda party turned out as surprising winner of the countries first democratic elections ever on 23 October 2011.67 Now, mainly the supporters of Islamist-driven politics favored a strong parliament,68 meanwhile the supporters of a secular state opted for a semi-presidential system, as it became clear that a directly elected state president would rather be a secular candidate. The latter groups hence perceived an independent president necessary to counterbalance an otherwise too strong parliament, seen as the hotbed for Islamist politics.69

37% of votes meant 89 seats for Ennahda (out of 217 in total), clearly more than the secular Congress for the Republic (8,7% / 29 seats) of Moncef Marzouki, who later became state president, and Ettakatol (7,03% / 20 seats) of Mustapha Ben Jafaar who later became the NCA’s president. The remaining 79 seats were split between 14 parties and 10 lists, many of them with just one representative in parliament, and different levels of professionalism and  

63 Personal discussion with Ahmed Abd Raboh, Assistant Professor for Political Science, Cairo University, 21 June 2014.
64 Bertelsmann Stiftung 2014, 10.
66 Bertelsmann Stiftung 2014, 8.
68 cf. Valbjørn 2012, 32.
69 Personal discussion with Omeyya Naoufel Seddik, Tunis, 21 January 2014.
potential.\textsuperscript{70} Election turnout was 51.7\%.\textsuperscript{71} With this result, it became clear that Islamist are a powerful force in the country that the secular forces have to arrange with, but at the same time they are not strong enough to govern the country – as for example in Egypt – alone. Cooperation across ideological borders was necessary for all, if political progress was to be achieved. Moderate forces set the tone.

Under these conditions, and despite the lack of experience among most of the deputies, ‘deputies from all factions took their task overwhelmingly seriously and debated in an open and fruitful atmosphere’.\textsuperscript{72} However, in mid-2013 the transformation process almost came to a halt, particularly after the two political murders of Chokri Belaïd and Mohamed Brahmi,\textsuperscript{73} but important societal players such as UGTT, UTICA, the Bar association and the League of Human Rights literally forced the constitutional assembly to continue its work. Also, the political parties within the NCA understood that there is no alternative to a successful finalization of the constitutional process. For Ennahda, the parallel events in Egypt with the enforced removal of Islamist president Mohamed Morsi on 3 July 2013 and the consequent violent dispersal of Muslim brotherhood supporters and/or coup opponents, this was a clear warning sign that too much isolation from the other parties would more harm than benefit them.\textsuperscript{74} Unity for the constitution was the guiding principle.

However, it took another six months until the country’s first democratic constitution was successfully inaugurated on 26 January 2014.\textsuperscript{75} Some criticized the lengthy process of two years (instead of one, as originally planned) as not particularly efficient, however it is clear that the generous use of time highly contributed to the positive fact that trust across party lines could be created – without doubt one of the most important ‘keys’ behind the Tunisian success.

The January 2014 constitution, comprising of 149 articles, provides for a unicameral parliament, the Chamber of People’s representatives (articles 50 to 70). Elected for a term of five years, with the active voting right from 18 years on and the passive voting rights from 23 years on, members of parliament enjoy immunity from prosecution (article 68, 69). Specific provisions are included to secure a certain level of influence for the opposition, which for example has the right to always preside the financial affairs committee (article 60). A second chamber will not be established.

The state president will also be elected and general elections for a period of five years, but his responsibilities mainly refer to representing the state, that means directing politics in the areas of defense, foreign relations and national security, always in consultation with the prime minister (article 77). Otherwise, he has mainly representative tasks to fulfill, including sealing and approving new legislation (article 81). Hence, Tunisia opted for a semi-presidential system with a relatively weak president.

\textsuperscript{70} cf. Wolf 2014.
\textsuperscript{72} Bahi / Völkel 2014.
\textsuperscript{73} cf. Legge (2013).
\textsuperscript{74} Personal communication with Radwan Masmoudi, Center for the Study of Islam and Democracy, Tunis, 22 January 2014.
\textsuperscript{75} cf. Bahi / Völkel 2014.
Most lately, dates have been fixed for Tunisia’s parliamentary (26 October 2014) and presidential elections (one month after), eventually ending the interim period with provisional governmental and parliamentary institutions.

4. Similarities and differences between Egypt and Tunisia

The description of the parliaments role during the transformation processes in Egypt (chapter 3.1) and Tunisia (chapter 3.2) has shown several similarities, but also several differences. Both countries were a strict semi-presidential system until 2011, with a clear dominance of the presidential power over the prime minister and his cabinet. Both countries opted at the early revolutionary stage for introducing a strictly parliamentary system, to prevent another power abuse by any future presidential leader. Both countries changed back to semi-presidential systems when Islamist parties turned out to be the dominant factions in the parliaments. Both countries abolished their second chambers, both with the argument that a second chamber would only be an expensive ‘luxury’ for those regime members who simply need a job or a privileged position.

However, there are also important differences, and in all cases it seems that the Tunisians chose the smarter way – they clearly gave more weight to their legislative assembly. While the constitutional assemblies in Egypt (both the one of 2012 and the other of 2013/2014) had a clearly defined task to fulfill and gained no power in addition, the Tunisian constitutional assembly took clearly more time than originally planned, as much as two years until the final constitution was elaborated. This shows that most of the political debates were indeed held in the constitutional assembly, and not – as in Egypt – primarily between the governments and street demonstrations.

A difference occurred also lately in the order of elections: Tunisia decided to hold parliamentary elections first (on 26 October 2014) and presidential elections one month after. Egypt acted similarly in the elections 2011/2012 (parliamentary in December 2011 and presidential in May 2012). However, in 2014, Egyptian authorities decided to change order, having presidential elections first (May 2014) and parliamentary later (presumably September or October 2014). This has already led to doubtful steps by President al-Sisi, who, shortly after his inauguration, started to issue presidential decrees with legislative power in the absence of a functioning legislation. Executive and legislative have started to merge in one person here.

In addition, while Egypt opted to quickly vote a strong and polarizing personality into the office of state president (Mohamed Morsi first and Abdel Fattah al-Sisi now), the Tunisians voted a respected, yet not very strong and polarizing figure, Moncef Marzouki. At the same time, Tunisia’s prime ministers, back by the majority in the constitutional assembly, had relatively big importance and influence, in Egypt, meanwhile, the prime minister, particularly after the ouster of Mohamed Morsi, had almost no real role to play.

The same can be said for the parliament’s presidents: Ettakatol’s Mustapha Ben Jafar was in a crucial position not only to run each legislative session, but also to outbalance the different views on the constitutional proposals and to bring the text gradually to a successful conclusion.

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76 cf. Ayyad 2014.
Hence, one can conclude that Tunisia followed an inclusive approach on the ‘constitutional roadmap’, trying to bring all differing opinions of the different societal groups together through the parliamentary deliberations – Brésillon (2012) speaks of an ‘extended debate’. Egypt, meanwhile, followed a rather exclusive approach, particularly after 3 July 2013 and the massive crackdown of security forces on the Muslim Brotherhood and their associates. Major parts of the society were categorically excluded from any meaningful political contribution. Accordingly, parliament in Tunisia (in the form of the constitutional assembly) found itself in a very crucial and central position, meanwhile the parliament in Egypt even got dissolved by the Supreme Court for now almost two years, and hardly anybody complained about it.

5. Conclusion and outlook

The paper has shown that parliaments in Egypt and Tunisia have played different roles in their countries’ individual transformation processes, and it seems safe to say that the same will be valid also for their future developments. The parliament in Tunisia has proved to be one (though not the only) important player in overcoming various political crises and shaping wide support for the new constitution; the parliament in Egypt, meanwhile, played hardly any role in the transformation process, particularly after its dissolution in summer 2012. Also, both constitutional assemblies followed a very tight schedule that did not allow to take action outside the strict framework of debating the constitutional draft text.

In that sense, it is of particular importance for Egypt (but of course also for Tunisia), to elaborate mechanisms that promote parliaments’ and parties’ power. This could most easily be done through the introduction of proper proportional representation electoral systems, but at least in Egypt doubts are high that the latest electoral law may contribute to that. Besides, international cooperation might be fruitful; programs of different donors to support parliaments’ and parliamentarians’ capacities are already ongoing, and we can expect extended cooperation on this level in future. For the European Union, for example, a revival of the Euro-Mediterranean Parliamentary Assembly might be a worthy exercise, particularly if the cooperation with governments remains difficult.

Worrying for Egypt is meanwhile the fact that after the ban of deputies from the Freedom and Justice Party, as well as earlier already the National Democratic Party, there are almost no experienced deputies available for the upcoming parliament. In sum, we cannot expect any remarkable influence of the parliament in Egypt’s future polity.

For Tunisia, meanwhile, things look a little bit better, though much will depend on how party leaders will behave in future. Latest developments shade the picture slightly, as it seems that Ennahda leaders try to monopolize more and more power in international relations.

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78 cf. Huber 2013, 8f.
79 Personal discussion with a member of the Egyptian Current Party, Cairo, 9 June 2014.
80 Personal discussion with a senior member of the German Aeronautics and Space Research Centre (Deutsches Zentrum für Luft- und Raumfahrt), Bonn, 4 July 2014.
6. References

Abd Rabou, Ahmed 2013, Egypt's Parliament in the 2013 Constitution: Why We Should Go for a Bicameral Legislature, in: Arab Forum for Alternatives (ed.) Towards a New Parliament in the Egyptian Constitution (in Arabic). Cairo: Arab Forum for Alternatives, 43-50, http://www.afaegypt.org/index.php?option=com_k2&view=item&id=400:%D9%86%D8%AD%D9%88-%D8%A8%D8%B1%D9%84%D9%85%D8%A7%D9%86-%D8%AC%D8%AF%D9%8A%D8%AF-%D9%81%D9%84-%D8%A7%D9%84%D8%AF%D8%B3%D8%AA%D9%88%D8%B1-%D8%A7%D9%84%D9%85%D8%B5%D8%B1%D9%8A (22 June 2014).


Faris, David 2012, Constituting Institutions: The Electoral System in Egypt, Middle East Policy, 19, 1, 140-154.

Hamdy, Ashraf 2011, Parliamentary versus presidential political system: Options for post-January 2011 Egypt, American University in Cairo.


