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**Parliament and Conflict in the Asian Region**

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This regional study of the role of parliaments in the prevention and resolution of conflict in eight countries in Asia will also examine the role of legislatures in the sustenance of conflict. In doing so it addresses a number of features pertinent to the role and responsibilities of national legislatures in general, the nature of ethnic conflict and the modalities of its transformation.

**1. Core Issues and Lessons Learned**

Classical political theory would posit as a key element in the *raison d'être* of a legislative assembly, its role in the ventilation and resolution of grievance through debate and discussion. **In reality however, there can be no automatic assumption of a pivotal role and responsibility of national parliament as the direct, exclusive or even pre-eminent instrument of conflict transformation.** Given the modern requirements of representativeness and inclusivity of the national legislature and an electoral system that facilitates this, a parliament will have the **potential** to resolve conflict, but by the same token, in reflecting the divisions and aspirations of all communities and groups present in society may be more easily identified as an institution sustaining conflict rather than of one resolving it in the first instance. In this respect, the minimum, primary role for parliament is the provision of a site and space for non violent debate and disputation amongst diverse groups in a functioning democracy. In so doing parliament will be contributing towards conflict transformation through the ventilation of grievances, although at the same time this ventilation of grievances could initially exacerbate conflict. Therefore, arising out of this process, is the **expectation** rather than **assumption** that parliament will mature into realising the **potential** inherent in its inclusivity and representativeness to go beyond the sustenance of conflict to its transformation. It is this latter process that donor assistance needs to focus on and in turn facilitate.

***DRAFT***

From this conflict transformation perspective, a further expectation is that parliament in the course of its normal deliberative and legislative functions in respect of issues other than those directly related to conflict, will play an enabling role in creating the climate for the transformation of conflict. This though will not be automatic, but will be a growing reflection of the sensitivity of parliament to its conflict transformation potential. It is quite likely, as is borne out by the Sri Lankan case study in particular, that parliament in this capacity will initially legislate to institutionalise conflict rather than resolve it. Over time the Sri Lankan parliament has been involved in conflict resolution exercises especially in the search for constitutional reform as an instrument of conflict resolution through the mechanism of select committees – but here too such initiatives have failed or been aborted as parliament has not been able to move beyond the ventilation of grievance and differences both along ethnic as well as partisan lines.

In other cases too, parliaments have been involved in initiatives directly related to conflict transformation and resolution which have not been especially effective or successful. In the Bangladesh case, committees have been appointed to look into issues related to the Chittagong Hill Tract Areas (CHTA) and select committees have recommended amendments to laws relating specifically to the CHT Regional Council Acts. In the Philippines, individual MPs have taken the initiative through personal mediation efforts including back channel contacts and fact finding studies, informal bodies such as the Mindanao Legislators Association of congressmen dedicated to a legislative agenda beneficial to the Mindanao economy and the Congressional Internship for Young Muslim Leaders Programme first implemented in 2004 to foster young leaders to spearhead development in Mindanao. The latter is an initiative of the Office of the Speaker.

The movement of parliament from an institution defined by its potential for sustaining conflict towards one that is defined by its potential for transforming conflict, is contingent upon the external factor of the success of a conflict transformation process that unfolds outside of parliament. Finally, it is recognised that parliament will be the ultimate authority for the ratification and implementation of the outcomes of a conflict transformation process, even though that process may have been conducted in the main outside of parliament and even outside of its purview.

## ***DRAFT***

### ***a) Parliament and the constitutional architecture***

The foregoing must also take into account the location of parliament within the constitutional architecture of the country and the values that underpin it. The reality of the case studies that provide the empirical basis of this paper is that in most cases the constitutional architecture privileges the executive with the form of the latter ranging from monarchy to military rule to executive presidencies to prime ministerial government and authoritarianism.

Even where the constitutional instrument has been solicitous of its liberal democratic antecedents, the practice and culture of governance has clearly established executive privilege and state centrism. And public perceptions are framed accordingly reinforced by political culture. The Thai case study pointed out that the public perception and expectation was of the responsibility of the executive in resolving conflicts. Privileging of the executive and state centrism stems from the perceived nation and state building imperative in most developing post colonial polities and the idealisation of the nation-state as the highest form of collective political organization. State precedes nation in most cases and the employment of the state as the principal agency in creating the nation in contexts in which there is more than one, is invariably a major source of conflict. This in turn inspires a challenge to the state so defined and breeds a crisis of its legitimacy. In other cases where there is relative ethnic homogeneity, political ideology can underpin the rationale of the state and in turn provoke challenge to it. This is amply demonstrated in all of the case studies.

The existing tradition of state centrism in some cases was reinforced by donor attitudes. Strengthening and stabilising the institution of the state can invariably translate into strengthening and stabilising the executive arm of the state and to relative neglect of the other institutions of the state – the legislature and the judiciary. This was highlighted in the Timor Leste case and may well be the consequence of a state in its formative years – this was alluded to in the Afghanistan case study as well.

This brings to the fore the question of political culture and context which constitute a common and dominant theme in all the case studies.

### ***b) The challenge of political culture***

Any automatic assumption of a culture of parliamentary governance in the countries examined that has immediately or easily emulated its liberal democratic antecedents is

## ***DRAFT***

problematic. The approximation of such an ideal is bound to take time to take root and become institutionalised. As in the case of Afghanistan and Timor Leste, the idea of parliamentary democracy has to be introduced and explained from the outset. Moreover, parliamentary democracy has to face the challenge of existing political practices which could well be antithetical to it – political practices which have been institutionalised over centuries and embedded in custom and tradition as well as contemporary political history. Patronage politics and patron-client relationships for example, are by no means unknown in the older liberal democracies even today. In most of the case studies employed however, the practice more explicitly undermines the functioning of parliamentary democracy, faith and confidence in its institutions and stymies the propagation of its enabling culture. This is emphasised as a key challenge in the Afghanistan and Cambodian case studies. Together with the history and practice of political violence, they have debilitating consequences for putative parliamentary democracy. Parliamentarians have to be oriented into the practice and culture of parliamentary democracy. Political violence is also an issue in the Sri Lankan context.

The tension between the modern institution of the state having to live up to its pretensions in a globalised and interdependent world and at the same time also provide a continuity with traditional expectations of the ruler leads to executives that are schizophrenic – both modern and pre-modern in their behaviour and practices. This reinforces the privileging of the executive over other branches of government and when combined with the practice of patronage and patron-client relationships also effectively eliminates any room for the separation of powers between the three traditional branches of government in liberal democratic theory – the executive, legislature and judiciary- whether constitutionally ordained or not.

A key area of institutional focus clearly linked to political culture is that of political parties as indispensable elements of a parliamentary democracy.

All case studies in varying degrees point to the culture and practices of political parties and the need to facilitate both a wider and deeper understanding within them of their role and responsibility for democratic governance and peace. This includes both the persistence of patron-client relationships and the employment of political violence for electoral and partisan advantage. Political parties will not be able to perform the role expected of them if they replicate pre-existing, traditional and

***DRAFT***

informal networks of association antithetical to liberal democracy and subscribe in practice to the privileging of the executive. The latter is noted in the Thai case study as far as the Senate is concerned – Senators not being formally appointed according to partisan affiliation. Pivotal to this is the issue of intra-party democracy and the role of the party leadership and the inclusion of women in politics. The Cambodian case study notes that women parliamentarians are best suited to work on conflict transformation as they are best able to escape existing power structures.

At the same time it should be noted that donor assistance in this area has to be mindful of the pitfalls of intervening in the exercise of the right to freedom of association – a vital fundamental right in any functioning democracy. This has to be balanced against the requirement of encouraging greater maturity on the part of political parties in the service of the public interest. The Indonesian case study notes that with the exception of one donor others has ignored the political party sector. Sensitive and potentially controversial an area though this may be, it is one that will have to be looked at if the overall objective of strengthening parliament is to be achieved.

This in turn begs the question of as to whether a liberal democratic parliamentary ethos should and must be engrafted upon existing traditions in the hope that over time it will wear them out in a globalized world or, as to whether the blending of such an ethos with an existing one is pragmatic and feasible. The issue though is as to whether it is possible. Therein lies a challenge for international donors in their assistance to parliaments in the Asian region. Is theirs to be an openly political project to realise and if not, approximate an ideal which could be essentially foreign and therefore must be acclimatised or localised ? Were this to be the case, attention must be paid to the development of a coherent programme of assistance that takes a holistic view of the development of the institutions of parliamentary democracy – the executive, legislature and judiciary as well as the institutions of civil society. This must necessarily entail the search for those features of an existing political culture that are congenial to, correspond with and complement the liberal democratic ideal of parliamentary government and governance so that parliamentary government and governance will have definite local roots.

Political pragmatism may well lie in the search for complementarities and in eschewing the overtly ideological Fukuyama “end of history” line about the triumph of liberalism and capitalism after the Cold War. To do otherwise would be to raise

## ***DRAFT***

hurdles about neo colonialism and to impede the local realization of the positive and even necessary aspects of a liberal democratic parliamentary system of governance and government in societies that are intrinsically plural in composition. The manner in which this is done and in particular the “localization” of the assistance through partnership with national and civil society institutions is of paramount importance.

### ***c) The structure of conflict and the process of conflict transformation***

Another range of considerations arise from the structure of the conflict and the transformation process. There is an important distinction to be made between what is commonly referred to as **peace talks** i.e negotiations between protagonists and a **peace process** which is a series of unfolding events and initiatives which creates and sustains the enabling climate for talks. A further category needs to be introduced and that is of a **post –conflict situation** in which an agreement or settlement has been arrived at and needs to be implemented. The role of parliament in each of these phases varies and has to be considered in conjunction with the state of evolution of liberal democratic institutions in the society.

In some cases as in Timor Leste, Afghanistan and Cambodia, there may be no such pre-existing forms or those that exist may be in a very rudimentary stage of development. Consequently, a key task in the post conflict situation will be the establishment and development of a parliament. In others such as Sri Lanka, there is a well established parliamentary tradition with a highly developed potential for conflict sustenance and a low level of progress in the realization of its potential for conflict transformation.

It is often the case that conflict transformation through negotiations, at least in their initial phase, require confidentiality and that the state actors involved by virtue of the fact of armed conflict, like the military and security establishment, operate outside of parliament. They are of course accountable to parliament in formal constitutional democracies through the civilian leadership. This is a problem in the Asian region in situations in which the leadership is a military dictatorship as in a particular phase in Bangladesh, or as in present in Nepal where the monarch is concerned. In the Bangladesh case study the point is made that civilian governments have involved parliament more in the conflict transformation process, but here too it points out that

***DRAFT***

negotiations were held *in camera* and that leading legislators were unaware of the state and content of the negotiations.

Moreover, negotiations require compromise and conflicts that are to be resolved through constitutional reform will invariably entail compromise that will be highly controversial and contested. The polity has to be informed and prepared for its acceptance and if such deliberations are prematurely laid bare in a deliberative forum such as parliament, the whole negotiating process could be scuppered rather than advanced. The very legitimacy of the activity could be brought into question.

This is not to suggest that the legislature be kept in the dark regarding such negotiations; it is to point out though that the role of the legislature is limited. Whilst the final agreement will no doubt have to be validated by the legislature, the latter's role until that point may well be best limited to providing the empowering guidelines to the government of the day engaging in negotiation and to engage in activities and initiatives that sustain the talks. This includes sensitivity in the conduct of its regular legislative and oversight activities to ensure that they do not adversely impact on parties to the negotiations and the communities they represent.

Another pertinent point is that all the parties to the conflict may not be represented in the legislature. This is especially so in the case of insurgencies and secessionist wars where the nub of the conflict is the very contestation of the legitimacy of the existing state and constitutional dispensation. In practically all the case studies with exception of the post conflict situations of Cambodia and Timor Leste this is the norm. In some instances the centrifugal forces may well have proxies amongst the political parties represented in the legislature as in the example of the Tamil National Alliance MPs and the Liberation Tigers of Tamil Eelam (LTTE) in Sri Lanka, but even in these instances the real power of executive decision making lies elsewhere and the ability of the proxy to actually negotiate is negligible. It is more the case, as this example points out, that the proxies in parliament will assertively ventilate grievance rather than conscientiously identify the common ground for conflict transformation.

In light of the above, the key role that can be played by parliament is the fullest realisation of its conflict transformation potential and accordingly assistance to parliament should focus on this. This would in practice translate into enhancing the capacity of parliament in its normal accountability and oversight functions so as to

## ***DRAFT***

buttress its legitimacy and effectiveness as the pivotal institution of a functioning democracy and thereby underscore its role in the conflict transformation process. It is not surprising that this is a conclusion in respect of parliament's oversight role with regard to finances that comes out strongly in the Sri Lankan and Timor case studies – the latter with less than five years experience of formal parliamentary democracy and the former with over five decades of it.

There is no insurance however against parliament failing to realise its conflict transformation potential and reversing the movement towards a constitutional settlement of the conflict. Neither should there be - if parliament so resolves this will have to be accepted as the realisation of the will of the people, which parliament as the key institution in a functioning democracy charged with this responsibility has a primary duty to effect. The challenge therefore lies in galvanizing public support and legitimacy for peace which parliament in turn as a truly representative body can give effect to. In this respect it must buttress the process thereby underpinning negotiations and in turn prepare the ground for its role in the validation and implementation of agreements arrived at.

### **2. What can Donors do ?**

The case studies highlighted key areas for donor focus which in turn relate to the basic oversight and accountability functions of parliaments. These areas are

- *the lack and quality of resources and expertise available* - The newer democracies/legislatures such as Timor-Leste do not have sufficient physical resources to fulfil their role. The Cambodian report states that MPs do not visit constituencies because of budget constraints. The Ombudsman office in Thailand has been recognized as an empowered actor in conflict resolution but is constrained due to a limited budget and lack of personnel. The point about budgetary constraints also applies to the Thai Senate. Afghanistan faces this problem as well. Initially, only 8 people were appointed to work in parliament, but no budget allocation was made for their salaries. There is no parliament building. The most cited resources constraints are the lack of access to independent sources of information, properly equipped libraries and internet connections and space. As the example of Timor indicates, even where parliament is a powerful organ of government as ordained by the constitution, the lack of resources hinders its functioning making it the weakest branch of the state in terms of institutional capacity. The Cambodian report also states that parliament lacks the technical capacity to perform its constitutionally prescribed role. The support staff in particular is understaffed. Cambodia has not yet adopted a Penal Code or Procedure Codes. The expertise required for this is not available in the country. Afghanistan is an

## ***DRAFT***

example of the very acute form of this problem, due to many professionals having left during the conflict. However, the government has a Priority Reform and Restructuring process under which better salaries are offered to returning professionals. The problem is very visible in respect of the Parliamentary staff. The majority of Indonesian MPs have made known their lack of functional capacity due to their lack of experience as legislators.

- *the need for greater training and education in the workings of parliamentary systems especially the committee system*, In Bangladesh, the overall assessment is that parliament has played a positive role, but was found to be lacking in terms of professional preparedness. The case study also states that strengthening the Parliament Secretariat and the committee system are priorities. The Timor Leste case study points out that as a consequence of MPs not having the knowledge and information necessary to work the committee system, their discussions are uncoordinated and the reports produced out of their deliberations, weak. In Sri Lanka, despite its long tradition of parliamentary democracy and effective functioning of the committee system, oversight committees are less effective today and the interests of the average MP in this primary parliamentary function is waning as attested to by the lack of a quorum in the committees. The Sri Lanka case study recommends that the committees be properly staffed so that their deliberations will be effectively backstopped and informed. A permanent cadre of parliamentary staff assigned to the committees along the model adopted by the Japanese Diet, is strongly recommended. Furthermore, orientation of first time legislators across party lines in the workings of the committee system and parliamentary procedure is also recommended.
- *the orientation of parliamentarians and political parties in their role and responsibilities in the functioning of a liberal democracy* – It was noted in the case studies and discussions at the regional round table that MPs are often more receptive to the enhancement of their skills as politicians as opposed to their acquisition of expertise in a particular area of policy. This provides an opening, especially in the cases of the younger parliamentary democracies to educate and inform legislators of their pivotal nexus between “electability”, representation and accountability. This entails sensitivity to the parliamentary tradition adopted – the Burkean notion of the Westminster tradition where the MP is above all else a member not merely representing a constituency but of the national legislature, and the notions of the MP as a creature of their

## ***DRAFT***

constituents or party. In this regard it is important to expose MPs to their colleagues in the more mature democracies of the region and to look at programming re political parties. The latter can entail work with local government and provincial legislators, youth and women's wings of the parties as well. It could focus on the role and **responsibility** of the legislator in conflict transformation, governance, transparency and accountability. In this regard the relationship and connectivity between these areas should be highlighted so that the message is conveyed that in the course of its normal functioning, parliament can do harm as well as good re conflicts within society. Such programming could also encourage political parties to look at the nexus between intra-party democracy, electoral performance and "electability". It is important not to ignore the basic interest of a politician – to get elected – and to illustrate that it can be enhanced by a demonstrable commitment to peace and governance.

- *exposure of parliamentarians to the workings of other jurisdictions as well the creation of networks amongst them in the region* - It is important in this regard to be sensitive to political culture and the accusations of neo-colonialism. Exposure to legislatures and legislators in developed liberal democracies is valuable. At the same time it is of limited value because of the argument that such democracies are older and enjoy greater prosperity and a different and distinct political culture. Networks of legislators need to be forged in the region so that there can be regular interaction on democratic governance and the challenges posed to it in developing societies. This can disseminate information with regard to both best and bad practices, surmounting arguments about political culture. Within the country peer training and resident advisers are better than short-term consultants. Resident advisers perform better when they learn the language, are sensitive towards people's limitations and culture, and have the ability to transfer skills. It must also be noted that study visits are more effective when MPs have developed a general understanding of their new roles in parliament. Furthermore, it is important that a mechanism be put in place to ensure that the exposure and expertise acquired through such field experience will be used to enhance parliament's systems and processes.

***DRAFT***

- *complementary work with civil society institutions and forging of linkages between parliament, parliamentarians and such institutions* - This is too is related to the political culture and culture of governance. Often, given a zero sum notion of political culture, political parties and through them parliamentarians view civil society organizations working on peace, democracy and governance with suspicion and as partisan. Criticism is not taken on board as constructive and very few acknowledge a role for civil society organizations in the public policy debate, design and implementation. This is a shame since the work of such organizations complement that of the legislature and fruitful networks and relationships can be made between them in the public interest. This could be facilitated by donors through engaging such organizations as their local partners in their programming on assistance to parliaments, thereby ensuring that such programmes are locally rooted and championed by organizations throughout society.

In all of the above, emphasis was strongly placed on cultural sensitivity and the avoidance of “ideal type” or “one model fits all” type assistance. Likewise the expectation of any “quick fix” solutions. Specific critical comment on donor assistance pointed to the need for

- a) a systemic and coordinated programmatic approach beyond an exclusive institutional focus on Parliament. Crucial elements affecting the role of parliament such as that of political violence have to be dealt with outside the institutional context of parliament. Attention should be paid to informal as well as formal power structures and the link between poverty alleviation, peace building and initiatives to strengthen parliaments needs to be taken into account in designing programmes. A more holistic perspective from donors is required to address this. The larger scheme involves political factors – donor and country interests, aid absorption capacities of countries and even direct intervention. These factors are especially pertinent in conflict and post conflict situations. Donors have to be clear about this and the role and responsibility they are prepared to take on.
- b) Avoidance by donors and INGOs of advocating and /or imposing their own parliamentary paradigms, be they fitting or not to the national context. Care should be taken that this does not recur. Avoidance of a standardized approach to all countries. Donors interventions must be cognizant of geo-political and country specific factors. They must be mindful of needs of the country as a whole, especially in terms of foreign relations. With regard to Afghanistan, for, example, donors must be mindful of Afghanistan’s need to have ties with its neighbours.

## ***DRAFT***

- c) UNDP work should extend beyond its work on elections, recognizing that medium and long term dimensions of the issues and the importance of a process oriented response.
- d) A formal coordinating mechanism for donor technical assistance. There needs to be greater transparency with regard to the various programmes aimed at strengthening Parliament - this is highlighted in both the Indonesia, and Nepal case studies. MPs and the public have not been informed about many donor programmes, leading to low national ownership and sustainability. Furthermore, donors, INGOs and NGOs need to demonstrate greater transparency and accountability in managing parliamentary support programmes.
- e) Encourage recipient countries of donor assistance to coordinate and maximize donor assistance programmes. In Timor Leste, the government has prepared 'Sector Investment Programmes' to maximize donor cooperation, and a Parliamentary SIP has been recently produced. This identifies an overview of current donor programmes, further support that is needed and funding requirements. There is also a multi- party Modernization Committee which has an implicit mandate to coordinate and follow up donor programmes targeted for Parliament.
- f) Parliaments still have limited space and budgets, are ill equipped with technical and human resource and have had inadequate attention paid to them. Training in resource management must be undertaken in respect of physical resources granted. Further, the donors must be mindful that the needs of Parliament evolve over time in respect of physical resources and the provision of management skills and training must reflect this.
- g) Adjustments in project timeframes and strategies should be incorporated to take into account the time required to build relationships with MPs and to transfer knowledge and information to them.

### **Conclusion**

The Asian case studies point to the conclusion that the normal oversight and accountability functions of parliaments in the region need to be strengthened. This will in turn enhance their legitimacy and relevance and thereby their potential for conflict transformation and peace as well. The studies do however point out that this requires more than an institutional focus on parliament and does entail programming on sensitive areas such as political culture and political parties. Moreover work in this area is in the nature of a process and is qualitative rather than quantitative. Results will be seen over time and outcomes cannot be telescoped or rushed.

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At the end of the day, the societies concerned have to take on board the importance of parliamentary government and governance both as a critical framework for the challenges besetting them as well as a mechanism for problem solving. Donors can only assist and facilitate with commitment and sensitivity. In doing so there is the chance that they could be effective in expediting the process without distorting it or bringing it into disrepute.

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