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# Consultation.pdf

Muqtedar Khan



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2010 affirming secularism as a tenet of the constitution, the parliament the following year adopted an amendment that restored secularism as a principle of state policy but retained Islam as the state religion, with the stipulation that “other religions may be practiced in peace and harmony in the Republic.”

Enacted in 1957, Malaysia’s constitution established a federal constitutional monarchy with complex roles for Islam at the state and national levels. Islam is the established religion of the federation, but the constitution is the supreme law of the state. States have wide jurisdiction in Islamic matters, including the regulation of religious institutions, such as mosques and endowments (*awqaf*); the collection and distribution of Islamic revenues, such as *zakat*; and the enactment of Islamic laws and their enforcement in shari’a courts, but only on persons professing to be Muslims and only concerning offenses specified by federal law. The Shari’a Courts (Criminal Jurisdiction) Act of 1965 removes serious criminal offenses from the Islamic courts’ jurisdiction.

The Indonesian constitution dates back to 1945 but was amended significantly four times between 1999 and 2002 to strengthen democratic institutions. With respect to religion, the constitution has remained unaltered: it contains no provision regarding Islam or any other religion. Article 29 stipulates only that the “state is based on the belief in the One and Only God” and that the state guarantees freedom of worship to all citizens.

**SEE ALSO** *Majlis; Modernism and Modernity; Reform: Arab Middle East and North Africa; Reform: Iran; Reform: South Asia; Reform: Southeast Asia.*

#### BIBLIOGRAPHY

- Ahmad, Masud. *Pakistan: A Study of Its Constitutional History, 1857–1975*. Lahore: Research Society of Pakistan, 1978.
- Arjomand, Saïd Amir. “Constitutions and the Struggle for Political Order: A Study in the Modernization of Political Traditions.” *European Journal of Sociology* 33, no. 1 (1992): 39–82.
- Brown, Nathan J. *Constitutions in a Nonconstitutional World: Arab Basic Laws and the Prospects for Accountable Government*. Albany: State University of New York Press, 2002.
- Grote, Rainer, and Tilmann J. Röder, eds. *Constitutionalism in Islamic Countries: Between Upheaval and Continuity*. Oxford: Oxford University Press, 2012.
- Lewis, Bernard, Majid Khadduri, A. K. S. Lambton, J. A. M. Caldwell, A. Gledhill, and Charles Pellat. *Dustūr: A Survey of the Constitutions of the Arab and Muslim States*. Leiden, Netherlands: Brill, 1966.
- Schirazi, Asghar. *The Constitution of Iran: Politics and the State in the Islamic Republic*. Translated by John O’Kane. London: I.B. Tauris, 1997.

U.S. Commission on International Religious Freedom. *The Religion-State Relationship and the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of Majority Muslim Countries and Other OIC Members*. Rev. ed. Washington, DC: Author, 2012.

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## CONSULTATION

*Shura*, or consultation, has become an important buzzword among those scholars who seek to argue the compatibility of Islam and democracy and among those Muslim thinkers and social scientists who are trying to articulate an authentic Islamic way of governing and managing private, public, and political institutions. Several books have recently been written arguing the necessity and importance of the consultative decision-making process in Islamic organizations. In the Muslim world, advisory boards, town hall meetings, and even parliaments are all now called *majlis al-shura*: the consultative board. This is an important development because it has brought public deliberation to Islamic political culture and has gone a long way toward making democracy both acceptable and desirable to Muslims everywhere.

#### EVOLUTION OF THE CONCEPT

The concept of shura is enshrined in the Qur’an. In fact one of the chapters of the Qur’an is named al-Shura, emphasizing the importance of consultation within the Islamic tradition. There are many prophetic traditions (hadith) that not only underscore its importance but also elucidate its usage within the Islamic ethos. The *sira* literature, which includes the biographies of the prophet Muhammad and his Companions, also describe several instances when the Prophet and the caliphs who succeeded him used the process of shura to make important decisions. Indeed, the selection of the early caliphs, referred to as *al-Khulafa’ al-Rashidun* (the rightly guided caliphs), was the result of complex shura processes that have led certain Muslim political theorists of the twentieth and twenty-first centuries, such as Abu al-A’la’ Maududi (1903–1979), Yusuf al-Qaradawi (1926–), Hasan al-Turabi (c. 1932–), and Rashid al-Ghannushi (1941–), to argue that the early age of Islam was an age of democracy and that the Muslim head of state was and should be elected through democratic or consultative process. This conclusion has also led to the equation of shura with democracy in modern Islamic literature (see Khan 2001 and Afsaruddin 2011).

## Consultation

Following the Qur'an and the teachings of the prophet Muhammad, the principle of shura became an important part of the Muslim institutional heritage. Muslim rulers who consulted their advisers, the religious scholars, and sometimes even ordinary people have been much appreciated in Islamic history, and those who did not consult were rightly recognized as authoritarian. But two things must be noted about the practice of shura: one, that it was already part of the early Arab traditions that preceded Islam, and two, that even though much valued, it has not developed sufficiently to allow Muslims to transition from monarchy and empires to an indigenous system of democracy.

One of the most important examples of shura before Islam was the consultation among the Meccans in response to a scandal when a visiting businessman was cheated of his assets, which led to the formation of the *Hilf al-fudul* (League of the Virtuous). The goal of those forming this alliance was to ensure fair-trade practices. A young Muhammad, not yet a Prophet of God, participated in it and cherished both the substance of that consultation as well as his participation in it. During

the prophet Muhammad's mission, his consultation with his Companions, especially in matters of military strategy and diplomacy, are well recorded and often invoked to make the point that decision making in Islam privileges consultation.

Many parliaments in Muslim-majority states in the twenty-first century are referred to as *majlis al-shura*, but they vary significantly in their relevance and authority. The Pakistani bicameral parliament works more or less along the lines of the Westminster model and has genuine powers to propose and legislate laws and is indeed the highest lawmaking body of the land. Its laws are subject to judicial review and review of the Council of Islamic Ideology, but its members derive their legitimacy from the fact that they are directly elected by the people to represent them in law making. By contrast, the *majlis al-shura* of Saudi Arabia is a body of advisers appointed by the king of Saudi Arabia, and while they can advise him when he consults them, they do not make the laws and their resolutions are not binding on the king. They serve at his pleasure. Thus, one can see that the concept of shura can be supportive of both democracy and



*A Meeting of the Shura Council of Saudi Arabia, 2006. In Saudi Arabia, the Majlis al-shura is a body of advisers appointed by the king. Unlike other Majlis al-shuras, the Saudi body does not have the power to make laws nor are their resolutions binding upon the king.* © FAHD SHADEED/AFP/GETTY IMAGES

monarchy. This disparity exists as a result of an absence of consensus among Islamic scholars on the binding nature of consultation. All agree that consultation is desirable, but not all agree that it is mandatory.

### EXAMPLES FROM SACRED SOURCES

The concept of shura is mentioned several times in the Qur'an but it appears in three verses that can be deemed as *ahkam*, or verses that rule that shura is important for decision making. Shura is mentioned once in the chapter al-Shura, once in al-Baqara, and once in al-Imran. The first reads as follows:

And those who have responded to their lord and established prayer and whose affair is determined by consultation among themselves, and from what We have provided them, they spend. (42:38)

In this chapter the Qur'an identifies in a sequence of verses that extends from 42:36 to 42:43 the virtues of those who have believed in the message of the Qur'an, and it includes those who conduct their affairs through mutual consultation.

In the chapter al-Baqara, the Qur'an encourages married couples to decide their child-rearing policies through mutual consent and consultation. The Qur'an recommends two years of nursing for children, but if parents together decide to wean the child before this period then they are permitted to do so.

And if they both desire weaning through mutual consent from both of them and consultation, there is no blame upon either of them. And if you wish to have your children nursed by a substitute, there is no blame upon you as long as you give payment according to what is acceptable. And fear Allah and know that Allah is Seeing of what you do. (2:233)

In chapter three, al-Imran verse 159, there is a very important description of divinely ordained political leadership. The verse describes the prophet Muhammad's conduct as the mercy of God and extols the qualities of his leadership style, which includes compassion, gentleness, forgiveness, and consultative decision making. This verse is clearly very significant for Islamic governance, but while many Muslim scholars have recognized it as such, it has not truly become the dominant constituent of Islamic management and governance to this day.

So by mercy from God, [O Muhammad], you were lenient with them. And if you had been rude [in speech] and harsh in heart, they would have disbanded from about you. So pardon them and ask forgiveness for them and consult them in

the matter. And when you have decided, then rely upon God. Indeed, God loves those who rely [upon Him]. (3:159)

As mentioned above, there are many examples from the life of the prophet Muhammad and his Companions that indicate the importance and frequent usage of mutual consultation. There are also several traditions in which the Prophet himself has extolled the virtues of consultation. Here is one such tradition narrated by 'Ali ibn Abi Talib, the fourth caliph of Islam, as quoted by Ahmad al-Raysuni in his book *al-Shura* (2011, 58):

[I said,] "O Messenger of God, what are we to do in situations concerning which nothing has been revealed in the Qur'an and in which we have no example from you to follow?" The Prophet replied, "Gather together believers who are knowledgeable (or he said, given to worship). Then consult among yourself concerning the situation, and do not base your conclusions on the opinion of just one person."

Clearly the sacred sources that advocate consultation exist and are well known and frequently invoked by Muslims. Muslim scholars also recognize the importance of consultation in all matters, sacred and profane. They further recognize that not only the elite but also all citizens, regardless of gender and other sources of difference, must be included in the consultative process. Nevertheless, the culture of authoritarianism continues to plague the Muslim world, and democratic institutions are less common and where they do exist they are weak and shallow.

### CULTURE OF CONSULTATION IN MUSLIM WORLD TODAY

The primary reason for the lack of a culture of consultation in the Muslim world today is that many scholars of Islam still see consultation as desirable but not necessary. Legitimacy of decisions is tied to a decision's proximity to accepted articulations of the shari'a and not to the use of the process of shura. Therefore, if a ruler individually makes a decision that appears to be consistent with what his or her subjects think is a "shari'a ruling," then consultation is redundant. There is, however, a growing trend among Muslim scholars and social activists toward privileging inclusion and deliberation, and it is only a matter of time before nonconsultative decisions will be less acceptable and shura will become the norm. Additionally, most Muslim societies today are to some extent secularized, and many are more inclined to use terms such as democracy, inclusion, deliberation, buy-in, and stakeholders while discussing affairs that in the past would have come under the purview of shura. Some

## Conversion

Muslim countries, such as Pakistan, Malaysia, and Turkey, are experiencing Islamic revivals and Islamization, and it is in these countries that the term *shura* has once again become meaningful in the public as well as the private sector.

**SEE ALSO** *Consensus; Political Thought.*

### BIBLIOGRAPHY

- Afsaruddin, Asma, ed. *Islam, the State, and Political Authority: Medieval Issues and Modern Concerns*. New York: Palgrave Macmillan, 2011.
- El-Awa, Mohamed S. *On the Political System of the Islamic State*. Translated by Ahmad Naji al-Imam. Edited by Anwer Beg. Indianapolis, IN: American Trust Publications, 1980.
- Esposito, John L., and John O. Voll. *Islam and Democracy*. Oxford: Oxford University Press, 1996.
- Ibn Ishaq, Muhammad. *The Life of Muhammad*. Translated by A. Guillaume. Oxford: Oxford University Press, 2002. First published 1955.
- Khan, M. A. Muqtedar. "The Compact of Medina: A Constitutional Theory of the Islamic State." *Mirror International*, 30 May 2001.
- Khan, M. A. Muqtedar. "The Islamic State." In *Encyclopedia of Government and Politics*, 2nd ed., edited by Mary Hawkesworth and Maurice Kogan, vol. 1, 265–278. London: Routledge, 2004.
- Khan, M. A. Muqtedar. "Shura and Democracy." *Ijtihad* (blog), 12 January 2014. <http://www.ijtihad.org/shura.htm>
- Raysuni, Ahmad al-. *Al-Shura: The Qur'anic Principle of Consultation*. Translated by Nancy Roberts. London: International Institute of Islamic Thought, 2011.

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## CONVERSION

In Islam, conversion consists of the recitation of the *shahada* or profession of faith which is composed of two affirmations from the Qur'an that have been integrated to form a single declaration of faith in the uniqueness and oneness of God and the finality of His revelation to the prophet Muhammad. It reads "There is no god but God [Allah, the Arabic proper name for God used by both Arabic-speaking Muslims and Christians], and Muhammad is the Messenger of God." The Qur'an uses the terms *The Messenger of God* and *The Prophet* synonymously to refer to Muhammad, who is implicitly declared to be the last of God's genuine prophets.

Some Muslim scholars, among them the renowned Persian mystic, philosopher, and theologian al-Ghazali

(c. 450/1058–505/1111), are of the opinion that a declaration of intent (*niya*), made prior to the recitation of the *shahada*, is necessary for its validity and for the validity of such ritual acts as prayer, fasting, and almsgiving. On the other hand many Muslim lawyers are persuaded that *niya* is only necessary for the validity of prayer (*salat*).

In early Islam conversion was not a condition for membership of the *umma* or Muslim community. Prior to the surrender of Mecca in 8/629, the Jews of Medina had the same rights and obligations as other members of the *umma*. After the fall of Mecca to Muhammad, the *zakat* (alms tax) was levied on converts to Islam, benevolence being one of the chief virtues of the true believer, and the *jizya* (a personal poll tax to be paid, where possible, in money) was imposed on all non-Muslims (with the exception of certain categories of persons including women, the poor, the enslaved, and impoverished monks) who wanted to join the *umma*.

### JIHAD AND CONVERSION

While the spread of Islam is a religious duty, the Qur'an also instructs believers that there should be no compulsion in matters of religion (2:256), thus seemingly ruling out coercion as a means of conversion. There are many scholars of Islam, Muslim and non-Muslim, who are persuaded, largely on the basis of this text, that the obligation to perform jihad of the sword (*al-jihad bi-al-sayf*)—sometimes described as the lesser form of jihad, in contrast to *jihad bi-al-nafs* or moral and spiritual jihad, as the greater form—is only legitimate where the free practice of Islam is impeded.

Where jihad of the sword is contemplated, there is the obligation of the summons, *da'wa*, which is based on Qur'an 17:15 and 16:25. The summons is meant to inform those to be attacked that Islam does not intend to pursue war for material gain such as property but for the purpose of defending or strengthening Islam. There are differences of opinion between the four principal Sunni schools of law (*madhabib*) on the necessity of *da'wa* for people who have previously been summoned to Islam. The Malikites believe it to be obligatory in this case also, the Hanafites recommend it, and the Shafi'ites and Hanbalites say it is a matter of indifference.

Islam has rarely spread, in the sense of converting large numbers of non-Muslims of a territory, through jihad of the sword. The fundamentalist eighteenth-century movement in Arabia, the Wahhabiyya as it is called by its opponents and by Europeans—the members referred to themselves as the Muwahiddun or Unitarians—was more a reform movement than a drive to convert non-Muslims. Where and when jihad of the sword has been used its effect has usually been to establish a Muslim