



## **Constitutions and Constitutionalism in Arab Political Life**

### **Narrative Report**

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GEFINOR ROTANA HOTEL, BEIRUT

The Lebanese Center for Policy Studies organized on 11-12 December 2002, in cooperation with the Konrad Adenauer Foundation, a regional workshop on “Constitutions and Constitutionalism in Arab Political Life”. The aim of the workshop was the critical analysis of the status of Arab constitutions at the beginning of this century, their contribution to establishment and consolidation of the rule of law in the region, their adequation to the needs of development of political life and institutional reforms, as well as the promotion of citizen participation in public affairs and the preservation of their political rights.

The workshop brought together a group of preeminent Arab researchers and specialists in constitutional affairs from a legal, political or sociological perspective, coming from Algeria, Bahrain, Egypt, Jordan, Kuwait, Lebanon, Morocco, Palestine, and Tunisia.

In his **introduction**, Dr. Salim Nasr presented the background of the workshop. The meeting started from the hypothesis that building and developing constitutions and consolidating the constitutional life and traditions, remain among the pillars of the modern democratic state, the just and competent state, the state that need to rely both on legitimacy and efficiency, in different historical experiences and constitutional traditions. Dr. Nasr raised a number of questions to frame the debate and try to answer some essential questions that worry both Arab researchers and citizens, when they look at contemporary Arab experiences of constitutional life:

- To what extent Arab constitutions are applied and respected in Arab public institutions' work and to what extent is there an effective separation of powers and relations of regulation and equilibrium among them, and efficient control and review systems?
- How much convinced are leaders in Arab countries as well as political forces, loyalist or oppositional, of the importance of respecting the constitutional reference in leading countries and institutions, and in framing and regulating Arab political life?

- What are the effective functions of Arab constitutions today? Is it still mainly a nationalist and sovereignty maintaining function versus the outside, as it was the case in the beginning of constitutional life? Or is it an ideological function legitimizing the dominant political elite and its doctrinal, social and economic orientations like in many cases of the second half of the last century? Or a neutral, referential and balanced function that aims to limit the natural tendency of powers to absolutism, to consolidate the rule of law, and to preserve the fundamental rights of the citizens without discrimination?
- What are the actual conditions of the institutions entrusted with the control of the implementation of Arab constitution? If such institutions exist, how do we evaluate their recent experience? And how can they efficiently help to establish and consolidate constitutional values in our countries.
- To what extent does constitutional development and reform respond in Arab countries to the effective development of political life and the demands of the ever-changing economic relations, and the need for a new social order facing globalization, as well as the redefinition of the function and role of the state and society?
- What are the current initiatives aiming at constitutional reforms in Arab countries, whether coming from ruling entities or from civil society? And what is the importance of constitutional issues and concerns in the visions and programs of Arab political forces? What are the important challenges facing constitutional reform in the Arab region?
- To what extent are the intelligentsia and the public opinion in the region interested in constitutional issues and the necessity of constitutional reform as part of the pressing issues raised in the public debate in Arab societies. Are there any constitutional awareness and constitutional demands among Arab public opinion?

The workshop was conducted in five sessions followed by a round table. The **first session** focused on a general assessment of Arab constitutionalism, highlighting the issues and challenges of this field. The panelists were: Dr. Yehya al-Gamal (former Minister, Professor of Constitutional Law at Cairo University) from Egypt, Dr. Amina Massoudi (Professor of Constitutional Law at the University of Rabat) from Morocco, Dr. Chibli

Mallat (Director of the Center for Studies on the European Union at the Saint Joseph University) and Maître Suleiman Taqieddine (Lawyer) from Lebanon.

In the other sessions, experts reviewed and discussed the state of constitutionalism in the various countries of the Arab region. The **second session** of the workshop covered Lebanon and Jordan, the panelists being Dr. Issam Sleiman (Professor of Political Sciences at the Faculty of Law and Political Sciences at the Lebanese University) and Dr. Mohamad Al Ghazwi (Professor of Constitutional Law at the College of Law at the University of Jordan).

The **third session** covered Egypt with two eminent panelists, Dr. Ibrahim Darwich (Professor of Constitutional Law at Cairo University) and Dr. Ibrahim Chalabi (Professor of Political Sciences at Cairo University) while Dr. Anis al-Qasem (Attorney at Law in London, UK) highlighted the preparatory work for a Palestinian constitution and what was still needed.

The **fourth session** included presentations from the Maghreb region. The state of the Moroccan constitutionalism was covered by Dr. Khaled Naciri (Director of the Higher Institute for Administration in Rabat) and Dr. Mhammed Malki, (Director of the Center for Constitutional and Political Studies at the Faculty of Law at the University of Marrakech) while Dr. Nasser-Eddine Ghozali (Professor of Law at the University of Paris) presented the case of Algeria. The session ended with Tunisia and Dr. Ahmed Driss (Professor of Law at the Faculty of Law, Economic Sciences and Management at the University of Tunis).

The **fifth session** was dedicated to the Gulf with Dr. Mohammed Al Fayli (Professor at the Department of Public Law of Kuwait University) and Maître Farid Ghazi (Member of the Parliament of Bahrain) covering the state of constitutionalism in their respective countries.

The workshop ended with a **round table discussion** on the Future of Arab Constitutionalism. Dr. Khalid Naciri (Director of the Higher Institute for Administration in Rabat) from Morocco, Dr. Antoine Khair (President of Chamber at the Lebanese Council of State) from Lebanon, and Dr. Kais Saied (Professor of Constitutional Law at the Faculty of Judicial, Political and Social Sciences at the University of Tunis) from Tunisia started the debate by presenting their perspective for the development of constitutional life in the Arab world and discussed the different means to promote it.

The workshop was attended by more than 50 participants from various sectors of the Lebanese public institutions (the State Consultative Council, the Judiciary Inspection, the Ministry of Justice, the Economic and Social Council, the Lebanese Parliament), the Bar Association as well as a number of lawyers and judges, researchers and professors from various universities (the Lebanese University, LAU, USJ, the University of Southern California, Balamand, NDU) and research centers (Centre d'Etudes du Droit du Monde Arabe - CEDROMA), professionals from the media, the international organizations (such as UNDP and ESCWA) and participants from the private sector.

During the workshop, the participants explored the real functions of Arab constitutions and their degree of application, as well as the state of the institutions in charge of controlling the application of the constitutions. The participants also discussed public or private initiatives aiming to improve the constitutions and explored the diverse obstacles hindering constitutional development and reform in the Arab region.

In conclusion, the participants agreed on a first diagnosis of the state of constitutionalism in the Arab region and discussed an agenda of common priorities, including the need for comparative researches and studies that would contribute to the improvement of a legal and political dimension that is vital for the reform of public affairs and development in the Arab world.