

Unit 3: Advancing Parliament's Legislative Function in Conflict-Affected Societies

Learning Objectives

What are the particular challenges of parliaments in conflict-affected countries?

After studying this unit you should be able to:

- Appreciate the importance of building a culture of cooperation within parliament;
- Identify strategies for creating a parliament in which all Members of Parliament can and do work together to fulfill the functions of parliament;
- Understand how parliament can contribute to conflict prevention when undertaking its law-making function;
- Discuss the content of the legislative agenda parliament can encourage and support in order to promote peace.

Introduction

Parliaments perform certain core functions that define their role in a working democracy, irrespective of the type of democratic system by which they were elected and in which they operate. Broadly speaking, parliaments perform three main functions: representation, creating laws or legislation and exercising oversight. Different parliaments around the globe perform many additional functions depending on the type of democratic system the parliament is capacity and resources, and the responsibilities and constraints placed on parliament by the constitution of the country. This unit focuses specifically on how parliaments in conflict-affected countries conduct their legislative business and make laws.

This unit will address how former antagonists who have become Members of Parliament (MPs) can best work together to conduct legislative business. In addition, this unit looks at the process of conducting parliamentary business in conflict-affected countries, whether through debates in the parliamentary chamber or

through the committee system. The roles that certain actors play in the conduct of parliament's legislative business will also be analyzed, notably the role of political parties and presiding officers.

Building a Culture of Cooperation in Parliament

As a precondition for parliamentarians being able to conduct their business, members must respect parliament as an institution, and exhibit a willingness to work together to solve common problems. For this reason, before seeking to conduct parliamentary business, whether on the floor of parliament or in committees, any potential animosities that exist need to be addressed. Only after parliamentarians from previously hostile factions reconcile to work together through the political process can they build relationships across party lines and beyond their original group allegiances. For parliament to exercise a leadership role in a broader reconciliation process, parliamentarians themselves need to be able to work together. Parliament must consider confidence-building measures between the governing party and the opposition. The level of confidence between different sides of parliament can be bolstered, for example, by ensuring transparency in decision-making, placing greater importance on the committee structure, and above all, ensuring that all parliamentarians participate in parliamentary business, rather than sidelining certain groups or members.

Codes of Conduct

A non-partisan parliamentary "code of conduct" that reflects parliament's standing in the community should be developed to establish a standard of conduct expected from members when in and out of parliament. Codes of conduct are basic documents written in easily understood language that set forth broad goals and objectives that legislators seek to achieve and outline the principles of proper conduct. A code of conduct can also set out expectations on how parliamentarians should conduct themselves in relation to one another, namely with respect and in the spirit of cooperation. Breaches of the code are referred to the Presiding Officer, or

Speaker, a parliamentary committee on standards or privileges, or some other complaints mechanism.

Rules of Procedure

Parties are most partisan during parliamentary debates and for this reason the procedures for debates need to be transparent, well defined and closely adhered if this forum is to serve as a conflict management tool rather than a place to merely entrench the positions of conflicting parties. The rules of procedure that determine how to conduct the business of parliament and define the relationship between the majority and minority parties, should be fair and applied impartially. Discussions of bills should not be blocked by majority parties, and legislation should not be passed without debate or, when important legislation is being considered, without referring it to committee. This is particularly important when the executive belongs to the majority party in parliament because without proper debate parliament is unable to fulfill its oversight and accountability function. Sometimes, though, despite the best intent parliament has little choice but to pass legislation quickly, particularly when the executive holds some legislative power. In such instances parliament is powerless to fulfill one of their functions.

The rules of procedure provide the framework within which parliamentarians voice their concerns on the floor of parliament, and ensure that focus remains on the issues at hand. Clear rules of procedure and subsequent structured debate facilitate parliaments' peacebuilding efforts by moving issues of contention between groups in the community away from the point where violent conflict could erupt to a more orderly debate about the issues. If rules of procedure are not enforced parliament runs the risk of parliamentary debates degenerating into personal attacks rather than focusing on important policy considerations. Political parties have a vital role to play in ensuring that the floor of parliament reaches its potential as a forum for peacebuilding.

Committee Deliberations

Though there are a number of ways parliaments and parliamentarians are able to contribute to peacebuilding, the most notable is through the committee mechanism. There is no single model for the conduct of parliamentary committees. Some

countries include the type of committee structure in their constitutions, whilst others have sectoral committees and other countries instigate *ad hoc* specialized public interest committees.

The decision-making process within committees lends itself to consensus decision-making. This occurs when issues are brought before the committee and are resolved through compromise. The committee system enables committee members to bring the specific concerns of their constituents to the decision-making process. In addition, the absence of the public and the media during private negotiations often makes it easier for parliamentarians to make compromises across party lines. This process helps parliamentarians to focus on the substance of the issues without having the pressure to perform in front of a broader audience.

Committees not only contribute to compromise and consensus building, but also provide oversight of the executive by reviewing the budget and examining the conduct of ministers in both presidential and parliamentary systems. In order for committees to be effective, irrespective of the form of the committee structure, parliamentarians who are members of the committees and representatives of the people should be free to question any entity from government.

Parliamentary committees operate as effective peacebuilding models, particularly committees that are issue specific, as they ensure the conflict moves from a people-centered approach to a debate about the issues. Furthermore, parliamentarians who have constituencies that are specifically concerned about certain issues, for instance rural communities or minority ethnic and religious groups, are able to bring their concerns to the table and ensure that a compromise solution is reached. In this way parliamentary representatives working in the committee structure are able to work towards satisfying the concerns of their constituents about issues that directly affect them. If the main concerns of all the groups with a vested interest are satisfied there will be no incentive for those groups to resort to violent conflict in order to have their interests met. Furthermore, a successful consensus outcome will act as an incentive for those same groups to continue using parliament as a means of resolving conflicting interests in future.

The size of the committee also has an impact on its effectiveness. Reaching a unanimous committee position across party lines on prospective legislation is far more influential than when a minority report is issued and, in general, the fewer the members on a committee, the easier it will be able to arrive at a consensus position.

Parliaments utilize committees to fulfill their major functions – representation, lawmaking and oversight. This unit looks at how committees in conflict-affected countries can go about lawmaking, in particular, reviewing bills and investigating issues, so as to ensure that legislation contributes to conflict prevention and poverty reduction. Similar to the structure of parliamentary committees, the role committees have with respect to amending government bills varies widely from country to country; from merely making recommendations for amendments to having the power to reject government bills or initiate their own bills.

Parliamentary committees operate as effective peacebuilding models, particularly committees that are topic or issue specific. Committees may be less adversarial and able to ensure that conflict moves from being centered on people and personalities to a debate about the issues – therefore they are more constructive in developing solutions. Committees utilize less formal rules of procedure than those used during debates on the floor of parliament and the committee mechanism provides an opportunity for members to devise compromises that may reconcile partisan differences. Parliamentarians who have constituencies with special concerns and needs, for instance rural communities or minority ethnic and religious groups, are able to voice their concerns in a more focused environment where it is easier for their voices to be heard and where they can work with other parliamentarians to find a compromise solution. If the main concerns of all groups with vested interests are satisfied, there will be little incentive for those groups to resort to violent conflict to have their interests met. Furthermore, a successful consensus outcome will act as an incentive for those same groups to continue using parliament as a means of resolving conflicting interests in the future.

The interests of divergent groups can be brought to the attention of the relevant parliamentary committee, not just by each group's representative in parliament, but by direct submissions from the group to the committee. Committees also enjoy an advantage over the full parliamentary chamber in that they are smaller, and

therefore more mobile. As long as the security situation permits, parliamentary committees in conflict-affected countries can conduct hearings throughout the country, traveling to regions where legislation or initiatives may have a pronounced or specific impact. Holding hearings in the community takes the work of parliament to the people, thereby building greater public confidence in parliament as an institution and allowing greater input from those affected by the legislation. Such feedback, in conjunction with parliamentarians providing views and information from the groups they represent, is integral to ensuring that parliament is truly responsive to the needs and wishes of all segments of society. If divergent segments of the community have confidence in parliament and their concerns are heard and considered by the committee during decision-making processes, those same groups will be far more likely to accept the outcome, even if it does not meet all their expectations.

Legislative Development

Aside from providing a forum for the discussion of divergent views, parliament can assist the peacebuilding process by seeking to establish the legislative and institutional framework to help prevent further conflict. When given the opportunity, parliament should pass legislation that creates an environment assisting peacebuilding by encouraging a more accountable and informed system. This type of legislation is usually introduced by the executive but an effective parliament can promote its introduction and, indeed, provoke it through effective political action. In order to develop an informed and accountable democracy the *Principles for an Informed Democracy* suggests governments and parliaments should:

- Pass freedom of information legislation
- Resist privacy legislation that could be used to suppress freedom of speech and the media
- Apply parliamentary privilege fully to all fair and accurate reports of parliamentary proceedings, including committees
- Reject or repeal legislation to license media, journalists and presses
- Repeal criminal defamation laws so that the media is no longer subjected to punitive controls that curb freedom of expression

- Exercise caution in the passage of anti-terrorism legislation which may limit society's freedom or make the state less accountable; and
- Reject or repeal laws that empower the state to censure or punish political opponents and the media for partisan reasons.

In addition to ensuring that legislation is passed to develop an informed and transparent environment, parliaments can further promote peacebuilding by facilitating the introduction and adoption of legislation that protects fundamental freedoms. For instance, after obtaining its introduction by the executive parliament can, , pass laws that entrench and strengthen human rights protections, minority rights guarantees, and nationality legislation. Entrenching such protections demonstrates a willingness on the part of the government to take the role of minority groups seriously within society at large. These types of initiatives promote peace by creating an environment where aggrieved parties feel they have a resolution to a conflict, other than by resorting to violence. For instance, if a member of a minority group faces discrimination from government officials s/he will be able to seek redress in accordance with the legislation protecting rights. As such, it is important that along with passing the requisite legislation, parliament also encourage the formation of agencies and programs to implement and enforce these protections, such as human rights commissions. Many of these legislative initiatives traditionally fall within the ambit of the executive's responsibility. However, parliament, as the direct representatives of the people, can promote the introduction of such legislation and seek to make it as robust as possible when it is introduced by the executive.

Conclusion

Parliamentarians are able to contribute to conflict prevention and poverty reduction while performing their law-making function. However, before they are able to achieve this goal it is imperative that they build a culture of cooperation in parliament. Unless parliamentarians exhibit a willingness to work together they will be unable to conduct their legislative business and work together to solve common problems. A non-partisan parliamentary "code of conduct" that reflects parliament's

standing in the community should be developed in order to assist the development of a culture of cooperation.

Once a cordial working relationship has been created between the Members of Parliament, parliament can then seek to advance the interests of conflict-prevention and poverty reduction using the legislative process. In order to develop legislative outcomes that contribute to these goals it is important for there to be clear procedural rules for debates in the chamber. Parties are at their most partisan during parliamentary debates and for this reason the procedures for debates need to be transparent, well-defined and closely adhered if this forum is to serve as a conflict management tool rather than a place to merely entrench the positions of conflicting parties. Another forum where legislative business is undertaken is in committees. The decision-making process within committees lends itself to consensus-making. This is when issues are brought before the committee and resolved through compromise. It therefore acts as an excellent venue for conflict prevention. Parliamentary committees operate as effective peacebuilding models, particularly committees that are topic or issue specific, as they ensure that the conflict moves from a people centered approach to a debate about the issues.

Aside from providing a forum for the discussion of divergent views, parliament can assist the peacebuilding process by seeking to establish the legislative and institutional framework to help prevent further conflict. In particular, parliament can seek to develop an informed democracy, where human rights are promoted and reconciliation achieved.

Unit 3 Questions

Please answer each of the following questions. If you are taking this course in a group you may then meet to discuss your answers.

1. What can Members of Parliament do to build a culture of cooperation in parliament?
2. What is the difference between codes of conduct and ethics rules?
3. How can parliamentary rules of procedure help turn adversaries into peacebuilders?
4. How do committee deliberations contribute to peacebuilding efforts?

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