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## Constitutional Reform and Political Participation in the Gulf

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2006

**Gulf Research Center**
Knowledge for All

# Constitutional Reform and Political Participation in the Gulf

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Published by
**Gulf Research Center**

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By publishing this volume,
the *Gulf Research Center* (GRC) seeks
to contribute to the enrichment of
the reader's knowledge out of the
Center's strong conviction that
*knowledge is for all*.

**Abdulaziz O. Sager**
Chairman
Gulf Research Center

# About the Gulf Research Center

The **Gulf Research Center** (**GRC**) is an independent research institute located in Dubai, United Arab Emirates (UAE). The **GRC** was founded in July 2000 by Mr. Abdulaziz Sager, a Saudi businessman, who realized, in a world of rapid political, social and economic change, the importance of pursuing politically neutral and academically sound research about the Gulf region and disseminating the knowledge obtained as widely as possible. The **Center** is a non-partisan think-tank, education service provider and consultancy specializing in the Gulf region. The **GRC** seeks to provide a better understanding of the challenges and prospects of the Gulf region.

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# Introduction

*Abdulhadi Khalaf and Giacomo Luciani*

## The Success of the Ruling Families

The countries of the Gulf Cooperation Council – Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates – are ruled by dynastic regimes, and have relatively similar economic, demographic and social structures. They differ in size –Saudi Arabia is significantly larger than the rest, and Oman and the UAE occupy an intermediate position – as well in resource endowment – Saudi Arabia again dominates the group with respect to oil reserves and production – but their social and political similarities are very clear.

For decades, the dynastic and patrimonial regimes of the Gulf have stood out as an exception, and indeed an oddity in international relations. Superficial observers identified these regimes as being mere remnants of the past, strange leftovers from the Middle Ages, dinosaurs doomed to extinction. Yet, until September 11, 2001, the ruling families of the Gulf seemed to have been doing well. They had managed to maintain the stability of their regime, consolidate the legitimacy of their rule, and retain the loyalty and support of their social power base. Their remarkable achievements are evident in the mere fact that the survival of the regimes has never been in doubt. This remains true even when one considers the eventful history of the past five decades of war, invasion, and border skirmishes, the various attempts at palace coups (only one of which succeeded in the last 20 years – in Qatar), and the chronic, and continuing, competition among siblings in Saudi Arabia, Kuwait, Bahrain, the various emirates of the UAE and Qatar.

In spite of these and other upsetting events of the past decades, Gulf monarchies fared well, on the whole. When compared to supposedly more modern regimes in other Arab countries, especially those of other oil exporting countries such as Iraq or Libya, their success cannot be doubted.

For decades, the bulk of the literature on them has been dominated by negative assessments and predictions of imminent doom. They are normally

described as being unstable, surrounded, embattled, unable to cope with runaway population growth, and unable to undertake "real" development. Yet, the facts have shown that their record is a mixed one.

The Gulf dynasties' success in holding out in the face of domestic and regional threats offers empirical and theoretical challenges. This stability has been explained in different ways, notably: the impact of the inherited political culture and social structures; the impact of oil revenue and the rentier state; the direct and indirect role of Britain, and later, the USA, in securing the regional status quo; or, finally, the ability of extended ruling families to penetrate state structures and ensure loyalty.

With the exception of the last explanation (family size and its tentacular presence may be viewed as casting doubt on the viability of the system in the long run, even if it is an element of stability in the immediate) these interpretations rest on rather solid ground. It is indeed a fact that social segmentation along ethnic, tribal or religious fault lines hinders the formation of strong opposition coalitions and enhances the role of ruling families as ultimate arbiters. This is an inherited condition which, in more recent times, has been reinforced by the large and constantly growing dependence on expatriate labor.

It is also a fact that the states of the GCC have access to substantial, and in some cases, massive external rents, that make them independent of society, and indeed allow them to engage in significant distributional politics.

Finally, it is also true that the GCC countries constitute essential assets for the United States, and indeed all OECD countries. This facilitates the formation of international coalitions to prevent or reverse any significant change to political realities.

And yet, the simple fact is that other types of regimes – supposedly more advanced and "modern" – that have prevailed in countries whose structural parameters are similar to those of the GCC members, have fared much worse. Experience confirms that the dynastic, absolutist form of government appears to be more efficient than others in delivering political stability and economic development in the Gulf environment.

## Notwithstanding Success, the Image of Instability

However, the Gulf ruling families' remarkable ability to mobilize external and internal sources of power seems to have reached a dead end. There is growing awareness among important members of these families that the survival of their regimes requires the introduction of some real – and painful – reforms.

The geopolitical context within which they have operated has altered throughout the 1990s. Some Gulf rulers also seem aware that they have lost the advantages associated with their special regional role during the Cold War. Furthermore, decades of economic mismanagement, endemic corruption and wasteful expenditure have greatly reduced the basis of their infrastructural powers. The effects of fluctuating oil revenues have exacerbated the financial woes of the Gulf monarchies as well as their domestic and foreign debt burdens.

For the ruling families in the Gulf, the most serious ramifications of the September 11 attacks are seen in the questioning of their value as US allies, and the change of policy introduced by the Bush administration. In its 2002 Middle East Partnership Initiative (MEPI), the Bush administration promised to promote democracy in the region, and to accelerate reforms in governance, education, the economy, technology, development and the role of women. This took on additional urgency after the US successfully toppled the regime of Saddam Hussein in Iraq. The ramifications of the war and the US occupation of Iraq are wide, and range from widespread organized political violence to the accelerated peaceful mobilization of social forces demanding reforms. The most likely targets of the proposed reforms are the countries of the GCC.

Gulf monarchies face unprecedented demands for political, judicial, and economic reforms. While regimes and their domestic and foreign critics agree on the need for reforms, divergent views exist on the content of the 'package of reforms' required in the countries of the region.

Other issues of disagreement relate to how actors perceive the urgency and pace of reforms, as well as the means of sustaining the reform movement. Methods to resolve these disagreements are constricted, in part, by the consequences of decades of misrule. There is also a prevailing lack of mutual trust – competing groups are divided by tribal and communal cleavages.

Similar political regimes, demographic structures, economic and social systems in the GCC countries make their paths towards reforms comparable, albeit not identical. Bahrain, Oman, and Qatar have already taken some visible steps towards reforming their political structures, and have joined Kuwait in adopting constitutional and parliamentary systems. Saudi Arabia and the UAE have yet to tread that path.

## Projecting Democracy and the Meaning of Reform

Many, but by no means all of the reformists in the GCC admit behind closed doors that they are grateful for some of the subtle diplomatic pressure exerted by the US in the fields of social and political reform. At the same time, almost all

reformist voices act independently of foreign pressures on the national political stage, and have specific local agendas. Though their action interacts with pressures exerted by outside forces, it must be dealt with as a phenomenon sui generis. Significant reformist voices in the Gulf states today include intellectuals, journalists, and academics, in some cases parties, professional and political associations and quite often, a few members of the ruling families who are trying to establish themselves as "progressives." At the same time, not all voices are reformist in a strict sense: there is deeply rooted resistance to outside interference, which translates into a rejection of any reformist suggestion that may appear to imitate "the West." There are also large, indeed probably majoritarian, social strata that do not view the adoption of formal democratic institutions and processes as the solution to their economic and political marginalization.

While Gulf ruling families, with the possible exception of the Saudis, do not behave as if they are threatened by these developments, they have all signaled their willingness to reform – including granting a bigger role to non-family actors. Political reforms in Bahrain since 2000 provide a model for the kind of measures that do not require the ruling families to give up any of their privileges, including their control over economic resources and political institutions, and their command over the armed forces and the security apparatuses. The Bahrain model may represent a step towards reducing symptoms of the prevailing political stagnation, but it could generate new sets of problems. On the one hand, these reforms may alienate the tribal and religious allies of the ruling families. On the other, they may fall far short of the reforms expected by modern elite groups and networks of political activists. Concessions by the ruling families may also embolden local elites to demand more substantive concessions.

Whatever their own perceptions of the current situation in the region, Gulf ruling families seem well aware that they cannot afford to procrastinate – this would probably be the more dangerous option, and would be liable to enrage the gradually expanding networks of domestic and foreign actors demanding change. The urgency of the situation could force even the most reluctant of the Gulf rulers to conclude that reforms must go beyond cosmetic change.

In the first chapter in this collection, Abdulaziz Sager insists on the domestic roots of reform and denies that external pressure has played an important positive role. According to Sager, the notion that a political reform debates or processes in the Gulf region are a new or very recent phenomenon must be dismissed. Similarly, it would be wrong to argue that the region has adamantly resisted any type of political development and that the ruling elites are therefore determined to maintain the status quo. Rather, what is occurring in the Gulf is the continual evolution of a dynamic transformation process that has begun to fundamentally alter the way both the rulers and subjects are structuring their political, economic, and social interactions. The transformation process finds its roots in structural

factors, notably including population growth and improved education. Sager underlines that governments in the region are faced with populations that are growing not only in size but also in levels of political consciousness. This development directly translates into a determination to seek greater participatory rights and access to the existing political system. His conclusion is that a political reform process has been set in motion in the Gulf countries, and that given existing social, political, and economic circumstances, it can no longer be completely reversed.

## Paradoxes of Reform

But while it appears that a drive towards political reform is sweeping across the Gulf, several paradoxes persist and deserve analytical and theoretical discussion.

Firstly, one cannot fail to note that pressures for reform now appear to be felt with greater urgency in the Gulf monarchies than in other Arab states, which, beyond the formality of being republics and holding more or less controlled elections, are no less authoritarian. This phenomenon begs an explanation: is it that in fact, notwithstanding their authoritarian character, other Arab states allow for sufficient expression of political ideas, and so society is content with these "steam valves?" Or has some societal transformation taken place in the Gulf countries whereby they are now moving to the forefront of the movement for political reform, while they had so far trailed behind? Are the Gulf countries simply belatedly catching up with the manipulative practices of – for example – Morocco and Jordan, where the monarchy skillfully plays institutions that are formally democratic, while maintaining the substance of power firmly in its own hands?

Secondly, the pressure for reform is not unanimously understood in Gulf societies. The main dilemma which democratic experiments face in the region is that the majority of the people do not appear to be in favor of certain key elements of modern democracy, such as the separation of religion and state, and gender equality. The problem, as we hear time and again, is that elections are run and the wrong people get elected. This raises questions about what "reform" means to different actors, which social forces are truly committed to reform, and of the sustainability of the reform movement. Or is it that political reform only has a chance to the extent that it becomes the political agenda of the incumbent ruling families, and will need to be steered and supported by them even against societal resistance?

These dilemmas are not unique to the Gulf at all. What is interesting is that most Gulf leaders claim some kind of "traditional" legitimacy – how this is

combined with ruling families as drivers of change may be interesting (comparisons with select cases like Morocco and Jordan, may be in order).

It will also be important to 'unpack' the meaning of 'reform,' as powerful Islamic movements, may subscribe to democratization, but not to social change along Western lines, and nationalist forces may be 'progressive' in the sense of participatory reform, but critical of an economic liberalization agenda. It will be important to distill common denominators as well as cleavages which rulers can potentially use to divide and control their constituencies, as well as to sound out the actual resonance of certain ideas in the populace.

## The Formality of Democracy: Constitutional Reform

Democracy-building is a process that can be viewed as consisting of two components. The first one is formal, and consists of the creation of institutions, the establishment of procedural rules, and a division and attribution of powers – in other words, constitutional reform broadly defined. The second is the opening up and development of political debate in a wider section of society, through the individual or collective expression of opinions, enhanced access to information, and the articulation of proposals for the conduct of the state – this can be called political participation. It is not by chance, then, that we have not included the word "democracy" in the title of this book. The concept of democracy, we believe, must be disassembled into its main constituent parts in order to go beyond a simple two-way classification – Democratic: yes/no.

That none of the GCC countries is democratic hardly requires arguing. But whether we can speak of progress towards democracy and whether they may be more advanced than other Arab countries on the path to democracy requires a discussion of the component elements of democracy and of the desirable sequence in which to put them in place.

The essays in this book reflect different aspects of this analysis. Individual chapters discuss the evolution of Gulf constitutions and quasi-constitutional laws, the conduct of electoral exercises and the impact of the creation of new institutions (majlis al-shura, or parliaments, as well as local representative bodies); or the evolution of political participation through greater and freer expression of political opinion, and forms of societal organization (primarily from above, hence of the corporatist type).

With respect to the formal side of the coin, we observe that all GCC countries have gone through and are continuing to undergo a process of constitutional reform. G.P. Parolin analyzes the three successive "generations" of Gulf constitutions: the first generation, including constitutions that were adopted at the time of independence, or soon after, dates back to the 1960s and 1970s, and

includes constitutions in Kuwait, Bahrain, Qatar and the UAE; the second generation, dating back to the 1990s, includes the constitutions of Saudi Arabia and Oman; the third generation, in the new century, includes the revised constitutions of Bahrain and Qatar. Parolin's analysis highlights how crucial aspects of governance in these constitutions are remanded to implementing legislation, which has frequently gone in the opposite direction of the one seemingly indicated by the constitution.

Discussing the specific – and crucially important – issue of women's suffrage in Kuwait, Farah Al-Nakib has the same finding: it is not so much the constitution, as the implementation of the electoral law which has disenfranchised women. This also explains how suddenly reversing the situation and fully enfranchising women only required a small amendment to be made to the electoral law – there was no need to change the constitution. It is interesting that the drive for reform in this, as well in several other instances in the Gulf countries, finally came from above and had to overcome the resistance of some of the elected representatives – although it also enjoyed substantial societal support from below.

Electoral exercises have now been conducted in almost all the Gulf countries on the basis of existing constitutions. This includes Saudi Arabia, which recently held a first round of municipal elections. These electoral experiments are reviewed in the chapter by Andrzej Kapiszewski. The chapter offers an overview of progress as well as of difficulties encountered in relying on elections and political representation in the context of widening political participation. All in all, Kapiszewski sees a movement from less to more transparent and accountable governments; from elections with less (or non-existent) competition to freer, fairer, and more competitive elections; from very restricted liberties to better protected civil and political rights; from a totally censored media to a relatively independent one; and from underdeveloped civil society institutions to more developed ones.

The issue of the role of the media is analyzed specifically in the chapter by Naomi Sakr. There, recent changes in legislation governing the media are reviewed. The question is posed as to whether these changes increased opportunities for interest groups to differentiate themselves from existing social and political formations and from each other. It is concluded that the actual content of media laws and laws governing the licensing of new organizations have clearly hampered attempts at differentiation and have seemed to do so deliberately. Media laws, whether new or old, strictly circumscribed the possibilities for media coverage or the licensing of new newspaper titles or television companies, and in some cases prescribed for the media the role of furthering government agendas. Meanwhile, new bodies set up to represent

journalists in Saudi Arabia and Bahrain were packed with establishment appointees. Hence the impression gained is that the space for the open expression of opinion on a wide range of sensitive issues has de facto increased, but that institutions remain geared at maintaining close control over it. Time and practice may lead to either a consolidation of newly found freedom of expression, or a reversal of the process.

One issue which is especially important in the context of the role of constitutions is succession. Generally, constitutions have institutionalized rules of succession, frequently asserting the right of each ruler to appoint his successor. The chapter by Abdulhadi Khalaf discusses the implementation of these rules. These may be less straightforward in practice than in theory because of the complexity and age structure that characterizes most of the ruling families (the exception here is Oman, where the uncertainty is instead linked to the absence of an official, publicly anointed successor). Succession difficulties may open the door to greater assertiveness on the part of the institutions with elected representative. A first example of this phenomenon was offered by Kuwait in early 2006, when the death of Shaikh Jaber was followed by a short period of uncertainty due to the poor health of the Crown Prince Sheikh Saad. This was finally resolved by a unanimous vote of parliament elevating Prime Minister Shaikh Sabah to the position of Amir.

In his analysis of the Omani experience, Marc Valeri insists on the centrality of the role of the Sultan in establishing an Omani identity which did not previously exist. He details how under the firm guidance of Sultan Qaboos, the political system was progressively structured and has come to approximate the tools of representative democracy. He has maintained tight control over the process; the limits to institutionalization are shown by the apparent reemergence of tensions between various components of the Omani population, encouraged by the mystery surrounding the name of the successor that the Sultan has chosen but not revealed. In the minds of people, this has created an element of uncertainty about the country's future and their own future.

## The Substance of Democracy: Political Participation

But to what extent is the issue one of formal constitutional reform rather than of actual political participation? Progress in the two dimensions in the title of this workshop – constitutional reform and political participation – might not necessarily take place at the same pace. Political participation appears to have increased greatly in recent years in some Gulf countries, even independently of institutional reform, thanks to greater openness in the media, inter alia precipitated by ICT advances and the loss of control over information that the incumbents had enjoyed in the past. In addition to what is visible in the published media, policy-making has become more inclusive on certain levels through the

Majlis Al-Shura and other consultative mechanisms (including chambers of commerce and industry, professional associations, and various other institutions).

There is an assumption that political participation will inevitably lead to constitutional reform – but is this necessarily the case? In the conditions of the Gulf countries, characterized by the large number of expatriate residents – in some cases very long-term residents who play an important role in the local business community – as well as very young populations and a limited political franchise for women, formal elections run the risk of not being truly representative, while the expression of political opinions on the Internet may offer a better insight into the "will of the people." To what extent could increased political participation lead to novel forms of constitutionalism based on some modernized form of shura?

It may be interesting to note that the common denominator of reform is "institutionalization" – almost everyone seems to demand more transparency and clear rules of policy-making, and that may be where we will see the most movement. On elections, some liberals are understandably queasy (although the idea is so symbolic that some kind of election token has to be conceded everywhere). Everything else is contested.

It is against this background that the last three chapters in this volume focus in particular on analyzing Saudi Arabia. The Kingdom is not only the largest of the GCC countries by surface area, population, GDP, oil reserves, and indeed almost any other possible indicator, it is also generally viewed – probably correctly – as the political system with the greatest number of idiosyncrasies and obstacles to reform.

Is Saudi Arabia reforming then, or is it essentially immobile? The first of the three chapters, which is by Camille Ammoun, focuses on three manifestations of the institutionalization of the political system, i.e. the creation and evolution of the Majlis al Shura, the so-called National Dialogue (a typically sui generis Saudi approach to the institutionalization of political debate) and the municipal elections of 2005. Ammoun views these different forms of institutionalization as not adding up to a coherent institutional architecture but rather representing experiments. He considers them cautious steps in a process of trial and error which serve the main purpose of giving birth to a "political personnel" that may eventually be considered "representative" in the elitist sense of the term, i.e. constituting a merit aristocracy which pursues the national interest.

Steffen Hertog addresses the same issues from a different interpretive angle, arguing that the regime has essentially embarked upon a modernization of Saudi authoritarianism by attempting to institutionalize important aspects of the political

debate. This, he believes, can best be explained using the concept of corporatism. The Saudi regime has been attempting to organize society along corporatist lines in order to be able to cope with its increasing complexity. However, of the various corporate groups established in this top-down process, only business appears to him to be a serious negotiating partner for the regime. He explores the concept of "rentier corporatism," arguing that a historicized concept of a rentier state – sensitive to pre-oil institutional heritage and issues of historical sequencing – may be highly useful.

In the concluding chapter, Giacomo Luciani analyzes the traditional concept of shura as well as its practice in the Gulf countries, discussing its distance from what we understand as democracy. He argues that while the two concepts should remain distinct, the difference between the two has been narrowing in actual practice nevertheless. Additionally, the Internet and other new communications technologies have allowed a very significant expansion of the circle of consultation under a shura system while at the same time increasing the importance of consultation relative to formal electoral exercises in democratic systems. Some objective difficulties in Gulf polities explain the relative merits of an enlarged shura system as a stage in an evolutionary process towards democratic institutions. Notable among these are the question of the role of religion in politics and its institutional accommodation and the uncertain boundaries of the Gulf polities including with regard to the large number of expatriate residents.

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This volume is the main product of a workshop with the same title held in the context of the Sixth Mediterranean Social and Political Research Meeting. The Meeting took place from 16-20 March 2005 and was organized by the Mediterranean Programme of the Robert Schuman Centre for Advanced Studies at the European University Institute in Florence. The editors wish to thank the organizers of the Meeting for the assistance they received in convening the workshop. They also wish to thank those colleagues that presented papers at the workshop that were published independently of this volume, either because of previous commitments on the part of the authors, or because their analytical approach would not have fitted easily in the context of this volume. They hope that their modest effort will contribute to a more sophisticated and nuanced understanding of the very deep changes – economic, societal and political – currently taking place in the Gulf countries.

# Chapter One

# Political Reform Measures
# from a Domestic GCC Perspective

## *Abdulaziz Sager*

One by one, the governments of the Gulf Cooperation Council member states have resigned themselves to the fact that a broad political reform process and a general overhaul of their respective political systems are necessary. To what degree the ruling elites of these states feel that it is also desirable is not as clear. Yet the current pressures being exerted upon the existing ruling arrangements, including existing and emerging domestic dynamics (population, education, the spread of IT, etc.) as well as prevailing external determinants (consequences of the Iraq War, the US Greater Middle East Initiative, etc.) make a transition towards a more participatory political order inevitable. These pressures, which are unlikely to relent, make the ability of the governments of the region to respond effectively to the mounting challenges as crucial as ever.

The acceptance that some reform measures are necessary does not, however, automatically transfer into a commitment to see reforms enacted. The problem in the Gulf region at present is that the majority agrees on the need for a reform process but nobody really understands the parameters to follow or the systemic factors driving the process itself. What is particularly lacking is a consideration of the political reform movement from an internal GCC perspective, namely how the debate regarding a more participatory and equitable form of political representation is being viewed and formulated within the Gulf societies themselves. In the end, it is only when an internal consensus has been reached on the future direction of society that it will be possible to argue that a reform movement has indeed taken root. This chapter attempts to take such an internal view as its point of departure in order to develop a more thorough understanding of the meaning of reform. It also attempts to provide an overview of the key domestic determinants in the path to reform. A related question that this chapter seeks to answer is whether outside efforts and discussions about the key elements

of a proposed reform strategy are in essence based on the wrong assumptions and are therefore more or less futile attempts that will ultimately only have a very limited impact.

## Reforms in the GCC States: The Current Debate

From the very outset, the notion that a political reform debate or process in the Gulf region is a new or very recent phenomenon must be dismissed. Similarly, it would be wrong to argue that the region is adamantly resisting any type of political development and that therefore the ruling elites are determined to maintain the present status quo. To give such suggestions credence would imply that there currently exist no pressures for political reform domestically and that instead the debate that has been taking place within Gulf societies is by and large the result of external actors seeking to impose reforms. In that context, current steps being taken – such as the municipal elections in Saudi Arabia or the promulgation of a constitution in Qatar would simply be internal reactions to external developments.

This is certainly the line of argument pursued by some pundits who see the reform debate in the Gulf as nothing more than a response to the pressures exerted by the Bush administration in the wake of the attacks of September 11, 2001, when it was determined that the political statism in Muslim Arab countries was a primary factor in the radicalization of those societies. It was no longer fashionable to accept the political situation in the Middle East as a given; instead, change would have to be brought about, even by force if necessary. Iraq is a case in point: in line with the argument that Iraq represented a threat due to its weapons of mass destruction programs, there was an underlying sense of anticipation that the removal of the Saddam Hussein from power would ultimately lead to the establishment of a liberal democratic order in Baghdad which in turn would serve as a catalyst to promote political change throughout the rest of the Middle East region. Even among those who vocally argued that the Iraqi invasion was conducted on false premises and fought for the wrong reasons, a significant number subscribed to a certain minimal expectation. This was that the determined removal by the United States of an authoritarian government in the heart of the chronically unstable Middle East would serve as a prompt for much of the existing, aging Arab leadership to finally begin to more seriously address the various political, economic and social deficits that characterize large portions of the region stretching from Morocco to Iran.[1] Certainly, the Gulf was not seen as

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1- This was and continues to be the case for the proponents of so-called neo-conservatism, who, as President Bush stated, believe that "the establishment of a free Iraq at the heart of the Middle East will be a watershed event in the global democratic revolution" or that "a new regime in Iraq would

an exception in this regard, with the message deliberately being focused on countries such as Saudi Arabia.[2]

Of course, almost three years after the downfall of the Saddam Hussein regime, the so-called self-imposed mission of the United States to bring about political change in the Middle East has failed to produce significant results. Iraq remains mired in a protracted struggle with no indication that the insurgency and resistance against the US occupying forces will soon end. Moreover, the future political direction of the country is as clouded as ever, and the elections that were held in December 2005 have provided no solid evidence that the ethnic and sectarian groups that compose Iraqi society will be able to find a modus vivendi from which to construct a lasting political framework. Outside of Iraq, there is nothing to suggest that political reforms are being implemented in the Gulf as a result US democracy promotion efforts. Moreover, programs such as the Middle East Partnership Initiative (MEPI), which were announced with much public fanfare, have produced very little in terms of concrete results.[3] In fact, it would

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serve as a dramatic and inspiring example for freedom for other nations in the region." See the remarks by US President George W. Bush at the 20th Anniversary of the National Endowment for Democracy, November 6, 2003 available at http://www.whitehouse.gov/news/releases/ 2003/11/20031106-2.html as well as the President's remarks to the American Enterprise Institute, February 26, 2003 available at http://www.whitehouse.gov/news/releases/2003/02/20030226-11.html. Another key proponent of the Iraqi campaign, Assistant Secretary of Defense Paul Wolfowitz has stated that "Iraq as the first Arab democracy … would cast a very large shadow, starting with Syria and Iran but across the whole Arab world." See the profile of Wolfowitz in the *New York Times Magazine*, September 22, 2002.

2- Following the attacks of September 11, 2001, there was a widespread media campaign against the Kingdom throughout the United States with various media outlets arguing that Saudi Arabia had become a liability rather than an ally. An editorial in the New York Times on October 14, 2001 entitled "Reconsidering Saudi Arabia" accused Saudi Arabia of supporting Islamic terrorists and urged the US to refashion its relationship with kingdom in interests of both countries. There was also the now infamous briefing by Laurent Murawiez, an analyst with the RAND Corporation, in from of the Pentagon's Defense Policy Board which depicted Saudi Arabia as the enemy and urged a strategy that included taking over the oil-rich provinces from the kingdom. See the story in the *Washington Post*, August 6, 2002 by staff reporter Thomas Ricks. In all these instances, Saudi Arabia became a clear target for those advocating a forceful push for political reform in the Gulf.

3- A thoughtful analysis of the MEPI program was produced by Tamara Cofman Wittes and Sarah E. Yerkes from the Brookings Institution entitled *The Middle East Partnership Initiative: Progress, Problems and Prospects* (Saban Center Middle East Memo #5, November 29, 2004. The report notes: "A review of MEPI's spending, programs, and priorities reveals three troubling flaws: a scatter-shot approach to promoting reform; an overemphasis on government-directed assistance that repeats instead of repairs the errors of our past assistance in the region; and, most worrying, a lack of support at higher policy levels for its goals and projects. MEPI's problems in fact reveal the deep ambivalence with which the president's forward strategy of freedom is being implemented. As such, its record raises troubling prospects for democracy promotion as an aim of American policy in the Middle East."

not be far-fetched to argue that association with US democracy assistance projects has become more of a liability than an asset for reformists in the region.

A more appropriate line of argumentation would be that the Iraq war and the situation in post-war Iraq did not bring about the urgency for change, but rather reaffirmed the status quo of the Middle Eastern political landscape.[4] While leaders in the region might have been impressed at first with the US administration's determination to enact change and to use American military forces to seek such a transition, the resulting chaos and instability of the campaign's aftermath has reinforced the conviction among the ruling elites in the region that sudden change is undesirable and that the pursuit of a wide-ranging reform process along the lines of US wishes would in fact be highly counterproductive. There is certainly no desire among countries in the region to see a situation similar to the one in Iraq repeated within their own boundaries.

In addition, the aftermath of the Iraq campaign brought with it two further restrictions in terms of reform efforts. On the one hand, the spread of extremist violence in the region as a result of the Iraq war caused authorities to clamp down on dissent; in Saudi Arabia, for example, a number of reform advocates were arrested in March 2004 for "calling for adopting a constitutional monarchy and using Western terminology."[5] On the other, the spectre of widespread instability was used by regime elites to warn the US against pushing for dramatic reforms. They argued that holding free elections in the current regional political climate would only result in a takeover by Islamist parties.[6]

In light of the above, one must question why current Gulf rulers have subscribed to and followed through with political reform measures in spite of the instability of the regional environment and the maintenance of the US's stance on promoting political change.[7] The answer points to the existence of a number of

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4- For a more thorough discussion along these lines, see Christian Koch, "The Societal Sources of Change in the Middle East," *International Politics and Society*, no. 4/2004, pp. 54-69.

5- See the *Financial Times*, "Saudis retain reform advocates," March 17, 2004, the *Christian Science Monitor,* "Saudis round up reformers," from March 18, 2004 and "Three Saudi reformists go on trial in Riyadh," *Agence France Press* (AFP), August 10, 2004. While the majority of those arrested were subsequently released after signing statements pledging not to engage in any political activity, three individuals, Ali Al Demaini, Matruk Al Faleh and Abdullah Al Hamed were placed in front of a court with the session held in secret and sentenced to prison terms. Only after the accession of Prince Abdullah following the death of King Fahd were the three pardoned.

6- In an interview with the Italian *La Repubblica* in March 2004, Egyptian President Hosni Mubarak warned that the imposition of US reform plans on the Arab world would result in "a vortex of violence and anarchy" and that the lessons of violence-ridden Algeria should serve as a clear warning in this regard. See *La Repubblica*, March 5, 2004.

7- Koch, pp. 60-61.

domestic factors that have developed over time to support a reform movement, or that have at least put certain reform issues on the political agenda. Thus, in clear contrast to the assumption that external factors have been or could be the driving force in bringing about political change in the region, or that the reform initiatives currently being considered and elaborated upon are largely a response to the complications arising from the Iraq invasion, the fact is that reform proposals are a reflection of the wider societal transformations taking place in each of the Gulf countries. All of the proposals that have been made up to this stage – and there have been a number of significant steps taken over the past three years alone, which have broadened the participatory access to the political systems – have been put forward with the aim of combating and correcting "the very structural deficiencies within the Gulf state structure that have combined to produce continued economic decline, increased rates of poverty and social dislocation, a failing educational system and in general a growing alienated and disillusioned population."[8] Reforms are being promoted in all of these areas because there are no other avenues through which government authorities can see themselves handling the growing challenges being faced by their respective societies without having their own legitimacy openly questioned.

If looked at in a vacuum, the factors outlined above – from economic dislocation to social shortcomings – do not necessarily require ruling elites to respond with a broad-based and wide-ranging reform program. The heart of the matter, however, is that the existing state of society has combined with a series of other developments, the scope and direction of which ruling elites have little control over. Specifically, advances in technology and communications – leading to ever widening and converging networks – and the impact of burgeoning educational opportunities have turned the governments in the Gulf into respondents to demands for change, rather than initiators. Access to the Internet and independent sources of information has resulted in rapidly growing young populations that are politically conscious and socially aware about the problems that their societies face and the inadequacies in their present statuses. Under such circumstances, the desire for, promotion of and mobilization towards the implementation of reforms are inevitable. Therefore, what is occurring in the Gulf is the continual evolution of a dynamic transformation process that has begun to fundamentally alter the way both the rulers and subjects are structuring their political, economic and social interactions. Given this point of departure, it would be incorrect to argue that the current wave of change is the result of the Iraq War of 2003 rather than a part of the overall shifting global and social climate that has emerged within the past several decades.

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8- Ibid, p. 61.

A brief glimpse at some of the reform measures that have been enacted over the last couple of years reveals a process that has indiscriminately gathered pace throughout the region. In Kuwait, the amir dissolved the 1999 parliament but followed the lines of the constitution in immediately calling for elections within the prescribed 60-day period. In previous instances in 1976 and 1986, parliament was disbanded indefinitely; by contrast, the 2003 parliament was elected without incident. In Oman, Bahrain and Qatar, public participation has spread through the establishment of parliaments and consultative assemblies, the holding of elections in which both men and women can either vote or stand as candidates, and the promulgation of constitutions or reform charters. In these countries as well as in the UAE, women have taken on official roles in government, having been appointed as ministers, ministry officials and ambassadors. In Saudi Arabia, the *Majlis al-Shura* has been given increased power, municipal elections have been held, and a National Dialogue that looks at some of the key issues facing Saudi society has been instituted.[9]

It is not the purpose of this chapter to recount all the individual steps that have been taken with regard to Gulf political development. Rather, the point being stressed here is that a process of institutionalization is evident in all of the GCC states and that this process is a response to domestic pressures and developments. Certainly, the steps that have been implemented are not a product of the events associated with the aftermath of September 11 or the result of the US strategy to "spread freedom." Even prior to such recent occurrences, there was an increased interest in the subject of democratization and a gradual spread in political reform measures, stimulated in part by the end of the Cold War and the subsequent transformation of authoritarian regimes, particularly in Eastern Europe, towards market-based liberal governments. The Middle East and the Gulf region proved to be no exception in this regard, as people from within the region began to wonder out loud about the persistence of local authoritarian regimes and the latter's adamant resistance to the contemplation of any kind of political development.

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9- The literature on political reform in the Gulf is quite extensive and continuously growing. Among some of the items which are useful for further reading and reference are Mary Ann Tetreault, *Stories of Democracy: Politics and Society in Contemporary Kuwait* (New York: 2000), F. Gregory Gause III, *Oil Monarchies: Domestic and Security Challenges in the Arab Gulf States* (New York: Council on Foreign Relations, 1993); Rex Brynen, Bahgat Korany and Paul Noble, *Political Liberalization and Democratization in the Arab World* (Boulder and London, 1995); Joseph Kostiner, *Middle East Monarchies: The Challenge of Modernity* (Boulder and London, 2000); The Arab Reform Bulletin and the various publication put out by the Democracy and Rule of Law Project of the Carnegie Endowment for International Peace available under http://www.ceip.org; Michael Herb, "Emirs and parliaments in the Gulf," *Journal of Democracy 13*, no. 4 (2002); Andrzej Kapiszewski, "Democratizing the Arab States, The Case of the Monarchies of the Gulf, 1991-2004," *Krakowskie Studia Miedzynarodowe* (2004).

The two Arab Human Developments Reports released so far by the United National Development Program (UNDP) in 2002 and 2003, focusing on "Creating Opportunities for Future Generations" and on "Building a Knowledge Society" underline the fact that the region as a whole is experiencing vast shifts, which have exposed, to a certain degree, the different aspirations and perceptions of both the ruling elites and the population as a whole.[10] The result is a process that at times seems both promising and contradictory. For example, while ruling regimes pursue policies that are mainly aimed at solidifying their ruling positions and enhancing their dwindling legitimacy, the peoples of the Gulf are less and less satisfied with such piecemeal reform efforts, and largely view them as being insufficient in meeting their aspirations for greater openness, accountability and personal freedom. It would be natural to expect that the current rulers would resist what they consider to be unrealistic demands, as their immediate implementation could mean being swept from power or ushering in a period of heightened instability – something which, as stated earlier, they have been warning of. Yet even the ruling elite is beginning to understand that the factors promoting this process are systematic and that there is little prospect that a strategy of slow and superficial implementation will be successful in fulfilling the rising societal demands. Rather, it is clear that a policy of accommodation is essential if the reform movement as such is to remain evolutionary and not become revolutionary.

It is worthwhile to briefly elaborate on the specific developments that are impacting the status of the Gulf states and the impending transition: the increase in population, in particular in terms of large numbers of youth; the rise in the standard of education and its impact on the population as a whole; and the increase in the levels of political consciousness supported by the spread of communications technologies and the inability of national government to control and maintain a monopoly on the information flow.

Table 1 provides a brief glimpse at the currently available statistics and the projected situation in the Gulf in terms of demographic developments. What is

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10- For further information, see the *Arab Human Development Report 2002: Creating Opportunities for Future Generations* and the *Arab Human Development Report 2003: Building a Knowledge Society* published by the (UNDP), available under www.undp.org. In early 2005, the third report in the series on the status of political reform and freedom is due to be released although there has been significant controversy even in the lead-up over the content of this report. In essence, the US is supposed to put significant pressure on the UNDP to have part of the content modified or toned down. IN addition to the UNDP reports, there have also been a number of published items by the World Bank on such issues as governance, employment, women and trade and investment in the Middle East and North Africa (MENA). These are available under http://lnweb18.worldbank.org/mna/mena.nsf.

most noticeable is that a population explosion is occurring in the region, with the total population expected to more than double from 150.2 million to over 355 million by the year 2050. For the years 2000-2005, Oman is already among the top ten countries in the world in terms of population growth rates. By 2050, Iran, Saudi Arabia and Yemen will rank among the top 30 most populous countries in the world. Yemen will move from its current ranking in 52nd place to 18th, as its population increases from 18.3 million to over 100 million. Similarly, the population of Saudi Arabia is expected to triple by 2050, from 20 million to almost 60 million.

### Table 1: Selected Gulf Country Population Statistics

| Country | Total Population 2000 | Projected Population 2050 | % of Population below Age 24 2000 |
|---|---|---|---|
| Bahrain | 640,000 | 1,008,000 | 43.7 |
| Iran | 70,330,000 | 121,424,000 | 59.3 |
| Iraq | 22,946,000 | 53,574,000 | 61.7 |
| Kuwait | 1,914,000 | 4,001,000 | 54.5 |
| Oman | 2,538,000 | 8,751,000 | 63.4 |
| Qatar | 565,000 | 831,000 | 39.3 |
| Saudi Arabia | 20,346,000 | 59,683,000 | 62.2 |
| United Arab Emirates | 2,606,000 | 3,709,000 | 41.3 |
| Yemen | 18,349,000 | 102,379,000 | 68.3 |
| Total | 150,234,000 | 355,360,000 | 54.9 |

*Source: United Nations Population Division*

The tremendous explosion of the population is accentuated by the fact that a large percentage is under the age of 24. Overall, youth make up between 39 to 65 percent of the total population in the Gulf; Yemen tops the list with the youth population comprising 68.3 percent (median age of 15.0 years) of the total population. It is followed by Iraq, Oman and Saudi Arabia, each coming in at over 60 percent. To place such figures in a worldwide context, the population of Germany will decline in the period from 2000 to 2050 by approximately 14 percent; the current percentage of those under 24 is at 26.8, and the median age is 40.1 years. Spain will see its population drop from 39.9 million to 31.3 million; its percentage of people under 24 is currently at 29.8, while its median age is 37.3 years.[11]

If coupled with developments in the field of education and the spread of information technologies, the implications of a large percentage of youth among

11- Koch, pp. 63-67.

the population become particularly clear. It is an undeniable fact that Gulf youth today are more literate than their predecessors, have increased quantitative as well as qualitative access to educational opportunities, including university studies, are more aware of regional and international developments that are occurring elsewhere, and are better able to form independent opinions due to the availability of a variety of sources from which to draw information. Consequently, governments in the region are faced with populations that are not only rising in numbers but also in their levels of political consciousness, a development that directly translates into a determination to seek greater participatory rights and access to the existing political system. Hence, the question for the ruling elites to consider is not to what degree such transformative processes can be slowed down, or into what direction their aspirations can be channelled, but how best to accommodate the increasing demands for access so that the system as a whole remains both viable and functioning.

An overview of some of the relevant statistics, as given in Table 2, clearly shows some of the powerful trends that have been occurring. Throughout the Gulf, literacy rates have reached relatively high levels, with a noticeable period of improvement between the years 1998 and 2002. All of the Gulf states except for Iraq and Yemen now have literacy rates above 70 percent. Moreover, in four of the six GCC states, net secondary school enrolment rates are higher than 74 percent. Bahrain and Qatar lead the pace with 80 and 86 percent respectively. This is not to say that enrolment rates are indicative of a similar qualitative leap in Gulf education; the status and scope of education provision is certainly the subject of much current debate, and recent surveys of various university study programs have indicated significant gaps in the education provided.[12] Yet, the simple fact that a higher proportion of the youth is being exposed to continuing education means that these youths are growing more aware of the developments taking place around them. They are also likely to be more willing to engage themselves in a broader and more intense political discourse than their predecessors were.

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12- For an overview of the status of Arab Higher Education, see the Arab Human Development Reports 2002 and 2003, the final reports by the UNDP/RBAS/EQUAIP Project on "Enhancement of quality assurance and institutional planning at Arab Universities", as well as the Arab Job Futures Program Proposal.

**Table 2: Selected Gulf Country Education and Technology Statistics**

| Country | Total Literacy | | % Net Secondary School Enrolment Rate | | Fixed Lines and Mobile Telephones (per 1,000 people) | | Internet Users | |
|---|---|---|---|---|---|---|---|---|
| | 1998 | 2002 | 1999 | 2001 | 1998 | 2002 | 1998 | 2002 |
| **Bahrain** | 86.7 | 88.5 | 81.6 | 86.0 | 413.3 | 846.4 | 20,000 | 165,000 |
| **Iran** | 73.6 | 77.1[b] | N/A | N/A | 125.3 | 220.1 | 65,000 | 3.2 million |
| **Iraq** | N/A | N/A | 33.0 | N/A | 29.8 | 28.7 | N/A | 25,000 |
| **Kuwait** | 80.6 | 82.9 | 49.7 | 79.0 | 334.1 | 722.9 | 60,000 | 250,000 |
| **Oman** | 68.4 | 74.4 | 58.5 | 68.0 | 135.6 | 255.4 | 20,000 | 180,000 |
| **Qatar** | 80.8[a] | N/A | 78.0 | 80.0 | 373.5 | 727.4 | 20,000 | 70,000 |
| **Saudi Arabia** | 74.2 | 77.9 | N/A | 51.0 | 138.5 | 361.0 | 20,000 | 1.4 million |
| **UAE** | 75.0 | 77.3 | 67.5 | 74.0 | 598.6 | 1009.7 | 200,000 | 1.2 million |
| **Yemen** | 43.9 | 49.0 | 37.0 | N/A | 15.7 | 48.9 | 4,000 | 100,000 |
| **Total** | N/A | N/A | N/A | N/A | 240.5 | 468.9 | 409,000 | 6.6 million |

*a) Data for 1999*
*b) Data for 2001*
*Source: World Development Indicators Database, April 2004; UNESCO, Global
Education Statistics 2004, International Telecommunications Union 2003, Arab Human
Development Report 2002 and 2003.*

Similarly, the fact that the use of information technology is driven by the youthful
population indicates that its use can be expected to burgeon. As has been stated:
"With the status of the ruling regimes as the arbiters of truth no longer
guaranteed, governments are finding themselves under rising pressure to provide
real policy solutions and to take the concerns and aspirations of their populations
more seriously."[13] In this context, while the increased use of communications
technologies and the trend towards a more knowledgeable society has to be seen
as a positive development, it must also be expected that this could result in a
greater degree of instability, as present ruling arrangements will inevitably be the
object of greater scrutiny. For ruling regimes, the combination of youth, education
and IT is the main challenge to be dealt with.

In light of the aforementioned situation, the reform process in the Gulf states
can be characterized according to certain trends. First, it is a process that is driven
both from above as well as from below, although the sustained impulse tends to
come from the population as such. It is generally the case that governments
respond to the pressures with which they are presented and the Gulf states are no
exception. It can therefore be argued that despite external factors and interference,
political reform has taken on indigenous roots that are beginning to produce
results. This is also supported by the growing conviction that the need for reform

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13- Koch, p. 65, 67.

and democratic development is grounded in the will of the people, and not in government initiative. Second, what one sees are both reforms of governing institutions in theory and reform of institutions in practice; the former concerns itself with issues of constitutionalism and legal change, while the latter involves elections and the functioning of governing elements such as legislatures and judiciaries. Third, it is impossible to deal with the reform impulse in a vacuum or to treat it as a separate issue that can be isolated from other developments occurring in the economic and social field in the Gulf. In fact, the root causes for the reform movement itself can be found in existing social conditions, where concerns over continued economic development, education and the overall state of society have been at the heart of the need for reform.[14]

What the above examples underline is the fact that a political reform process has been set in motion in the Gulf countries, and that given existing social, political and economic circumstances, this process can no longer be completely reversed. In addition, it is clear that political development as a process is complementary to, and not separate from, both, economic progress and the need to bring about a more stable Gulf security environment.

## Initiating Reforms: The Role of External Forces

Without trying to overemphasize the point, a closer look into the role of external forces is warranted, for much of the current discussion continues to be conducted under the auspices of so-called outside reform projects and democracy promotion campaigns. Looking at the developments in the Gulf and the reasons why reform movements towards greater participation have been gaining momentum over recent years, it is clear that while external factors can assist in bringing about certain cosmetic changes in the region, their role is supportive at best. It cannot be refuted that without a solid foundation in internal affairs, a reform program would not produce any lasting results; it would thus be folly to accept the premise that long-lasting and truly effective political reform measures can be instituted by external forces, or that a reform process as such can simply be imposed from the outside. Rather, reform is a self-generated function that must be initiated,

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14- Many of these themes were elaborated and discussed during a two day workshop held in Dubai, UAE at the Gulf Research Center in cooperation with the Carnegie Endowment for International Peace in September 2004. The event entitled "Political reform in the GCC States: Current situation and future prospects" which brought together about 30 specialists ended with a constructive call to sustain the process of political reform in the GCC countries as the plank on which political legitimacy could be consolidated and the relation between state and society could be reconstructed on the basis of a new social contract.

performed, implemented and sustained by people who are themselves within the existing system.

In combination with such lines of argument, there is of course the required realization that reform is not a phenomenon that will produce immediate results in itself. The example of Europe, often touted as a model for democratization and liberalization, illustrates quite clearly the tortuous processes that societies have to endure before a modicum of civil interaction and the acceptance of political reform becomes visible. Europe went through countless civil wars and violent confrontations over a period of hundreds of years until the beginnings of a structure of democratic political order began to appear. In France, a hundred-year period lay in between the French Revolution and the actual establishment of representative government. The problem at the moment is that the societies in the Gulf, as is the case elsewhere, simply do not have the luxury of time in order either to contemplate the emergence of their own internal order, or to be able to keep at bay external forces that might force upon them changes that they don't feel sufficiently ready for. Even the reality that the present globalized world is demanding political change at an unprecedented rate does not eliminate the fact that democracy and political equality are matters of consciousness, rather than simply ones of process.

From that perspective, and in light of historical precedence, it is clear that political reform has been most successful in those countries where external influence has been kept to a minimum. As a recent study shows, while the United States has employed its military to impose so-called democratic rule in other countries on 18 occasions, actual democratic rule has only been sustained in five of those states – in Germany, Japan, Italy, Panama and Grenada. Outside of the developed world and Latin America, the latter of which is neighbored by its supervisor, no successful attempt can be counted.[15] As Minxin Pei and Sara Kaspar further point out in their study: "Unilateral action by the United States has had an even rougher time – perhaps because unilateralism has led to surrogate regimes and direct US administration during the post-conflict period. Not one American-supported surrogate regime has made the transition to democracy, and only one case of direct American administration has done so."[16] Moreover, as far as the Middle East is concerned, the US has taken it upon itself to take on what can be considered the three most difficult countries, i.e. Afghanistan, Iraq and the Palestinian Authority. In all three instances, due to their ethnic and social

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15- For a more detailed examination of this topic see Minxin Pei and Sara Kaspar, *Lessons From the Past: The American Record on Nation Building*, Carnegie Endowment for International Peace, Policy Brief #24, May 2003.
16- Ibid, p.1.

composition, their recent historical experiences and present circumstances, there is very little to be built upon. Instead, it can be argued that the existing economic and social infrastructures of these societies are in need of complete replacement, a process that is certain to stretch over several generations. In this context, it has to be clearly understood that Iraq is not an example of successful transition in terms of democracy and the rule of law; indeed, Iraq represents a particularly difficult case due to the ethnic composition of the country, the lack of agreement among the various groups concerning a blueprint for the road ahead, and the current social and economic crisis that the country finds itself in.

Still, what must be avoided is the conviction that the role of outsiders is negligible, ineffective, or both. In fact, when done carefully and based on a constructive set of assumptions, their role should not be underestimated. It is true that the widespread reform debate being initiated in Western capitals and through Western intellectual and policy circles has only limited applicability to the realities of the region. Therefore, their impact is constricted in the direct sense, a notion substantiated by the fact that the accusation of interference can lead to outright rejection. However, the rules of globalization and widespread communication also mean that outside debate inevitably seeps into internal discourse, providing these debates with additional parameters around which they can orient themselves. Equally important is the fact that by focusing on the various elements of reform and the associated strategies, outsiders themselves gain a greater appreciation of the intricacies and substance of the issue. The result of this is the realization that in the end, true political development and reforms in the Middle East can only succeed when grounded in local realities and structured from within societies, though they can also be accompanied and supported by elements from outside who understand the internal dynamics and who are working towards common goals. If one takes into account such a long-term view of things, an essential point of departure for democratization and the restructuring of societies, the linkages being established between reform advocates on both sides constitute a development that is bound to bear fruit.

## The Gulf Reform Challenges Ahead

All of the above indicate that while political reforms are now solidly on the political agenda of all the Gulf states, the road ahead remains difficult and complicated. Unless reform efforts continue and begin to bear clear results, it is to be expected that socioeconomic and political problems will soon evolve into a suffocating crisis overall. As conditions stand at the moment, there is a pressing need to effectively speed up the pace of reform and to look into some of the substantive issues that directly impact the relationship between state and society. Thus, in order to maintain a healthy relationship and to ensure that the Gulf

political systems continue to evolve both positively and peacefully, a number of challenges will have to be dealt with in the coming years.

One of these key challenges will be the continued development of civil society in the region, particularly in terms of its institutional setting. Unlike the situation in Eastern Europe over a decade ago, civil society institutions have neither existed in sufficient numbers nor developed the necessary social depth to allow for the self-generation of democratic institutions. As a result, the role of civil society organizations and the private sector in the reform process must be enhanced. Only in this manner will it ultimately be possible to construct a genuine democratic culture that serves as a pillar of support for a representative political system. The manner in which such a process takes place will be critical in outlining the appropriate path for political reform in the region. Related to this is the central question of whether reform in the Gulf can take place without a new social contract being put in place between the rulers and their citizens.

A second issue concerns the nature of the state itself and whether the sources of its legitimacy, the nature of its institutions, the effectiveness of its organizations, the nature of its relationship with society, and finally the relationship between the itself and its rulers do not create obstacles to reform that might prove too difficult to overcome in its present form. While the number of reform measures being introduced is quite impressive, the effectiveness of these initiatives in actually bringing about real change is questionable. In fact, current reform initiatives are largely part of a package to keep internal control and power and to enhance the leadership's status. As such, pronouncements of reform are more a means of paying lip service to reform demands with the real intent of shoring up the increasingly shrinking legitimacy of the state than steps towards enacting broad participation rights.

In terms of overall political development in the Middle East, the Iraq invasion and the overthrow of Saddam Hussein have not led to a genuine opening of the political process in terms of broad-based elections or a peaceful transfer of power in any state. While the current timeframe to assess the success of such a process is admittedly short, the fact is that there is neither a sustained movement into such a direction nor the sense that such a commitment from the regimes is forthcoming. Rather, the primary motive of power holders remains the maintenance of control over the reform process so as to assure on the one hand that the interests of the present elites are cared for and on the other to counteract the possibility that a reform movement might eventually spill out of control and have unintended consequences. As a result, the status quo is confirmed, while the structural deficiencies accounting for the present Middle Eastern malaise remain unaddressed.

Finally, there is the question about the whole development of political culture and how the current reform momentum can be turned into a more fundamental and longer-lasting reform process. If reform is only meant to respond to rising pressures and involves one-time institutional adjustments, the process will never lead to a reevaluation of the political system. If, however, reform is seen as a continuous obligation to incorporate societal developments, then there is the distinct potential to create a society that is both self-generating and self-sustaining.

In light of the above discussion, it is then possible to discern the outlines of a political reform process for the Gulf states and to suggest mechanisms whereby the implementation of such reforms becomes genuinely possible.[17] Even with the conviction that reforms are both necessary and desirable, there still the need to ground them in certain principles in order to make them lead to the desired outcomes.

The first principle is the realization that Islam does encourage and promote reform and to stress the fact that innovations and change do not stand in contradiction to Islam. This is a point that continues to be emphasized insufficiently. Second, reform as such must be comprehensive and based on achievable objectives. It is simply not enough to enunciate broad slogans without combining them with an effective program for implementation; this will only lead to disappointment and further disillusionment. Third, neither can an effective reform process be looked at as a cost-free exercise nor should it be expected that the implementation of reforms will necessarily be smooth. Sacrifices are demanded by all sides, and complications in the road ahead must be anticipated. Yet, delaying reforms will result in even greater costs and thus cannot be considered an option.

A fourth important principle is the need for joint action. By enlisting the active participation of broad segments of society, the government will ultimately be able to build up its own legitimacy as well as to consolidate and strengthen existing political structures. This will also make it possible to isolate those forces that are intent on sabotaging the process as a whole by placing their own individual interests above those of the society. Fifth, as has been proven in other experiences and reform efforts, a gradual introduction of reform measures will prove more successful than a sudden, radical imposition. At the same time, gradualism should not be confused with slow movement, or with the spreading of

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17- Much of the discussion to follow is based on a previous analysis on the reform process in Saudi Arabia. See Abdulaziz O. Sager, *Reforms in Saudi Arabia*, Policy Analysis (Dubai: Gulf Research Center, 2004), especially pp. 5-13.

reform over a long period of time. A certain degree of momentum has to be maintained so that the reform process as a whole does not become bogged down in lethargy or growing disinterest.

Finally, there is a need to prioritize reforms. The most critical issues should be addressed using well-defined criteria and with a well-thought out program of implementation. In addition, reform baskets should be created. These could take in-depth looks into the areas of economic, administrative, political and social priorities and initiatives. Once such a process is started, it will become possible to move on to more sensitive items, as people will have been made aware of the demands placed upon them and will be ready to undertake the necessary adjustments.

In the end, it is essential to understand that there exists no general blueprint for the implementation and success of political reform efforts. Instead of referring to democratization across the Middle East or throughout the Gulf, emphasis should be placed on individual states on a case-by-case basis; this is where progress can be achieved, for what works in one country does not necessarily also do so in other states. In the meantime, it is internal debate that will determine the path and ultimate outcome of the political future of the Gulf states.

# Chapter Two

## Rules of Succession and Political Participation in the GCC States

*Abdulhadi Khalaf*

## Introduction

The noted and remarkable capacity of the Gulf ruling families to mobilize external and internal sources of power seems to have reached its limits. Gulf rulers also seem aware that they have lost the advantages associated with their special regional role throughout the Cold War era. The geopolitical context within which they have operated has altered throughout the 1990s. An extended period of low oil revenue has seriously eroded their infrastructural powers and in some cases created financial problems leading to significant domestic and foreign debt. The tide of oil revenue has reversed in the past few years, again strengthening their financial position, but the memory of previous times is still vivid in their minds.

This chapter discusses problems of succession in the GCC states and how they are likely to impact regimes' responses to domestic and foreign demands for political reforms. It is an attempt to put succession issues in the context of the emerging new order in the Gulf region. It also considers how this evolving situation may become more precarious in light of the unresolved succession issues in the Gulf monarchies. Politically ambitious members of domestic elite groups as well as factions of each ruling family may find in these developments new opportunities to improve their political positions.

## Demands for Reform

Gulf monarchies are facing some unprecedented demands for reform, ones that they cannot afford to ignore this time around. Uncharacteristically, the most vocal actors are several of the previously marginalized local elite groups that have felt

emboldened by the ramifications of political developments since 1990, and particularly since September 11, 2001. Most opponents of reforms within the ruling families have long conceded that they must respond to domestic and foreign demands for political reforms.

The dilemmas facing the ruling families are threefold. First, there is apprehension that if they concede to demands for reforms, whether under the pressure of external forces or in response to demands by local elite groups, they will open the gates for a flood that may sweep away their regimes. Concessions would simply strengthen external pressures and local demands. Second, they know that procrastination is likely to be more dangerous if it leads to enraging the gradually expanding networks of domestic and foreign actors demanding change. Third, there is lingering fear of the effects that any level of serious reforms might have on the cohesion of the ruling families themselves, and consequently on their survival.

In the past, ruling families in the Gulf have been able to withstand other serious challenges including the ramifications of rapid modernization and two decades of Pan-Arabism followed by another two decades of revolutionary Islamism.[1] Throughout the past five decades, the ruling families of the Gulf have managed to navigate their regimes through wars, invasions, and border skirmishes as well as the consequences of compounded economic failures. In spite of their chronic, and at times intense, disputes which have at times resulted in palace coups, the ruling families have remained united in the face of external and internal opponents. They have been able to withstand domestic and external pressures emanating from those events. Their achievements are remarkable considering that they have also managed to consolidate the legitimacy of their rule, and to retain the loyalty and support of their social power base. This achievement is evident in the fact that the survival of their regimes has never been seriously questioned.

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1- See, further, Heller, Mark and Nadav Safran. 1985. The New Middle Class and Regime Stability in Saudi Arabia, *Harvard Middle East Papers*, Cambridge, Mass; Lawson, Fred H. 1989. *Bahrain: The Modernization of Autocracy*. Boulder: Westview Press; Crystal, Jill. 1995. *Oil and Politics in the Gulf: Rulers and Merchants in Kuwait and Qatar*. Cambridge: Cambridge University Press; Long, David E. 1997. *The Kingdom of Saudi Arabia*. Gainesville: University Press of Florida; Gause III, F. Gregory. 2000. "The Persistence of Monarchies in the Arabia Peninsula: A Comparative Analysis", in Kostiner, Joseph. ed., *Middle East Monarchies*. Boulder: Lynne Rienner Publishers; Fandy, Mamoun. 2001. *Saudi Arabia and the Politics of Dissent*. Basingstoke: Palgrave Macmillan; Tétreault, Mary Ann. 2000. *Stories of Democracy: Politics and Society in Contemporary Kuwait*. New York: Columbia University Press.

The ability of Gulf ruling families to withstand challenges in the past has partly been due to their successful mobilization of domestic and external forces. These forces also helped the ruling families build an expansive and modern infrastructure and to adopt strategies that limited the consequences of modernization on the political institutions and relations in their societies.

While past successes are notable, the current situation has several new elements and fresh challenges. The novelty in the post-September 11 world facing the ruling families is that they have to deal, for the first time, with the combined force of simultaneous pressures from external and domestic challenges. The ruling families seem conscious of the proposition that the survival of their regimes requires them to adjust to emerging realities. It is true that they managed to procrastinate in the face of the chain of events that swept the region since the liberation of Kuwait in 1991. But they cannot hope that the strategy of procrastination will help wipe out current pressures, including the various regional ramifications of the war on terrorism declared by the Bush administration following September 11. In spite of their slow reactions, the ruling cores of the Gulf monarchies also seem aware that their regimes cannot continue to enjoy those privileges associated with their regional role throughout the Cold War era.

At the outset, I must make clear three points. First, while each of the ruling families in the Gulf has its own form of family council, these councils wield no real power. Political powers exist outside the formal settings of these councils. Political powers, and the exercise of these powers, remain highly personalized and centralized around what I call the ruling core. This appears in different constellations. There can be is a single unchallenged ruler, as in Oman, a coalition of rulers, such as in the UAE where Shaikh Zayed al-Nahyan of Abu Dhabi was, until his death, primus inter pares, or a coalition of siblings: among brothers such as in Saudi Arabia, between cousins as in Kuwait and Qatar, or between an uncle and his nephew as in Bahrain. Second, the issue of succession has always been a source of tensions in the ruling families of the Gulf. Third, in spite of their current woes and worries, the Gulf monarchies do not face any major destabilization crises. They are indeed more stable than any of their immediate neighbours.

But, times are changing in the Gulf monarchies – uncharacteristically, very rapidly so. Among the earliest indications of these changes was the withdrawal of American military personnel based at Prince Sultan Air Base and other locations in Saudi Arabia. Neither did the move negatively affect the US regional role, nor did it have any direct impact on Saudi security needs, since the US simply redeployed its military forces and moved its naval, ground and air bases in Kuwait, Bahrain, Oman, and Qatar. The American redeployment was significant more for its political symbolism than for its direct political or military consequences.

To many of the region's political elites, whether loyal or opposed to the ruling regimes, the US appears to be behaving less and less as a partner and more and more as a patron. As such, it is perceived as having arrogated to itself the right to do whatever suits its interests, without considering the views of its regional allies and partners. From their perspective, America's own short-term interests appear to have assumed precedence over the interests of its allies in the region.

For the first time, ruling families are facing the combined force of simultaneous pressures from external and domestic sources. In a recent article, Kenneth M. Pollack, a former Director for Persian Gulf Affairs on the staff of the U.S. National Security Council, notes that that while most experts think that a revolution or civil war in any of the GCC states within the next few years is still unlikely, few now say so as confidently as they once did. Pollack writes "In fact, even the Persian Gulf regimes themselves are increasingly fearful of their mounting internal turmoil, something that has prompted all of them to announce democratic and economic reform packages at some point during the last ten years. From King Abdullah of Saudi Arabia to the Amir of Qatar to the King of Bahrain, the Gulf rulers recognize the pressure building among their populations and the need to let off some of the steam. If the reforms do not succeed and revolution or civil war ensues, the United States might face some very difficult security challenges."[2]

## Sources of Power and Stability for Gulf Monarchies

I have argued elsewhere[3] that the stability of the Gulf monarchies is the outcome of two sets of sources of power – external and internal ones. By mobilizing both, Gulf ruling families have been able to operate within two epochs simultaneously – the modern and the pre-modern. They were also able to utilize a range of non-simultaneous range of instruments of rule. In other words, Gulf rulers were combining what[4] Michael Mann (1986) calls the "despotic power" of pre-modern states and the "infrastructural power" of the modern state. Despotic power refers to the capacity to control the distribution of resources without interference from society. It involves the autonomy of the state from social pressures. Such power

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2- Pollack, Kenneth M. "Once More Unto the Beach." *Foreign Affairs* 82:4. See also Cordesman, Anthony H. *The Prospects for Stability in Saudi Arabia in 2004*. Center for Strategic and International Studies, February 19, 2003, http://www.csis.org/burke/saudi21/040219_prospectsforstability.pdf (accessed November 20, 2004).

3- Khalaf, Abdulhadi. What the Ruling Families in the Gulf Do when the Rule. *Orient* 4:3.

4- Mann, Michael. 1986. The Autonomous Power of the State: Its Origin, Mechanisms and Results" in Hall, John A. ed. *States in History*, London: Basil Blackwell, p. 113; See also Mann, Michael. 1993, *The Sources of Social Power*: Volume I, New York: Cambridge University Press,

of the state is seen in the "range of actions that it takes without routine, institutionalized negotiation with groups in society," while infrastructural power is seen as "the institutional capacity of a central state, despotic or not, to penetrate its territories and logistically implement decisions." Infrastructural power refers to the ability of a state to get things done, to administer and regulate, and effectively exercise its authority and achieve its goals within society. Whether pursuing modern or pre-modern policies, the Gulf monarchies have maintained their capacity, in the words of Migdal, to penetrate society, regulate social relationships, extract resources, and appropriate or use resources in determined ways.[5]

The price that ruling families have had to put up with to insure the survival of their regimes has also included their reliance on the protective shield provided by Britain, and later, the USA.[6] It has further included a reliance on a variety of coercive measures to guarantee the stability of their rule. But the stability and security of Gulf regimes are not simply an outcome of coercion or of their reliance on foreign protection. Ruling families in the Gulf have utilized several other strategies to maintain the stability of their rule.

I contend that through their ability to combine both powers, the Gulf monarchies have given their relations with their societies the distinct character that they have. Different types of states, writes Skocpol, give rise to various conceptions of the meaning and methods of "politics" itself, conceptions that influence all relevant groups and classes of a national community.[7] The potency and autonomy of their states offer the ruling families in the Gulf the tools that enable them on the one hand to shape the institutional structures of their societies

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5- Migdal, Joel S. 1988. *Strong societies and weak states: state-society relations and state capabilities in the third world*, Princeton: Princeton University Press, N.J.

6- Since 1820, various agreements with representatives of the British crown provided the tribal chiefs, founders of the present Gulf ruling families, with protection and recognition as rulers. In exchange, all rulers acknowledged the rules of Pax Britannica. Britain confirmed, repeatedly, its commitment to the stability of the status quo. Discovery of oil, and the subsequent entry of the USA as an investor in the region's oil industry and as a major consumer of its output, gave the region its special geo-strategic importance, particularly throughout the Cold War era. When Britain relinquished its role as a protector of the region, the USA stepped in and began gradually to establish its military presence. Among the United States' priorities are to safeguard stability in the region and the free and unhindered flow of its oil at reasonable prices to international markets. This led the USA, following the fall of the Shah of Iran in 1979, to assume a direct role in safeguarding the stability of the Gulf regimes and in guaranteeing their long-term survival. The eviction of Iraqi occupation forces from Kuwait in 1991 by a military alliance led by the USA is a case in point.

7- See, Skocpol, Theda. 1985. "Bringing the State Back In: Stategies of Analysis in Current Research", in Evans, Peter B., Dietrich Rueschemeyer, and Theda Skocpol, eds. *Bringing the State Back In*, New York: Cambridge University Press, p. 22.

and on other hand to pursue their own goals, either through transformative strategies, or through coercive actions in pursuit of maintaining public order. Theirs are strong states, in the sense of being capable of penetrating society, defining internal relations among their constituent elements, regulating social relationships, and determining how common resources are allocated.

The foundation of the ruling families' asymmetric power relative to their societies constitutes, paradoxically, the very foundation of their vulnerability to external pressures. Oil revenues have enabled each of these ruling families to dispense with the need to tax their subjects, and to allocate and distribute a considerable portion of their incomes in the form of employment, improved infrastructures, and various measures of social welfare.[8] At the same time, their own dependency on oil revenues, and subsequently on the USA as the custodian of regional peace and the ultimate guarantor of the free flow of oil to international markets, exposes these regimes to external pressures. Without minimizing the role of several other factors, a number of students of the region have focused on the role of rent to explain the exceptional rise in the importance of the state's role and the power exercised by the ruling families over society."[9]

Various sources of rent have facilitated moves by the ruling families in the Gulf to: increase their autonomy from their social bases while expanding the system of political patronage; assert their authority by expanding the state's "involvement in all socioeconomic spheres," thus inhibiting the rise of competing autonomous social power centres; enhance their sanctionary powers by expanding and modernizing their military, police and internal security apparatuses; forge

8- Ayubi, Nazih H. 1995. *Over-stating the Arab State: Politics and Society in the Middle East*, London: I.B. Tauris.

9- Rent, an already problematic term in economics becomes more problematic when introduced to political sociology. Khan and Jomo (2000:5) define rent as "an income which is higher than the minimum which an individual or firm would have accepted given alternative opportunities". One of the problems of this definition is that it is too inclusive. Many real world incomes, notes Khan and Jomo (2000) have the character of rent. These include "not just monopoly profits, but also subsidies and transfers organised through political mechanism, illegal transfers organised by private mafias, short-term super profits made by innovators before competitors imitate their innovations, and so on. Khan, Mushtaq H. and Jomo K. Sundaram, eds. (2000), *Rents, Rent-Seeking and Economic Development: Theory, and Evidence from Asia*, Cambridge: Cambridge University Press. See also Luciani, Giacomo. 1987. "Allocation vs. Production States: A Theoretical Framework", in Beblawi, Hazem and Giacomo Luciani, eds., *Nation, State and Integration in the Arab world*. Vol. 2, London: Croom Helm; Biblawi, Hazem. 1990. "The Rentier State in the Arab World", in Luciani, Giacomo. ed., *The Arab State*, London: Routledge; Sadiki, Larbi. 1997, Towards Arab liberal governance: from the democracy of bread to the democracy of vote, *Third World Quarterly*, vol. 18:1. See also, Herb ,Michael. 2003, "No Representation without Taxation? Rents, development and democracy", Georgia State University, (unpublished paper, June 18, 2003).

inter-Arab alliances to enhance their stability.[10] In this sense, rent has facilitated the combining of the despotic powers of premodern states and the infrastructural powers of modern ones. Obviously, Gulf monarchies vary in the levels of this combination and the role it plays in securing stability.

One of the immediate consequences of its control of rent and its allocation is making loyalty to the royal family a sociopolitical imperative. Unlike many society/state relationships, what can be observed in the Gulf monarchies are relationships with two features. The first is the symbiosis between the state and the ruling family, where the state is much more than just an instrument of the ruling family. The second is making that symbiotic relationship a privileged sphere, and off-limits to all other local social actors.

In the Gulf states, where rent is externally derived, the state became the main link and intermediary between the world capitalist order and the local economy and society. In turn, the state promotes levels of dependency by citizens on its agencies, its welfare services and other facilities.[11] Within this relationship of dependency, a citizen becomes "disinclined to act economically or politically on his own behalf, let alone seriously criticize the state." Citizens, including merchants, entrepreneurs and other businesspeople, become occupied more with attempts to access the rent circuit than with reaching to build a productive economy.

Moreover, financial independence offers the ruling family/state a considerable degree of autonomy from the specific interests of various domestic actors.

## Corporates Groups and Intermediaries

An immediate consequence of regime autonomy is the ruling family's nearly limitless power to change or reverse public policies, to select its allies, and to change the requirements of political allegiances. Further, its autonomy has enabled the ruling family/state to create new social collectives and/or to dismantle and reassemble existing ones.

Khaldun Al-Naqeeb[12] (1990) suggests that the ruling families in the Gulf govern by means of unofficial corporate groups and by manipulating domestic social forces. Because they are not officially recognized, there is no formal body

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10- Sadiki, 1997, Luciani, 1987, Biblawi, 1990.
11- Ayubi, 1995, p. 224.
12- Al-Naqeeb, Khaldun. 1990, *Society and State in the Gulf and Arab Peninsula: a Different Perspective*, London: Routledge and Centre for Arab Unity Studies.

to represent these corporate groups. Yet, they are present in various institutions of the state: the government, municipal and other local councils, and in the army and police.

The relative importance of any of these corporate bodies differs considerably from one Gulf state to another, as well as from time to time in the same state. While the roles that corporate groups play differ considerably in the countries of the region and over time, they share two common features. First, no single corporate group or social collective can survive politically and be able to safeguard the welfare of its members without the consent, or even active support, of a strong patron within the ruling core. Second, corporate groups do not constitute political platforms. Membership in a corporate group does not bestow any form of entitlement to political power. Ruling families, in other words, are not required to treat any corporate group as a political partner.

As a complex socioeconomic construct, a corporate group can be founded on any combination of economic, social, and political roles. Corporate groups provide a solid and reasonably stable basis for relations between state and society in the Gulf monarchies. Yet, these relations vary in rationale, forms and outcomes from one Gulf monarchy from another. The state-society relationship is extremely asymmetric, only moderated by an appearance of reciprocal dependency between the state/ruling family, on the one hand, and society/corporate groups, on the other.

Individuals, whether merchants, entrepreneurs or members of other elite groups, provide another important internal source of power. These individuals are retained independently of their corporate groups, to be available whenever the regime feels the need for support to overcome an opposition movement. Yet, these individuals are consistently prevented from becoming power centers themselves and from cooperating horizontally. The ruling families in the Gulf have consistently and decisively preempted any cooperation across vertical confines amongst members of elite groups. While elites have been discouraged from making claims on the regime as members of collectives, they have been encouraged to intercede, as intermediaries, on behalf of others.

Modern elites in the Gulf monarchies emerged within sociopolitical structures that are dominated by the ruling families – a dominance guaranteed by British protective agreements. Their right to claim a political role has never been a natural prerogative of their positions in their communities. Theirs is an assigned role and their status is bequeathed. They are selected to provide support and to advise, rather than to represent. Individually, some intermediaries may have been powerful patrons of local networks, clans, villages or religious communities, but they were not allowed to speak for the "people" as a whole. In spite of this, they

are extremely useful political allies and tools of the ruling families. They have a large stake in sustaining the status quo. For, only through the preservation of the system could they serve as patrons to the often competing local networks on which their initial claims to elite status depend. The ruling families have maintained the system of intermediation, albeit to varying degrees. The dilemma of modern elites remains in their awareness of the shaky ground on which they have been standing. The ruling family needs them, yet they remain dispensable. Elites that lose their political relevance have simply been excluded from the stratum of intermediaries, and are likely to lose much more than prestige.

Similar to the findings of Bianchi[13] (1997) on Egyptian state behaviour, we are confronted with powerful tactics of disorganization and fragmentation, which can partly be seen in delays to the emergence of unified countermobilizations, and in the promotion of the proliferation of weak and squabbling elites that can easily be manipulated, or even discarded, by the regime. Fragmentation, observes Bianchi, provides the regime with the ability to periodically disfavor leaders, replacing them altogether, or temporarily ignoring them. This ability also provides the regime with an effective tool of sanction against members of the elite who refuse to collaborate.

Sustaining the intermediary roles of individual members of elite groups has become an obvious political priority. The ruling families have been hard at work to readjust the ranks of their domestic support base – continuously rejuvenating these ranks by generating and co-opting new allies, and protecting old allies from falling out of grace.

Intermediaries are made up, vertically, of members of tribal, religious and confessional groups, as well as according to wealth, kinship or regional backgrounds. As local reserve sources of power, competing intermediaries reinforce regimes' policies, including preservation of the vertical segmentation of society. Individually, these intermediaries have been exchangeable, and at times even dispensable. As an informal institution, however, they provide certain limitations on the exercise of power. They do so not as much due to the strength of any individual member of the elite, but rather because the exercise of power by the ruling families depends partly on convincing other social actors of the prudence of accepting and supporting the right of those families to the exercise of power. Even an appearance of being supported by others serves the regime, by means of encouraging other external as well as internal sources of power to provide their own support or to withdraw their objections to their right to do so.

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13- Bianchi. 1997. p. 24.

Let me reiterate that in spite of their important role, intermediaries are not bearers of the state in any of the Gulf monarchies. Unlike their predecessors of the pre-oil past, modern intermediaries remain a largely marginal political force. They also lack the political weight attributed to 'intermediary strata' by some students of contemporary Arab societies.[14] Their role is contingent on their perceived usefulness as links between state and society. Intermediaries are ad hoc leaders of their own corporate groups – whether they are the acknowledged leaders of their corporate groups or treated simply as representatives of those corporate groups. To be chosen as an intermediary does not infer a permanent position or status. To be assigned the role of an intermediary, whether for short or long periods, does not entitle one to political rights or privileges. The selection of intermediaries is closely guarded and in order to keep one's intermediary position, one is expected to acknowledge in deeds his/her own subordination to the regime. This, in turn, offers the ruling core in each of the Gulf states ample opportunities to consolidate their position as the supreme patrons.

For most of the time, the ruling cores of the Gulf monarchies have demonstrated their remarkable acumen in maintaining balance among intermediaries, whether recruited from traditional or modern corporate groups. They have also shown their ability to contain moves by ambitious newcomers. Oil, particularly since the oil boom of the mid-1970s, has provided sufficient resources to continue recruiting additional intermediaries from nearly every social background. The entrepreneurial sector, for example, which was a major beneficiary of oil boom investments, provided the ruling families with a new and relatively modern source of intermediaries. Advancement within this sector has been personal, and based on political loyalty and acumen, rather than on tribal or ethnic background. Regular attendance to the weekly *majlis* of one or more of these potentates confirms one's status and credibility as a member of an influential elite group.

## The Waning of Political Legitimacy

Twenty-seven years ago, Michael Hudson[15] observed that 'political legitimacy' is the central problem of government today in the Arab world. Among the GCC states, the ruling families find themselves grappling with the emerging geostrategic parameters of the post-September 11 world. They find themselves under real and unprecedented pressures to adjust to new conditions and demands put forward by their Western patrons. The move from the safety of being

14- Cf. Ayubi. 1995. pp. 176-77
15- Hudson, Michael. 1977. *Arab Politics: the search for legitimacy*, New Haven: Yale University Press.

privileged allies of the United States into being one of its international liabilities occurred swiftly and publicly. The United States managed to wage its campaign in Afghanistan, launched its 'war against terror' and invaded Iraq without even engaging any of these regimes in serious consultations. This is a far cry from the cajoling they received from the United States and its Western allies on the eve of the war to liberate Kuwait in 1990-91. The sudden and swift marginalization of their regional role confirms to everyone, particularly local elite groups, how vulnerable the Gulf monarchies have become. The evolving regional order following the fall of Saddam Hussain's regime in Iraq may further exacerbate this vulnerability.

The noted remarkable capacity of the Gulf ruling families to mobilize external and internal sources of power seems to have reached its limits. Gulf rulers also seem aware that they have lost the advantages associated with their special regional role throughout the Cold War era. The geopolitical context within which they have operated has altered throughout the 1990s.

Statements by leading members of these families have repeatedly indicated a growing awareness of the need to introduce real and painful, reforms. Indeed, concrete measures have been taken in all the six states – measures varying from introducing written constitutions that extend citizenship rights to women, the initiation of economic restructuring programmes with the aim of diversifying economies and relaxing states' role in the economic spheres, to dealing with the chronic problems of the bidoons and guest workers. These reforms may go a long way in shielding the regimes from collapse. They may even provide the ruling families with new means to establish their legitimacy.

Politically ambitious members of domestic elite groups as well as factions of each ruling family may find in these developments new political opportunities to improve their political positions. They witnessed their regimes downgraded from being allies of the US into a position where they were reprimanded daily by American officials. This rapid shift is most evident in the case of Saudi Arabia, whose 'special relationship' of nearly six decades with the USA has turned, in the aftermath of September 11, into a mutual liability. Both governments have gone to great lengths to limit the fallout of their continued relationship on their own domestic audience. Most spectacular of the measures taken in this direction was an end to the US military presence in Saudi Arabia, and the redeployment of American military personnel to Qatar and elsewhere in the region. This dramatic move did not satisfy the more radical Saudi oppositions groups, while it seems to have encouraged other opposition groups and prominent members of Saudi elite groups to attempt to exploit to their advantage the widening rift between the Saudi royal family and its American political benefactors.

The urgency of the situation has already forced Gulf rulers to conclude that the required political and economic reforms must go beyond the customary cosmetic changes. Reforms in Bahrain since 2000 could provide a model for the kind of measures that do not require the ruling families to give up any of their privileges, including control over economic resources and political institutions, as well as command over their armed forces and security apparatuses. But the Bahraini model could also be viewed as measures to buy time and delay the inevitable. Indeed, the Bahraini model, while reducing symptoms of political stagnation in the country, has already generated other new problems and placing these into the public domain.

The Gulf ruling families may see the benefits of promising or actually introducing reforms, particularly as measures to appease domestic and external critics, but can also see the new problems that reforms can generate. The most immediate of these may be summed in a suitable reformulation of Huntington's King's Dilemma[16] – how can a Gulf ruling family introduce reforms without endangering its own cohesion or disturbing the balance of power among its own factions. This is a real quandary. While each ruling family reluctantly seeks, through reforms, to guarantee the survival of its rule, it must be also seek to adopt suitable measures to maintain its own cohesion.

I must hasten to add two cautionary notes. First, I do not doubt that ruling families of the Gulf will find a number of short-term measures to overcome the majority of the pressing troubles facing them. To this end, they can draw on their own past experiences and their capacity to mobilize at least some of the external and domestic sources of power in their country. Second, for more than two centuries, i.e. since the establishment of Pax Britannica in the region, there has not been any credible external threat to regime stability in the Gulf. With the exception of the invasion of Kuwait in 1990, all credible threats to stability in the region have been domestic, and among these, the most enduring are those generated by tensions within the ruling families themselves.

## The Impact of Succession Issues

This precarious situation may become dangerous in light of the unresolved succession issues in all the Gulf monarchies. The ruling families of Saudi Arabia and Kuwait have recently navigated through successions – rather smoothly in the case of the former, significantly less so in the case of the latter. In both cases, the

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16- Huntington, Samuel P. 1970. *Political Order in Changing Societies.* New Haven: Yale University Press, p. 177.

new monarchs acceded to the throne at a late age, so much so that the issue of succession cannot be said to have been solved. Bahrain, Qatar and most of UAE's constituent emirates do not face immediate pressures of succession although some family tensions have to be grappled with. Oman has yet to publicly name a successor.

In the following section I shall briefly outline how these unresolved issues emerge in each of the six Gulf monarchies.

## Bahrain

The ruling family of Bahrain, the al-Khalifa, can pride itself on the way it has hitherto managed its internal affairs. For the past eight decades, discord, competition over resources, and other forms of wrangling over power have not affected the cohesion of the family.

Ever since the last palace coup of 1923, the outward consequences of family disputes have been limited to the forced departures of the defeated siblings from the public scene. Formal and informal rules of agnatic primogeniture have regulated succession and reduced the risks of palace coups.

While rules of succession, detailed in the 1973 and 2002 constitutions, may have reduced the risks of open conflicts over resources and offices, they did not totally eliminate them. Disputes among competing factions of the al-Khalifa still exist. The ambitious reforms undertaken by Shaikh Hamad, now King of Bahrain, since assuming power in 1999, included measures to promote unity within the ruling family and to position himself as the supreme authority, but failed to undermine the power base of other factions within the al-Khalifa.

The most important of these factions, and by far the most resourceful, is led by the King's own uncle, Khalifa bin Salman, the country's prime minister since its independence in 1971. King Hamad continues to cohabitate with his uncle, who continues to wield nearly unlimited power over the kingdom's political and financial institutions. Cohabitation between the king and his uncle did not prevent their respective factions within the family from competing with one another for contracts and government positions. While squabbles are not likely to develop into anything more dramatic, or to endanger the regime's own stability or survival, they are corrosive.

## Kuwait

Succession problems in Kuwait are more acute than anywhere in the region. For many years, both the reigning Amir, Shaikh Jaber Al Ahmad Al Jaber Al Sabah,

and his crown prince, Sheikh Saad Al-Abdullah Al-Sabah, were too frail to perform the duties of their respective offices- indeed they were almost incapacitated. As a temporary measure taken to limit the damage to the ruling family's cohesion, the Amir's own 74-year old brother, Shaikh Sabah, took over many of the responsibilities of both the Amir and the crown prince.

When Shaikh Jaber died in January 2006, a conflict broke out on whether the crown prince was in fact fit to succeed him. Although a majority of members of the ruling family publicly invited Shaikh Sabah to "lead the nation", Shaikh Saad insisted that he was fit and wished to take the oath in front of parliament, as required by the constitution. The ruling family's failure to resolve its quarrel over the issue of succession paved the way for the Kuwaiti parliament to play a decisive, albeit constitutional, role. Its 50 members were called upon to settle the ruling family's dispute, and opted in favour of Shaikh Sabah. This unprecedented role, skilfully coordinated by the Parliament Speaker, could facilitate expansion of the political space open for political actors outside the al-Sabah. This may also increase their options to build coalitions unsanctioned by the ruling family, with the aim of extracting new concessions in exchange for their support in the future for one of the competing factions within the family.

Kuwait's succession issue is complicated by a stipulation in constitution of the country restricting the right to rule to one branch of the al-Sabah, the descendants of the Shaikh Mubarak Al Sabah, founder of the current emirate. This constitutional stipulation confirms the three-generation-old arrangement designed to put and end to factional strife. In practice, however, the simple stipulation translates into a complex and informal procedure regulating the alternation of power between the two branches of descendants of Shaikh Mubarak's two sons, Salem and Jaber. With the accession to the throne of Shaikh Sabah, the customary rule of alternation appears to have been entirely repudiated, as not only Shaikh Sabah, like his brother and predecessor, belong to the Jaber branch of the family, but also the new crown prince, Shaikh Nawaf Al Ahmad Al Sabah, and the new prime minister, Shaikh Nasser Mohammad Al Ahmad Al Sabah, both belong to the Jaber branch. The new Amir, therefore, has clearly sidelined the Salem branch of the family. At the same time, he has not heeded calls from the parliament to appoint a prime minister from outside the ruling family.

Considering the age of Shaikh Sabah, it is difficult to believe that this arrangement may provide a long-term solution. The question of succession may soon again divide the country over who is more suited to reign. The large number of contenders to the two top positions among young and not-so-young al-Sabahs, may stir serious trouble for the regime and for the country. The publicly acknowledged discord within the ruling family has prompted a Kuwaiti

newspaper, al-Rai al-Aam, to issue an uncharacteristically frank reprimand over the ruling family's inability to settle its differences already before the death of Shaikh Jaber. Recognizing these 'differences' as threats to regime's stability and survival, the Kuwaiti daily urged the family to "exert an exceptional effort to put an end to the black ideas... and black practices." (*al-Rai al-Aam*, 27 November 2004)

In certain ways, recent events may be good for the future political development of the country. Article 4 of the constitution gives the parliament a role in the process of selecting a ruler, and this was crucially important in determining the accession of Shaikh Sabah. Lawmakers may also approve with a majority vote the choice of heir apparent nominated by the Amir, or select one heir apparent from a list of 'at least three of the descendants of late Mubarak Al-Sabah" nominated by the sitting Amir. Hence it may very well be that discord within the family will allow parliament to progressively assert itself.

## *Qatar*

The Qatari constitution (2004) is less restrictive than its Bahraini counterpart in upholding the principle of primogeniture. While proclaiming that rule 'shall be hereditary within the Al Thani family' and by the male successors of current Amir, Shaikh Hamad, Article 8 leaves to the discretion of the Amir the selection of an heir apparent from among his sons. Before appointing his Crown Prince, the Amir is not required to do more than consult the ruling family and other notables in the country.

These stipulations to guarantee an orderly process of succession do not fit well with parts of the Al Thani family's own history, which is laced with palace coups and countercoups. Shaikh Hamad himself seized power from his father in 1995. The deposed father repeatedly tried to stage a countercoup. The most spectacular such attempt, in 1996, led to the arrest of scores of co-plotters and sympathizers within the armed forces and ruling family.

Neither coup nor countercoups are aberrations in Qatar's political history. Indeed, every one of its rulers since 1949 assumed power after the forced abdication of his predecessor. However, the ruler of Qatar made an unexpected move in 2003 when he announced his decision to discharge his son from the position of crown prince, and replace him with a younger son. There is no credible official explanation for the move, but it nevertheless represents a discontinuity in the expected order of things.

## *Oman*

Articles 5 and 6 of the Oman's Basic Law of the State of 1996 entrust the Ruling Family's Council with nominating to the throne "a male descendant of Sayyid Turki bin Said bin Sultan." The successor to the throne shall be a Muslim, of sound mind, and the legitimate son of Omani Muslim parents of sound mind." If the Ruling Family Council cannot agree on the choice of a successor within three days of the throne falling vacant, the task is given to the Defense Council, who "shall confirm the appointment of the person designated by the Sultan in his letter to the Ruling Family Council." These cumbersome stipulations affirm Sultan Qaboos' non-conformist style, which makes him unique among the rulers of the Gulf.[17] Further, J.E. Peterson suggests another source for the Omani 'uniqueness.' Compared to the other Gulf ruling families, Oman's ruling family, the Al Said, is small and without influence on the ruler. "There is no inner circle of family members who must be consulted on every significant decision and [whose] consensus [must be] obtained."[18]

Since his assumption of power in 1970 after a palace coup against his father, Sultan Qaboos concentrated all power in his own hands. His central role in the state is evident in the number of offices he personally holds. In addition to being the head of the state and the prime minister, a combined position long held by Saudi monarchs, Qaboos also holds the defense, finance, and foreign affairs portfolios, and is the Chairman of the Omani Central Bank.

During the past thirty-four years of his reign, Qaboos has succeeded in establishing himself as the supreme authority in his country. Partly because of the centrality of his role, the question of his succession remains unresolved thereby creating some uncertainty over the future shape of Omani politics[19].

## *Saudi Arabia*

The 1992 Basic Law of Saudi Arabia stipulates that rule passes through the sons of King Abdul Aziz, the founder of the kingdom, and 'the sons of sons.' Beside lineage, two additional qualifications are stipulated. The proposed candidate must be 'the most upright' among descendants of King Abdul Aziz; and 'he must receive allegiance,' in accordance with established tradition. The Basic Law,

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17- Katz, Mark N. 2004. "Assessing the Political Stability of Oman." *Middle East Review of International Affairs*, 8:3.
18- Peterson, J.E. 2001. "The Nature of Succession in the Gulf (2001)." Online edition from www.JEPeterson.net (posted February 2002) accessed August 14, 2004
19- See on this point the detailed discussion in Marc Valeri's chapter in this volume.

however, does not outline the procedures to decide who is the 'most upright' from among sons and grandsons of King Abdul Aziz, and does not outline the proper procedures to carry out the act of allegiance.

It is difficult to draw clues from past experience. Official spokespersons portray the process of succession as a clear-cut case of the throne passing from one brother to another. But the surviving sons are ageing, and the grooming of members of the second generation of princes is a contentious and divisive process.

Yet, the situation may not be hopeless. The regime does not face immediate danger as there are enough horizontal heirs to the throne. It may be possible for the Saudi royal family to continue to select future kings and crown princes from among the ageing sons of King Abdul Aziz. But this could thrust the kingdom into a period of instability owing to frequent royal turnover. Indeed, this may even generate additional threats to the royal family's unity.

## UAE

The UAE constitution of 1996 leaves it to each of the seven constituent emirates to provide for formal and informal rules of succession. It is in this indirect fashion that the federation's stability could be influenced seriously by how each of the seven royal families manages its internal affairs.

Past episodes, including the bloody 1986 coup in Sharjah, indicate that a problem may exist. In mid-June 2003, power struggle within the ruling family of Ras al-Khaimah took a dramatic turn when Sheikh Saqr, ruler of the emirate, decided to relieve his son, the crown prince, of his duties. The deposed crown prince was replaced by one of his younger brothers. Rival factions within the ruling family of Ras al-Khaimah solicited support from different quarters in the emirate itself, the federation, and beyond. The deposed crown prince was blamed for allegedly encouraging anti-U.S groups in the country and for opposing the recent American war against Iraq. His supporters, on the other hand, highlighted his credentials as a nationalist and a reformer, citing his public calls for political and civil rights. In the end, Abu Dhabi's rapid response reduced the risks of a prolonged conflict and may have discouraged intervention by neighbouring states.

In Abu Dhabi, the largest and most important emirate in the federation, following the death of Shaikh Zayed, the UAE president and ruler of Abu Dhabi, in November 2004, his eldest son, Shaikh Khalifa, the emirate's crown prince since 1969, assumed power. The new ruler of Abu Dhabi was elected by rulers of the country's constituent emirates to replace his father as the president of the UAE. The transfer of power has been smooth and reportedly uncontested.

Upon acceding to power, the new ruler of Abu Dhabi appointed his half-brother Mohammed as Crown Prince, Deputy Commander of the UAE Armed Forces, and Chairman of the Abu Dhabi Executive Council. In the latter capacity, the new crown prince will be the de facto prime minister of the emirate, running its day-to-day affairs and controlling its finances. These appointments are significant as they consolidate the powers of the new Crown Prince and his four full brothers, collectively known as sons of Fatima, who control most of the key positions in the emirate.

## Conclusion

Internal discord within the Gulf ruling families has been a recurring feature of politics in the region. The protective shield provided by Britain, and later by the US, has prevented family disputes, including those with bloody outcomes, from threatening the survival of any of their regimes, or from having enduring effects on the stability of the region. External patronage, both colonial and post-independent, is the most important of the factors affecting the stability and durability of these regimes. I contend that it is the foundation of the ruling families' asymmetric power, relative to their societies. Other factors include oil revenues, which enabled each of these ruling families to allocate and distribute a considerable portion of their incomes in the form of employment and improved infrastructure.

In the past, responses by each of the ruling families to external calls for reform were influenced by calculations about how any measure of reform was likely to affect the balance of power in the family in question. Such calculations have tended to favor procrastination. But this is not a viable option in the conditions of the new and evolving regional order. Under this, the royal families are finding themselves forced, for the first time, to deal with the demands put forward equally incessantly by their domestic opponents as well as by the United States, which was long assumed to be the protector of the status quo in the region. Family discord, including on the subjects related succession, may limit the options for maneuver available to the conservative factions with the Gulf ruling families. On the other hand, these tensions may encourage domestic reformers, together with members of the ruling families themselves, to seize opportunities for widening effective political participation.

# Chapter Three

# Generations of Gulf Constitutions:
# Paths and Perspectives

*Gianluca Paolo Parolin*

## Introduction

Gulf constitutions are generally welcomed in a fervent and enthusiastic fashion by government-controlled media and human rights committees, but seldom receive any real attention from scholars, especially in the legal studies. The outcomes are rather peculiar, and the adoption of a constitutional text often turns out to be a momentous step towards democracy and political participation, no matter what it says. From such a perspective, genuine attempts to formally regulate the institutional system or cosmetic devices to appease internal or external calls for reform tend to look alike.

The scarcity of reliable data, unbiased information, and relevant documents frequently prevent comprehensive analysis of constitutional dynamics. The hardships faced when trying to check the sources or investigate the constituent process discourages the researcher, who leaves the field entirely to official extollers. Corridor whispers on issues discussed in the drafting process or personal acquaintance with experts involved are usually the best and commonly the only way to reach critical facts and figures.

Nonetheless, comparative constitutional analysis can still provide academics with a powerful heuristic method.[1] This work is an attempt to present a first and general approach to the study of Gulf constitutions in the comparative legal

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1- For the methodology of comparative public law, see Giorgio Lombardi, *Premesse al Corso di Diritto pubblico comparato* (Milan: Giuffré, 1986).

perspective, employing just basic and well-known data, and tracing common and distinctive features of Gulf constitutions of the three main generations of the 1960s-1970s, the 1990s, and the current decade. In this framework, special attention is paid to political participation in its crucial relations with constitutional and sub-constitutional law, and remarkably in the noteworthy experiences of municipal elections in Gulf countries, where there is no familiarity with the ballot.

A first and general premise is that a constitutional system is not such just because the system has a document called "constitution"; this point was already quite clear in Aristotle's *Politics*, the first methodologically organized comparison of different "constitutions" (*politeia*) of Greek *poleis* and foreign regimes. The following logical step is not to bestow excessive importance to the heading of the "document"; it may indeed be quite telling, but it can nonetheless prove to be highly misleading as well.

In the three aforementioned generations, the "documents" are variously called Basic Laws, Fundamental Systems of Government, or Constitutions (permanent or temporary), but in each and every case, we can observe the interplay of internal and external actors, as well as general trends of top-down constitutional processes, where the model of "pacted" constitutions is frequently cornered, and constitutions are more frequently "granted" or "octroyées" with an evident downside in terms of legitimation. A further common factor is the role played by non-national experts in the actual drafting stage; this can be traced from ʿUthman Khalil ʿUthman chairing the committee for the 1962 Kuwaiti Constitution, down to Ramzi al-Shaʿir for the 2002 Bahraini Constitution and the team of Jordanian, Egyptian and Moroccan advisors employed for the 2003 Qatari Constitution.

The constitutions of the three generations present common features, but the temporal progression must not be intended in strict incremental terms. On the one hand, the constitutions of the first and third wave look much more alike, and can easily be built into a synopsis, but on the other hand, some core issues – such as succession – were addressed by all the Constitutions in quite unique ways.[2]

In this context, comparative constitutional law is a key element for a reliable and sound assessment of constitutional texts and practices, cleared from the biases of a mere positivistic and normative approach. Two examples may be illuminating. The first concerns the role of saving clauses in the provisions of fundamental rights; while in Western constitutions these clauses guarantee that fundamental rights cannot be limited without the parliamentary intervention and

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2- See Abd al-Hadi Khalaf, "Problems of Succession in the GCC States", Chapter 2 in this volume.

in a restricted number of cases and ways, saving clauses in Gulf constitutions serve the purpose of draining the constitutional provision by means of an ordinary bill. The second regards the system of government, and touches upon the issue of the government's responsibility towards the parliament. According to Gulf constitutions, upon its formation, the government is requested to present its program to the parliament, but no confidence vote is requested; this highly resembles the French model, where initial confidence is presumed. In the French semi-presidential system, however, the balance is assured by the election of the President of the Republic, and a vote of no confidence must be requested by a group of at least one-tenth of all deputies, and passed by an absolute majority vote. On the contrary, ministers in the Gulf are only individually, and not collectively, responsible, and a "question of confidence" (*mawduᶜ al-thiqa*) cannot be raised against the Prime Minister, thus pushing back the parliamentary system to the constitutional monarchy model in terms of king-parliament relations.

## First Generation (1960s-1970s)

*Kuwait*

In 1961, Kuwait became the first emirate of the Trucial Coast to gain independence from Great Britain. However, the Amir soon requested foreign military presence in order to safeguard the small country from ᶜAbd al-Karim Qasim's territorial claims, based on Kuwait's historical ties with the province of Basra. Two weeks after independence, on 1 July 1961, the Amir called for the military assistance of Anglo-Saudi troops, and two months later, the Arab League deployed inter-Arab forces (from the United Arab Republic, Saudi Arabia, Jordan and Sudan) to replace the British green berets,[3] and the special forces remained in Kuwait until the Iraqi leader's assassination in February 1963. In mid-1963, Kuwait was admitted to the United Nations (after a first membership refusal in 1961 due to a Soviet veto), and later in the year the new Iraqi regime formally recognized the Emirate and established diplomatic relations with it.[4]

Under these circumstances of regional and international turmoil, the constituent process took place and shaped the constitution of Kuwait, the very first basic law of the Gulf. From the end of the 1950s, the Amir summoned the

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3- The newly formed League of Arab States (*Jamiᶜat al-duwal al-ᶜarabiyya*) recognized the independent state of Kuwait in July 1961, availing itself of the absence of the Iraqi delegation and leaving the Iraqis rather isolated, even in the regional milieu.
4- See Maurice Flory and Robert Mantran, *Les régimes politiques des Pays arabes* (Paris: Presses Universitaires de France, 1968), 325 f.

most eminent Arab expertise to draft legislation and a basic law for Kuwait in a broad program of reforms for the country's forthcoming independence. Among these experts, the most distinguished jurist was the Egyptian ͨAbd al-Razzaq Ahmad al-Sanhouri, who abandoned his teaching post at the Institute for High Arab Studies of Cairo in 1959.[5] Al-Sanhouri's influence on the Kuwaiti constitution is quite outstanding, both in the conceptual framework and in the wording, even if he wasn't in the drafting committee, led by another Egyptian, ͨUthman Khalil ͨUthman, who also played a very significant role later in defining Bahrain's Constitution.[6] The Chart proves Sanhouri's far-reaching understanding of the dynamics of legal transplants in private and public law and his ability to achieve a suitable compromise between tradition and modernity, as many features can be traced back to his early study on the Caliphate, when he worked under the direction of Edouard Lambert in Lyon.[7]

The draft constitution underwent a complex process of mediated popular scrutiny. In October 1961, an electoral law set the rules for the first polls and divided the country into ten constituencies with two deputies each. Elections were held at the end of the year, and on January 7, 1962, the Amir promulgated a temporary constitution. The Constituent Assembly, composed of ministers and the twenty elected deputies, worked under the rule of the temporary constitution, which guaranteed essential civil and political rights. The Assembly approved the permanent constitution in the fall of 1962, and on November 11, 1962, the Amir promulgated the text.

The influence of Western liberal theory on the basic principles as well as the institutional architecture of the Kuwaiti constitution is clear. Personal liberty and other fundamental freedoms are spelled out in part three of the constitution, but the broad protection statements are generally followed by saving clauses enabling the law to limit their scope with no real restrictions on legislators. In the case of freedom of opinion and expression, for instance, Article 36 states: "Freedom of opinion and of scientific research is guaranteed. Every person has the right to

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5- Nasser had previously tried to force the director of the Institute, the Syrian Satic al-Husri, to remove al-Sanhouri from his position, but encountered firm opposition from al-Husri, who repeatedly threatened to resign. See Francesco Castro, "ͨAbd al-Razzāq Ahmad al-Sanhūrī (1895-1971): Primi appunti per una biografia," *Studi in onore di Francesco Gabrieli nel suo ottantesimo compleanno*, ed. Renato Traini (Roma: Università di Roma "La Sapienza", Dipartimento di Studi orientali, 1984), 32.

6- For relevant elements of the historical background of the Kuwaiti Constitution and its drafting see Farah al-Nakib, *The Constitutionality of Discrimination: A Search for Women's Political Equality in Kuwait* (..) Chapter 6 in this volume.

7- The wording of the Kuwaiti Constitution carries continuous reference to the classical language of Islamic political theory.

express and propagate his opinion verbally, in writing, or otherwise, in accordance with the conditions and procedures specified by the law." The final clause is a clear allusion to the "due course of law," but this liberal device, deprived of its institutional context of judicial and political balances, can easily void this protection or rather allow it to consider restrictive laws as being legislation fully consistent with the constitution.[8]

The system of government is outlined as "democratic," and sovereignty resides in the nation (Article 6): two cornerstones of liberal constitutional doctrine, along with a declaration of a separation of powers. The three powers, nonetheless, are expected to work in cooperation (*ta$^c$awun* – Article 50). Legislative power is vested in the Amir and the National Assembly (*Majlis al-Umma*), a single chamber composed of fifty members elected directly by universal suffrage and secret ballot, and Ministers *ex-officio*. Parliament's powers of control over the cabinet are quite feeble. The government has to present its program in front of the Assembly upon the cabinet's formation, but no confidence vote is requested. On the contrary, the chamber can pass a vote of no-confidence against a single minister, and when a majority of the elected members is reached, confidence is withdrawn (*wa-yakun sahb al-thiqa* – Article 101).[9] However, a question of confidence (*mawdu$^c$ al-thiqa*) cannot be raised against the Prime Minister; if the National Assembly decides with a majority vote that it cannot cooperate with the prime minister, the matter is submitted to the head of state. In such a case, the Amir may either relieve the prime minister of office and appoint a new cabinet or dissolve the National Assembly. In the event of dissolution, if the new Assembly decides by means of a similar majority vote that it cannot cooperate with the said prime minister, he shall be considered to have resigned as from the date of the decision of the Assembly in this respect, and a new Cabinet shall be formed (Article 102). This rather unique system of government – based on the preeminence of the Amir, who shapes the cabinet and whom the cabinet is individually and collectively responsible to, even though cabinet members are also individually responsible to the National Assembly – later turned out to be a very fortunate formula that circulated throughout the Gulf. Under such a regime, the ruler firmly maintains the grip on power while displaying some frills of the parliamentary model.

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8- Very similar clauses are set out for all the other civil and political rights, as freedom of religion and belief (Article 35), of press (Article 37), of domicile (Article 38), of communication (Article 39), of association (Article 43), etc.

9- The Kuwaiti Constitution speaks of "withdrawal" (*sahb*), even though the confidence was not previously bestowed. Here it is clearly a matter of a shortcoming of the cut-and-paste method applied to Constitutional models.

The constitution also grants citizens a number of social rights which form the basis for Kuwait's extensive welfare system. The state is constitutionally obligated to care for the young and to aid the old, the ill, and the disabled. It is obliged to provide public education and to attend to public health. The constitution provides for state involvement in the national economy to the degree that these obligations necessitate. Duties of citizens include national defense, observance of public order and respect for public morals, and payment of taxes. These rights and obligations, however, apply only to Kuwaiti citizens. The remainder of the population has few political and civil rights and enjoys restricted access to the benefits of the state welfare system.

Territorial disputes and skirmishes between Kuwait and Iraq may have increased concerns of other Gulf leaders about declaring their independence. Even into the 1970s, Iran and Saudi Arabia continued to make claims on territory in Bahrain and the UAE, although by the end of 1971, those states were independent, and nothing came of those claims. Gulf leaders also faced uncertainty about the form their state should take. Ever since the 1930s, Great Britain had sought to gather all the small emirates of the Trucial Coast in a single state entity. Various initiatives pursued this project throughout the 1960s, but eventually British action forced Gulf monarchs to decide. Claiming domestic financial concerns, Britain decided in the late 1960s to eliminate its military commitments east of Suez. As a result, the Gulf sheikhs held a number of meetings to discuss independence. Initially, leaders considered a state that would include all nine Emirates; Qatar had even drawn up a constitution to this effect. In the end, however, so large a federation proved unworkable. An obstacle to creating a single federation was the status of Bahrain, since the Shah of Persia argued that he had a stronger claim to the island than the Al Khalifa, and would not accept a federation of Arab states that included Bahrain. In the end, the United Nations resolved to allow the Bahrainis to form an independent state. Backed by the UN decision, Bahrain declared its independence on August 15, 1971. On September 3, 1971, Qatar followed, removing another state from any potential federation. Although Qatar had minimal contact with Britain, it was well suited to independence because it had a history of support from the Al Sa'ud that went back to the beginnings of the Wahhabi movement. Accordingly, at independence, Qatar could expect continued support from Saudi Arabia. On the other hand, economic and political considerations brought the other seven Emirates to stay together. Thus in 1971, soon after Qatar became independent, the remaining Amirs, with the exception of the Al Qasimi in Ra's al-Khayma,[10] took the

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10 Due to some territorial disputes with Iran allegedly not duly supported by other Arab and International actors, Ra's al-Khayma pulled out of the negotiations, but later joined the Union in February 1972.

preliminary constitution that Qatar had originally drawn up for a nine-member confederation and adapted it to a six-member body. On December 2, 1971, one day after the British officially withdrew, these six sheikhdoms declared themselves a sovereign state.

## Qatar

Soon after independence, the three new states of the Gulf enacted temporary or permanent constitutions with many common features. In 1970, Qatar became the first to adopt a provisional basic law, almost a decade after the Kuwaiti constitution. The 1970 provisional constitution declares Qatar a sovereign Arab, Islamic state and vests sovereignty in the state. In fact, sovereignty is held by the Amir. However, although he is supreme in relation to any other individual or institution, in practice his rule is not absolute. The constitution also provides for a partially elected consultative assembly, the Advisory Council. The first council's twenty members were selected from representatives chosen by limited suffrage, but its size was increased to thirty members in 1975. Among the council's constitutional prerogatives is the right to debate legislation drafted by the Council of Ministers before it is ratified and promulgated.

Qatar's Basic Law resorts to Islamic doctrine remarkably more than other Gulf constitutions of the 1960s and 1970s, where combinations of liberal and traditional principles were experimented with far more. The Amir is obliged to rule in accordance with Islamic precepts, which include fairness, honesty, generosity, and mutual respect. Islamic religious and ethical values are applicable to both the ruler's personal life and his rule. Thus, the ruler must retain the support of the religious community, which often asserts itself in such areas as media censorship, educational regulations, and the status of women. The constitution institutionalizes the legislative and executive processes in the functions of the ruler, in effect formalizing his supremacy, and provides that the ruler possesses "any other powers with which he is vested under this provisional constitution or with which he may be vested under the law" (Article 23). This means that the ruler may extend or modify his powers by personal decree.

The Council of Ministers is responsible collectively to the ruler, as is each minister individually. The ruler appoints and dismisses ministers (technically on the recommendation of the prime minister, when that post is occupied by someone other than the ruler). Only native-born Qataris can become ministers, and the constitution prohibits the prime minister and other ministers from engaging in business or commercial activities while holding state office.

The Advisory Council debates laws proposed by the Council of Ministers before they are submitted to the ruler for ratification. If approved by the ruler, a

law becomes effective on publication in the official gazette. In 1975, the Amir empowered the Advisory Council to summon individuals to answer questions on legislation before promulgation. As the constitution stipulates, Qatar is divided into ten electoral districts for the purpose of forming the Advisory Council. Each district elects four representatives, of whom the ruler selects two, making for a total of 20; they constitute the relatively representative portion of the council.[11]

Before the implementation of the constitution, the ruler's legislative authority frequently overlapped with or encompassed judicial functions because he personally adjudicated disputes and grievances brought before him. The constitution marks the beginning of an attempt to organize the judiciary.

In addition to describing and delineating governmental authority, the constitution sets forth such protections as equality among Qataris regardless of race, sex, or religion; freedom of the press; sanctity of the home; and recognition of both private and collective ownership of property. Such guarantees, however, are limited by the public interest, and must be in accordance with the law – which is determined by the ruler. In practice, freedom of the press means that incoming foreign publications are screened by a government office for potentially objectionable material, and the indigenous press exercises self-censorship and is subject to sanction if it fails to deal appropriately with political and religious issues.

The constitution also includes a commitment to certain economic, social, and cultural principles, including state provision of health care, social security, and education. Housing, pensions, education, and medical programs were started in the 1960s, and expanded by Sheikh Khalifa ibn Hamad as oil revenues permitted throughout the years. There were no state taxes on individuals, and the state subsidized the prices of basic commodities to minimize the effects of inflation. Although these programs appeared to reflect Western European "statism," they were manifestations of the ruler's sense of duty, based on obligations inherent in Islamic ethics.

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11- The Advisory Council was increased to 30 members in December 1975 and to 35 members in November 1988. Membership is limited to native-born citizens at least twenty years of age. The constitution states that members are to serve three-year terms, but in May 1975 members' terms were extended for an additional three years and then for additional four-year terms in 1978, in 1982, in 1986, and in 1990.

## *United Arab Emirates*

The UAE followed the path of Qatar by adopting a provisional text. On July 18, 1971, the rulers of the six Emirates ratified the provisional constitution of the UAE. A product of more than three years of discussion and debate among the rulers, the document was promulgated on December 2, 1971, upon the UAE's independence. Originally, the provisional constitution was to be replaced after five years with a permanent document, pending the resolution of issues standing in the way of full integration among the federate emirates. These issues included individual emirates' contributions to the federal budget and defense integration.[12]

The provisional constitution of the UAE provides for the separation of powers, and it also separates legislative and executive powers into federal and emirate jurisdictions. Certain powers are expressly reserved for the central government, including foreign policy, defense, security, immigration, and communications, while the individual emirates exercise residual powers.

The Supreme Council of the Union (SCU), also known as the Federal Supreme Council, functions as the highest federal authority in executive and legislative matters. Narrowly, the executive branch consists of the SCU, the Council of Ministers (the cabinet), and the presidency. The SCU is composed of the rulers of the seven Emirates; it elects from among its members a chairman and a vice chairman, who serve for terms of five years. Article 150 of the provisional constitution defines the powers of the SCU as being the formulation of general policy; legislation on all matters of state; ratification of federal laws and decrees, including those relating to the annual budget and fiscal matters; ratification of international treaties and agreements; and assent to the appointment of the prime minister and Supreme Court of the Union judges. The rulers make decisions by simple majority vote, except on substantive issues. Substantive issues require a two-thirds majority (five of seven rulers), including the votes of both Abu Dhabi and Dubai. The SCU carries out its work through a secretariat and whatever ad hoc committees it chooses to appoint. The president serves as chairman of the SCU, head of state, and commander of the Union Defence Force (UDF). The president convenes the SCU and appoints the prime minister, the two deputy prime ministers, the cabinet ministers, and other senior civil and military officials. He has the power to proclaim martial law and to carry out a variety of functions usually associated with the chief executive.

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12- Due to a lack of progress in resolving these matters and a grudging preference for the status quo, however, the provisional Constitution was extended for five year periods in 1976, 1981, 1986, and 1991.

Under the provisional constitution, the Federal National Council (FNC) is the principal legislative authority, but its actual role in the governmental process is limited to consultation. Its forty members are appointed for two-year terms by the respective Emirate rulers, in accordance with a constitutionally fixed quota that allots proportionately more members to the wealthiest and most populous Emirates.[13] The FNC meets in regular session for a minimum of six months, beginning in November. The UAE president may call a special session if necessary. The president opens the regular session with a speech on the state of the union. The FNC can reply to the state of the union address in the form of "observations and wishes," but the reply has no legal effect. The FNC also makes recommendations on legislative matters to the Council of Ministers, the president, and the SCU. The FNC can discuss any government bills drafted by the Council of Ministers; it can agree with, amend, or reject such bills, but it cannot veto them. The laws of the UAE are divided into two main categories: union laws and decrees. A bill drafted by the Council of Ministers for nonbinding deliberation by the FNC and then submitted to the president for his assent and the SCU for ratification becomes a union law when promulgated by the president. Decrees are issued jointly by the president and the Council of Ministers between sessions of the SCU; a decree must be confirmed by the SCU to remain valid.

*Bahrain*

Even though Bahrain's constitution is the farthest on the temporal scale from the Kuwaiti *dustur*, it is nonetheless the closest to the Kuwaiti model. On December 16, 1971, the day Bahrain formally became independent (Bahrain technically gained its independence from Britain earlier in the year, on August 15), Sheikh ꜥIsa ibn Salman announced that the country would have a constitutional form of government. Six months later, he issued a decree providing for the election of representatives to a Constituent Assembly, charged with drafting and ratifying a constitution. The assembly was to consist of twenty-two elected delegates plus twenty additional members, including eight delegates appointed by the Amir and the twelve members at the time of the Council of Ministers. The election, which was held in December 1972, was the first national election in Bahrain's history. The electorate was restricted, however, to native-born male citizens aged twenty years and older.

The relative openness of political debate permitted during the election campaign for the twenty-two contested Constituent Assembly seats encouraged

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13 Abu Dhabi and Dubai each appoint eight members to the FNC; Ra's al-Khayma and Sharja each appoint six members; and Ajman, al-Fujayra, and Umm al-Qaywayn each appoint four members.

individuals dissatisfied with the lack of democratic rights to demand more civil liberties. The primary focus of concern was the 1965 Law of Public Security, a series of three amiri decrees that authorized the ruler to maintain indefinitely a virtual state of emergency in order to protect national security from suspected foreign and domestic enemies. A group of mostly university-educated professionals, led by ʿAbd al-ʿAziz Shamlan, unsuccessfully petitioned the Amir to rescind the law's harshest provisions, especially those pertaining to arrest and detention. They believed these measures had been used arbitrarily to silence dissent and peaceful opposition. Several women's groups also organized to protest the exclusion of women from the franchise. They presented a petition to the Amir requesting support for extending voting rights to female citizens, but they failed to receive a positive response.

The Constituent Assembly was in session during most of 1973, and finally approved a constitution of 108 articles. The constitution, enacted by amiri decree in December 1973, provided for an advisory legislative body, the National Assembly, consisting of thirty members elected for four-year terms, plus all the members of the Council of Ministers, whose terms were not fixed. The assembly was not empowered to initiate or enact legislation, but it was authorized to give advice and consent to laws proposed by the Council of Ministers. The assembly had the right to question individual ministers about policies and to withdraw confidence from any minister except the prime minister. The constitution stipulated that the Amir could dissolve the assembly at his discretion, provided he made public the grounds for doing so. If the Assembly were dissolved by decree, new elections had to take place within two months or the dissolution would be invalidated and the dismissed members reinstated.

## Second Generation (1990s)

Since the early 1970s, increased oil production and regional instability have dominated events in the Gulf. Revenues from the oil industry grew dramatically after oil producers raised their prices unilaterally in 1973; as a result, funds available to Gulf rulers increased. Governments began massive development projects that brought rapid material and social change, and in the 1990s, the turmoil that these changes caused had not yet stabilized.

The Iranian Revolution of 1979 challenged Gulf stability as well, as Iran's desire to spread the movement beyond its borders clearly threatened Gulf leaders, who feared that Iran would use ethnic or sectarian loyalties to stir up their Shia populations. Iran was perhaps more threatening to Gulf stability because of its strong anti-Western stance in world and in regional politics. The new Iranian position stood in stark contrast to the gulf amirs' long history of involvement with the British, and the close ties to the West that the oil industry entailed. The

outbreak of the Iran-Iraq War and the regional involvement in the conflict made the Iranian threat more concrete, and contributed to the formation of the Gulf Cooperation Council (GCC), whose goal was to provide for regional defense and to coordinate policy on trade and economic issues.

Whereas broader, regional alliances in the Gulf have changed dramatically since the 1970s, individual political systems had remained relatively unchanged in the 1990s, and ruling families did not relent their hold on power. Where elected parliaments existed, as in Kuwait or Bahrain, the al-Sabah and the Al Khalifa repeatedly dissolved these bodies.[14] Yet, after the First Gulf War in 1991, a new generation of constitutions sprang up in the Gulf in countries where no formal basic law had been previously adopted.

## Saudi Arabia

Saudi Arabia was an absolute monarchy in 1992, as ultimate authority in virtually every aspect of government rested with the king. The legitimacy of his rule was based on the twin pillars of the dynastic history of the Al Sa$^c$ud, and their political and religious alliance with the Al al-Shaykh. The king was not constrained by a written constitution, a legislative assembly, or elections, but in 1992, King Fahd became the first Saudi monarch to compile regulations pertaining to the functions of government for the whole Kingdom into a single document called the Fundamental System of Government (*al-nizam al-asasi li-l-hukm*). Promulgated as a royal decree, this document codifies bureaucratic procedures and prohibits government agencies from arbitrarily arresting citizens or violating their privacy. Although *al-Nizam al-asasi* does not portray itself as a formal constitution, it fulfils some of the same purposes of such a document. However, the Saudi Fundamental System lacks any explicit clause guaranteeing the basic rights of citizens to freedom of belief, expression, assembly, or political participation. In Article 1 it is clearly spelled out that the Qur'an and the Prophet's Sunna are the constitution of the country, leaving a fairly large area for "administrative" action to the ruler, since the *shari$^c$a* does not specifically address the conduct of most governmental matters.

Many argue that the adoption of a constitutional text has practically had no effect on the Saudi political system, being a clear example of "ornamental constitutionalism."[15] With the conquest of Hijaz, the traditional organization of

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14- This is not true, of course, of Bahrain, where the National Assembly was dissolved once in 1975 and never reinstated.

15- See Abdulaziz H. al-Fahad, "Ornamental Constitutionalism: the Saudi Basic Law of Governance", *The Yale Journal of International Law* Vol. 30: 347.

Central Arabia met a highly different system, and King ᶜAbd al-ᶜAziz faced the challenge of providing the region with modern state structures and new legislation under the external pressure of other major Muslim powers and demands for the internationalization of Islam's holy places. The duality within the Kingdom – well-represented by the adoption of the 1926 Hijazi Constitution – was maintained for decades, and the Hijazi assembly (the Council of Deputies) as well as municipal institutions remained a unique experience under the unified Saudi monarchy, even if they were progressively deprived of real powers. The later decline of Hijazi institutions coincided with the dramatic changes in Saudi society and government brought about by oil revenues.

Since 1962, Saudi kings periodically promised to establish a *Majlis al-Shura,* or consultative council, to advise them on governmental matters, but for more than three decades, none of them undertook practical steps to establish such a body. In 1992 however, King Fahd once again announced that a *Majlis al-Shura* would be created, and specified its responsibilities in the Basic Law. Members of the *Majlis* are all appointed by the king, and the *Majlis* has limited authority to question ministers and propose legislation; it has no actual legislative powers, but rather serves as an advisory body that can make recommendations to the king.

The Basic Law also introduced a new formula for the royal succession, providing that the king would appoint a crown prince who had to be confirmed by *bayᶜa* if he proved to be suitable (*al-aslah* – Article 5). Ever since the founder of Wahhabism nominated the eldest son of the Saudi ruler, the idea of succession by primogeniture was upheld by the Al Saᶜud, even if it is not a traditional practice in the area.[16] On the other hand, Fahd's decree on succession established two precedents: a royal prerogative to choose and to withdraw approval for the crown prince; and an acknowledgement that the sixty plus grandsons of ᶜAbd al-ᶜAziz are legitimate claimants to the throne.

The primary executive office of the king is the royal *diwan*, even though the Basic Law does not regulate its functions. The king's principal advisers for domestic politics, religious affairs, and international relations have offices in the royal *diwan*, and the king's private office is also in the royal *diwan*. The king conducts most routine government affairs from this office, including the drafting of regulations and royal decrees. In addition, the heads of several government departments have their offices in the *diwan*. The king also holds his regular *majlis*, or court, in the *diwan*. The purpose of the *majlis* is to provide Saudi citizens an opportunity to make personal appeals to the king for redress of

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16- Ibid.

grievances or assistance in private matters. Plaintiffs typically seek the king's intervention with the state's bureaucracy.

*Oman*

In spite of its geographical position, Oman was never considered a possible confederation member to what became the UAE. Always geographically separate from its neighbors to the north, Oman had never entered into the agreements with Britain that governed other Gulf rulers, and even if the British had been closely involved in Oman since the middle of the nineteenth century, they were under no official obligation to defend it. The issue in Oman was one of internal unity rather than of sovereignty over foreign affairs. The historical split between coast and interior had continued through the second half of the nineteenth century and the first part of the twentieth, and the disputes between the two areas were exacerbated by exploration for oil. The protracted Dhofar rebellion led to the deposition of Saᶜid ibn Taymur and the rise of his son Qabus ibn Saᶜid. The new, young ruler, who was educated in Britain, put down the rebellion with regional rather than British help.

Even though Sultan Qabus refused to set up a constitutional monarchy and an elected parliament in the early 1970s, in 1975 he established the organization of the administration and the governmental bodies in decree 26/1975.[17] During the 1980s and early 1990s, a consultative council progressively shaped up, but its role has been quite unclear since sessions were not open to the public and since the Sultan chose one member from amongst the two elected in each constituency.

In 1996 Oman was the last country of the Gulf to adopt a basic law, which Sultan Qabus enacted by decree 101/1996, setting the institutional framework for the activity of the constitutional bodies. The basic law defines the Sultanate of Oman an independent, Arab, Islamic, fully sovereign state, and includes a long list of public rights, including all fundamental civil liberties. Some of the finest achievements of the Western cultural debate on fundamental rights are clearly transposed in the Omani "Bill of Rights," even though the due course of law clause can be easily used here to turn matters around. The Sultan remains the paramount authority in the country and even though the Council of Ministers is the highest executive authority (Article 44), it derives its power from the Sultan, who also issues and ratifies all laws and decrees (Article 42). The layout of the basic law chapters suggests that legislative power is vested in the Oman Council

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17 See Nikolaus A. Siegfried, "Legislation and legitimation in Oman: The Basic Law," *Islamic Law and Society* 7, no. 2 (2000): 366.

(*Majlis ͨUman*), but this is not explicitly stated. A brief and minor provision outlines the Oman Council as composed of the Shura Council and the Council of State, leaving to the law the specification of the powers of each of these Councils, the length of their terms, the frequency of their sessions, and their rules of procedure, as well as specification of the number of members of each Council, the conditions which they must fulfill, the methods of their selection and appointment, the reasons for their dismissal, and other regulatory provisions (Article 58).[18]

## Third Generation (Onset of the 21st Century)

Even though the chronological distance between the constitutions of the 1990s and those of the new millennium is rather small, and no major regional or international events can easily be pointed out as being a watershed between them, elements of difference outnumber common features. A major turning point was the involvement of the electorate at some stage of the constituent process in the current decade. This is certainly true for Qatar, where eligible citizens were requested to approve the draft constitution in a popular referendum, while it is fairly contestable for Bahrain, where the population was called to vote on the National Action Charter, and not on the "revised" or new constitution. In both cases, however, the call to popular participation in order to uphold a stronger legitimacy to the constitutional reforms is an unprecedented and unique experience in the Gulf.

### Bahrain

The way constitutional reforms have been carried on in Bahrain casts light on what is perceived to be the role of constitutions in the Gulf at present, and upon a closer look, it proves to be more effective to look into the method followed for enacting the new constitution, rather than its provisions. The very first issue to be addressed is the amending process, as stipulated in the first constitution of the independent State of Bahrain, dating back to 1973; in order to formally alter the *dustur*, the original provisions of the 1973 constitution required a majority vote of two-thirds of the Assembly (*Majlis*) members, and a subsequent amiri ratification (Article 104).[19] This method is fully consistent with the 'aggravated majority

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18 In the Omani political system, the State Council (*Majlis al-dawla*) turns out to be a remedial session for groups that have not been elected to the Majlis al-Shura. See Marc Valeri, "Liberalisation from Above. Political Reforms and Sultanism in Oman", Chapter 7 in this volume.

19- See Emile A. Nakhleh, *Bahrain: Political Development in a Modernizing Society* (Lexington: Lexington Books, 1976), and "Political Participation and the Constitutional Experiments in the Arab

procedure' developed by constitutional theory,[20] but the dissolution of the National Assembly in 1975 brought a serious challenge to the correct functioning of the procedure delineated in Article 104.

When Sheikh Hamad ibn ʿIsa Al Khalifa ascended the throne in 1999, Bahrain's government was experiencing severe underground and street opposition,[21] the country was under the repressive 1974 State Security Law, and the state was under strict observation for human rights violations.[22] The call for democracy drove the Amir to implement his design for constitutional transition through a progressive enhancement of democratic standards. However, the release of some political prisoners, and the softening of state control over citizens' activities did not directly address the issue of political participation. The 1973 constitution was still formally in force, in spite of the fact that *de facto* it had not been enforced since 1975; only a Consultative Council (*Majlis al-Shura*) had been formed to appease the claims for representation.

In the late fall of 2000, a 46-member Supreme National Committee elaborated the draft of the National Action Charter (NAC), a fairly long declaration submitted to a general public referendum (*istifta' shaʿbi*) on February 14 and 15, 2001. A broad campaign of civil awareness on the points set out in the NAC was carried out through media involvement, seminars, and public meetings in social and sport clubs. As a result, the NAC was overwhelmingly successful with a 98.4 vote in favor.[23] A few days after the plebiscite, the State Security Law was repealed and the State Security Court abolished. Shortly thereafter, two committees were set up to implement the NAC provisions, and other measures were taken accordingly, giving rise to international commendation and United Nations High Commissioner for Human Rights Mary Robinson's "praise for

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Gulf: Bahrain and Qatar", in Tim Niblock, ed., *Social and Economic Development in the Arab Gulf* (London: Croom Helm, 1980), 161-176.

20- See among others Giuseppe De Vergottini, *Diritto Costituzionale Comparato* (Padova: CEDAM, 1999), 5th edition, 210 ff..

21- See Munira Fakhro, "The Uprising in Bahrain: An Assessment," *The Persian Gulf at the Millennium: Essays in Politics, Economy, Security and Religion*, ed. Gary G. Sick and Lawrence G. Potter (London: Macmillan, 1997): 167-188; and Karen Dabrowska, *Bahrain Briefing: The Struggle for Democracy* (London: Colourmast, 1997).

22- See Human Rights Watch, *Routine Abuse, Routine Denial: Civil Rights and the Political Crisis in Bahrain* (New York: HRW Publications, 1997).

23- Government data available on http://www.bahrain.gov.bh/

Bahrain's reform drive."[24] Eventually, on 14 February, 2002, a 'new' constitution was adopted by the now King of Bahrain, Hamad ibn ʿIsa Al Khalifa.

What is therefore the constitutional and legal framework of the present day Kingdom of Bahrain? Ever since the 1975 dissolution of the Assembly,[25] the 1973 *dustur* could not be regarded as a full in force constitution; its system of government did not mirror reality and many of its compulsory provisions were not applied. For instance, Article 65 stipulated that, in the event of the dissolution by amiri decree of the *al-Majlis al-Watani*, "elections for the new Assembly shall be held within a period not exceeding two months from the date of dissolution. If the elections are not held within the said period, the dissolved Assembly shall be restored to its full constitutional authority, and shall meet immediately as if the dissolution had not taken place." However, the 1975 dissolution of the *Majlis* was not followed by any of these measures. On the other hand, it must be recorded that every *marsum* would mention its conformity to the 1973 constitution nevertheless. In order to ascertain this analysis, let us look at Parts 1-3 of the 1973 Basic Law; they are surprisingly similar to Chapters 1-3 of the NAC. If those principles and values were included in the full in force 1973 constitution, there would have been no need of restating them thirty years later in a new constitutional document. Moreover, the 2002 constitution is presented as "the constitution of 14 February 2002," and not "the amended 1973 constitution," and Chapters 1-3 show almost the same wording of the 'old *dustur*,' even though the Foreword speaks of "amendments" and the "existing constitution."

Singling out the legal nature of the National Action Charter is no easy task. First of all, in its last section, the NAC is defined "a future national action instrument" (*wathiqa ʿamal mustaqbaliyya li-l-bilad*), beyond the classical constitutional doctrine system.[26] Secondly, the NAC is divided into chapters (*fusul*), and not into articles (*mawadd*), showing the precise will of entrusting not

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24- See UN High Commissioner for Human Rights Mary Robinson's interview to the Bahrain's *Gulf Daily News* of 4 March 2002, and Human Rights Watch, "Bahrain's National Charter Referendum", in *Human Rights Watch Backgrounder*, February 2001.

25- See *al-Adwa'* (Bahrain, May-August 1975), *Sada al-'Usbu'* (Bahrain, May-July 1975), *al-Tali'a* (Kuwait, May-August 1975), *al-Bahrayn al-Yawm* (Bahrain, May-August 1975), *al-Mawaqif* (Bahrain, May-August 1975), the official minutes of the National Assembly (Bahrain, May-June 1975).

26- See Peter Häberle, "Präambeln im Text und Kontext von Verfassungen", in *Demokratie in Anfechtung und Bewährung. Festschrift J. Broerman* (Berlin: Duncker & Humblot, 1982), Alessandro Pizzorusso e Vincenzo Varano, *L'influenza dei valori costituzionali sui sistemi giuridici contemporanei* (Milano: Giuffré, 1985), Paolo Biscaretti di Ruffia e Stefan Rozmaryn, *La Constitution comme loi fondamentale dans les Etats de l'Europe occidentale et dans les Etats socialistes* (Torino: Institut universitarie d'études européennes, 1966).

a constitutional, paramount significance, but a diminished legal value to the declaration, in spite of its political relevance. On the one hand, the NAC has been submitted to a popular referendum, which gave the NAC a certain democratic weight, but on the other, the Charter did not deal with the core issues of democratic reforms, which had to be undertaken by the Amir in the form of 'amendments to the existing constitution.' The 2002 *dustur* mentions the NAC in its Preamble, but when it comes to provide for the Constitutional Court's area of competence, Article 106 limits the powers of the Court to checking the consistency of laws and statutes with the constitution alone. Finally, it must be mentioned that some 2001 decrees declared, along with the *dustur*, their conformity to the NAC (such as Decree 35/2001 on Municipalities), and that the King's official line is that the contents of the Charter are fully implemented in the 2002 constitution, and require no 'duplicate.'

One year after the referendum, on February 14, 2002, the Amir of the State of Bahrain, now King Hamad ibn ᶜIsa Al Khalifa, promulgated the new constitution of the Kingdom of Bahrain. The 2002 *dustur* follows the path of the so-called "granted constitutions," being *octroyée* by the Amir with neither representative popular participation in the drafting stage, nor popular direct ratification in its aftermath. The general referendum of 2001 cannot be regarded as the source of legitimacy of the new constitution for, as pointed out above, the Charter does not address any of the issues pertaining to the amendments of the 1973 constitution. Therefore from a strict legal standpoint, the 2002 constitution draws its legitimacy only from the Amir's will.

Article 33 of the constitution spells out the powers of the head of state, who is now given the title of King rather than Amir. Not only is the king the inviolate symbol of national unity and loyal protector of the homeland, but he also exercises broad executive powers directly and through his ministers, whom he appoints and who are jointly answerable to him for general government policy as well as individually responsible to him for the conduct of their respective ministries. The king may at any time issue decrees that have the force of law, but they must be referred to both the Consultative Council and the Chamber of Deputies within a month of their promulgation or, if the National Assembly is not in session, within a month of the first new meetings of its respective chambers. If the two chambers do not confirm them, they retroactively cease to have the force of law. The king also has the right to call for a referendum on any important law or issue.

Legislative authority is vested in a National Assembly that consists of the Consultative Council, an upper house of forty members appointed by the king, and the Chamber of Deputies, which is made up of forty members elected by universal adult suffrage. The term of membership in each house is four years.

Laws must pass each house and be ratified by the king, who promulgates them. Once a bill has passed in both houses, the king has six months to return it to the legislature for reconsideration, at which point the bill is considered ratified. If the king returns the bill and it is reapproved by a two-thirds majority of the National Assembly, the king must ratify and promulgate it within one month. The king has the right to dissolve the Chamber of Deputies and may also extend its term for up to two years. If it is dissolved, sessions of the Consultative Council are also halted. The king may also recall a dissolved Chamber.

The constitution establishes a Constitutional Court consisting of a president and six members appointed by royal order. The Court is competent to decide upon disputes relating to the constitutionality of laws and regulations. King Hamad opened the first session of the Court on April 18, 2005.[27]

The constitution outlaws physical and psychological torture, and the inhumane treatment of prisoners. Anyone involved in such activity faces prosecution. The *dustur* describes Bahrain as a state founded on justice and designed to safeguard its Arab and Islamic heritage. Liberty, equality, security, tranquility, education, social solidarity and equal opportunities for citizens are viewed as pillars of society and are guaranteed by the state. According to Article 2, the state is to preserve the family and strengthen its values by guaranteeing the right of inheritance and by giving protection to mothers and children and "reconciling the duties of women toward the family with their work in society, and their equality with men in political, social, cultural, and economic spheres without breaching the provisions" of Islamic law, the *shari<sup>c</sup>a*, which "is a principal source for legislation." The state is to provide education, social security and insurance, housing for the poor and medical care, and to protect its citizens from ignorance, fear, and poverty. Article 13 requires the state "to guarantee the provision of job opportunities for its citizens and the fairness of work conditions." Civil liberties include safeguards against illegal searches, arrests, detention, forced confession, and forced residence, as well as the rights to trial, freedom of conscience, freedom of speech, academic freedom, freedom of the press, privacy of homes, freedom to form associations and trade unions for lawful objectives and by peaceful means, and public assembly with prior permission.

A majority vote of two-thirds of the membership of both houses of the National Assembly fully assembled is required to pass any amendment to the constitution. If a proposed amendment is rejected, it cannot be put forward again for a full year. Article 2 concerning the state religion is not subject to amendment.

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27- See *al-Hayat*, 19 April 2005.

The principles of constitutional monarchy, inherited rule in Bahrain, liberty and equality, and the bicameral system adopted in the present constitution are also deemed to be permanent.

## Qatar

In 1998, Qatari Amir Hamad ibn Khalifa Al Thani announced his decision to draw a permanent constitution for the country and to establish an elected parliament. Shaikh Hamad was quoted as saying during his inauguration of the new session of the Shura council in November 1998, "We have decided to form a committee of specialists to draw a permanent constitution for the country; one of its main items is to form an elected parliament through direct voting of people." He continued by saying that the elections for the central municipal council in February 1999 would take place through direct popular voting, noting that citizens would be given the right of nomination and election so as to establish a foundation for democratic practices in the country's political and social life. It was only in July 1999, though, that the Amir released a decree that provided for setting up a committee (32 members, including six from the ruling family) with the responsibility of preparing a permanent constitution for the country in preparation for the holding of the first parliamentary elections there. The Committee worked in subcommittees and its activities lasted for over two years, as the "final formula" was discussed in September 2001, and then examined by Arab expertise recruited especially from Jordan.

The final project was presented to the Amir on July 2, 2002, and almost a year later, the draft constitution was eventually submitted to public referendum on April 29, 2003, with a 97 percent vote in its favor. The 2003 constitution entered into force with the Amir's promulgation on June 8, 2004. The new constitution differs significantly from the previous document in granting new rights and freedoms to the citizens and increasing their participation in the government of the country. Both documents declare Qatar to be an independent and sovereign state with executive powers vested in the Amir; he appoints the prime minister and the cabinet. The Advisory Council has been an appointed body since 1970, but the new constitution envisions elections for two-thirds of its members. The Amir selects the crown prince from among his sons.

The 2003 constitution specifies that the system of government is based on the separation of powers. Executive power rests with the Amir and the council of ministers. Legislative authority will belong to the Advisory Council, and judicial authority is exercised independently by the courts in the name of the Amir.

The Amir can issue decrees with the force of law when the Advisory Council is not in session; such decrees are subject to approval by the Advisory Council

and can be overturned or returned for amendments by a two-thirds majority of the council when it convenes.

The Advisory Council is to consist of 45 members, 30 of whom are to be elected by direct, secret ballot. The Amir appoints the remaining members. The Advisory Council elects a Speaker and Deputy Speaker. Members must be native Qataris who are at least 30 years of age. Any member can propose legislation to the relevant committee of the Council. Draft laws must be referred to the government for study, and must be returned to the Council during the same session or at the beginning of the following session. The government may also propose laws. Once passed by the Council, a bill is sent to the Amir for ratification, and he may return it for reconsideration. After being returned to the Council, a bill can be passed with a two-thirds majority, in which case the Amir must promulgate it, but he may suspend its enforcement in compelling circumstances.

The Advisory Council reviews the draft budget and may amend it. No budget comes into force without the Council's approval, and in the case that no budget has been approved at the start of the fiscal year, the previous budget remains in place. Advisory Council members may address a point of clarification to the Prime Minister, and one-third of the members of the Council may address an interpellation to the ministers of the government. A vote of no confidence may be taken for individual ministers only within ten days following an interpellation, and if it passes with a two-thirds majority, the minister is removed from his post.

The 2003 constitution requires the law to determine a competent authority for determining the constitutionality of legislation.

According to the constitution, the citizens of Qatar enjoy equal civil rights and responsibilities without discrimination on the grounds of race, language, religion or gender. The rights to privacy and personal freedom are guaranteed; torture is forbidden. Articles 44 and 45 provide the right of assembly and the right to form associations to all citizens in accordance with the law. A suspect is innocent until proven guilty and is entitled to a fair trial. Civil liberties include the right of residence and freedom of the press and publication. Extradition is prohibited, and citizens may not be exiled. The constitution requires everyone living in the country to observe public order and respect public customs and morals. A due course of law clause seals every civil right.

The Amir can call for an amendment to the constitution, as can one-third of the members of the Advisory Council. Such an amendment is passed by a two-thirds majority of the Council and must be approved by the Amir. An amendment that is rejected cannot be proposed again until one year has passed. Provisions

regarding the rule of the state and its inheritance cannot be amended, nor can the functions of the Amir be amended during his deputation. No amendment can be made that restricts rights and liberties granted by the constitution. The constitution cannot be amended until ten years have passed from the time of its entry into force.

## Political Participation

It is now *de rigeur* to closely consider how constitutional laws in the Gulf interact with other legal instruments on a sensitive issue such as political participation. In the predictable maze of conflicting facts and figures on the topic, I mainly rely on United Nations data (UNDP-Pogar data).

### Kuwait

A first unavoidable remark is on the troubled life of the Kuwaiti constitution. Its discontinuous history of suspension and restoration, far from being a simple weakness, proves on the contrary the vitality of the constitution. In August 1976, in reaction to heightened assembly opposition to his policies, the Amir suspended four articles of the constitution concerning political and civil rights (freedom of the press and dissolution of the legislature) and the assembly itself. In 1980, however, the suspended articles of the constitution were reinstated, as was the National Assembly. In 1982 the government submitted sixteen constitutional amendments that, among other things, would have allowed the Amir to declare martial law for an extended period, and would have increased both the size of the legislature and the length of terms of office. In May 1983, the proposals were formally dropped after several months of debate. Nevertheless, the issue of constitutional revisions continued as a topic of discussion in both the National Assembly and the palace. In 1986, the constitution was suspended again, along with the National Assembly. As with the previous suspension, popular opposition to this move emerged; indeed, the pro-democracy movement of 1989-90 took its name, the Constitutional Movement, from the demand for a return to constitutional life. This opposition became more pronounced following the Iraqi occupation, which abrogated all constitutional rights, and following Kuwait's return to sovereignty in 1991. In early 1992, many press restrictions were lifted. After the October 1992 election, the National Assembly exercised its constitutional right to review all amiri decrees promulgated while the assembly was in dissolution.

Law 24, issued in 1962, controls the political and legal framework within which civic organizations in Kuwait operate. According to Law 24, the Ministry of Social Affairs monitors associations that receive state subsidies. Amendments to the law in 1965 prohibited associations from engaging in political activities.

Even though the Kuwaiti constitution allows for freedom of assembly, this right is seriously restricted in practice. There are no formal political parties in Kuwait, but quasi-political groups of bedouins, merchants, moderate Sunni and Shia activists, secular liberals, and nationalists are organized. Political parties are illegal in Kuwait, although members of parliament conform to unofficial national blocs. Kuwaiti civil society is made up of public interest associations, trade unions, and many informal groups. Particularly noteworthy are the cooperative societies, which informally perform civic as well as economic tasks. Their primary function is to purchase food and household goods and distribute them through retail outlets. The cooperatives control more than 80 percent of the retail food market. Each Kuwaiti resident over 18 years of age is eligible to subscribe to the neighborhood's cooperative societies. Subscribers are entitled to a share of the cooperative society's annual profit, and all subscribers, including women, have the right to vote. To serve on the board of a cooperative is one way of developing a base of support in a particular neighborhood and is a common step toward launching a campaign for election to the National Assembly. The Ministry of Social Affairs has considerable supervisory powers over the activities of these societies. The minister may, for example, dissolve the elected board of a society if he deems it to be involved in inappropriate activities, or if funds have been mismanaged.

Workers have the right to join unions, but the government has restricted this right by allowing only one union per occupational trade. The government gives partial financial support to some politically oriented civil society organizations and has the right to dissolve them at any time. Trade unions, however, cannot be dissolved without a court ruling. Almost all associations registered as public benefit societies receive funds from Kuwait's government. In addition, they receive other benefits from the government, such as reimbursements for travel expenses to certain conferences or missions, allowances for a limited number of government employees to work for some organizations on a leave basis, and the arrangement of grants for specific projects. These state funds are not necessarily sufficient for operating a civil society organization, depending on the type and scope of the society's activities. Many active organizations therefore, do their own fund-raising, which usually generates income far exceeding the government funds they receive.

The 1961 Press and Publishing Law governs the media in Kuwait. According to Kuwait's constitution, freedom of opinion and the press is guaranteed within the limits of the law. After the Iraqi invasion, Iraqi forces had taken over all media, but a few Kuwaiti newspapers and Radio Kuwait managed to operate outside the country. In 1992, the government lifted censorship following Kuwait's return to sovereignty, and removed other press restrictions. The Council of Ministers, however, retains the authority to suspend newspapers. The Ministry of

Information runs the government press and the radio and television broadcasting stations. Copies of all publications need to be submitted to the ministry in advance for approval. The ministry does not grant licenses to magazines with a political focus. The General Organization of Printing and Publishing controls the printing, publishing, and distribution of informational materials. The constitutional court in Kuwait has strengthened the principle of free expression in Kuwaiti society. Discussing and respecting divergent opinions is one of the most prominent features of societal discourse in Kuwait. The government emphasized citizens' rights to political participation, although these rights have until recently been restricted to male members only. In Kuwait, there are 55 societies with 40,000 members organized with diverse goals, such as gender reform, political and economic liberalization and the promotion of Islamic values. In addition to these official societies, there are numerous public meetings in homes, collectively called *diwaniyya*s. Their number has increased in recent years, and they play an important role in the political process. Though most GCC countries have *diwaniyya*s, they do not typically exercise the same role elsewhere as they do in Kuwait.

## *Bahrain*

Elections for the National Assembly took place in December 1973, with the franchise restricted, as in the Constituent Assembly elections, to male citizens. Although the National Assembly lacked the authority to prevent the government from enacting legislation that assembly members opposed, this situation did not impede policy debates. The unprecedented public debates attracted wide interest and, from the perspective of the regime, seemed to erode its legitimacy. During the winter and spring of 1975, a prolonged debate over a new state security decree proved especially troubling for the government, and the Amir dissolved the National Assembly in August, citing its inability to cooperate with the government.[28] Although the constitution stipulated that new elections had to take place within two months of dissolution, this did not occur. One year later, in August 1976, Sheikh ʿIsa ibn Salman announced that the National Assembly would remain dissolved indefinitely.

Political liberalization has increased in Bahrain since Sheikh Hamad ibn ʿIsa Al Khalifa assumed power in March 1999, but political parties remain illegal in Bahrain; however, political societies may be formed under the Law of

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28- Some authors consider the conflict on the State Security Law a mere pretext to dissolve the Assembly without directly assessing the core issues of the strife. See Munira Fakhro, "The Uprising in Bahrain: An Assessment", in Gary G. Sick and Lawrence G. Potter, eds., *The Persian Gulf at the Millennium* (London: McMillan, 1997).

Associations. Currently, Bahrain has more than 15 political societies. These societies are permitted to engage in almost all of the functions of a political party, including fielding candidates for elections and acting as a parliamentary bloc, but the creation of full-fledged parties awaits a parliamentary decision. A law legalizing political parties has been expected since the promulgation of the 2002 constitution, and a proposal for such a law was presented in the Chamber of Deputies in December 2003. In July 2005, the king promulgated the Law on Political Societies (*qanun al-jam*ʿ*iyyat al-siyasiyya*); the law sets several conditions for establishing political societies in Bahrain. A political society, for instance, could not be established on class, sectarian, ethnic, geographic or occupational grounds (Article 4, Paragraph 4), and could not aim at establishing semi-military or military formations (Article 4, Paragraph 5). The law stipulated that the financial resources of political societies had to come from membership fees and contributions, and from the revenues of their investments in the Bahrain, as defined by their internal regulations (Article 14, Paragraph 1). Political societies are not allowed to accept any contributions, advantages or benefits from foreigner, foreign entities, or international organizations (Article 14, Paragraph 2). The law permits the Minister of Justice to refer to the high court any society violating the provisions of Bahrain's constitution, the Law on Political Societies or any other Bahraini law. He may also ask the court to freeze the activities of the violating society for three months, during which time the society can correct the violation or remove its causes (Article 22). If the society commits grave violations of Bahrain's constitution or the aforementioned law, or any other Bahraini law, the minister may also ask the court to dissolve the violating society, liquidate its assets, and determine who receives them (Article 23). Six "associations" expressed their opposition to the Law on Political Societies after it was endorsed by both chambers of parliament. They appealed to the King not to ratify that law, but he did and promulgated it on July 16, 2005.

Following a far-reaching amnesty of political prisoners, the head of state issued decrees in February 2001 abolishing the State Security Law of 1975 and the State Security Court, which had been established in 1995. In 1999, the government of Bahrain also created a Human Rights Committee within the Consultative Council. In 2002, Bahrain established the first human rights centre in a GCC country (Bahrain Center for Human Rights, or BCHR); its main fields are conducting research, providing training in human rights-related issues and maintaining an archive of documents related to human rights. The BCHR was closed in 2004 when its executive director, ʿAbd al-Hadi al-Khawaja, was convicted of "inciting hatred of the regime by publicly calling it corrupt". Member of the BCHR keep being under tight control, and twelve were sentenced

in February 2006 to two years in prison for having taken part in a non-authorized manifestation at Bahrain's international airport on 25 December 2005 calling for a referendum under UN supervision on the legitimacy of the regime[29]. In addition to the Centre, Bahrain has two independent human rights group, the Bahrain Human Rights Society and the Bahrain Human Rights Society. Since the new constitution was implemented, several civil society organizations have formed. The Ministry of Labour and Social Affairs reported a total of 65 new associations founded during the calendar year of 2002, including 11 political societies and 13 professional societies. By of the end of 2003, over 300 NGOs had been registered in Bahrain; many of these exert significant efforts in the area of human rights.

The 1965 Press Law requires all newspapers to be licensed by the Ministry of Information. The same law also regulates content. In 2002, the first independent newspaper, al-Wasat, began circulation.

## *Qatar*

When Crown Prince Hamad ibn Khalifa Al Thani became Amir, Qatar entered into a phase of remarkable liberalization. Articles 44 and 45 of the 2003 constitution guarantee the right of assembly and the right to establish associations, in accordance with the provisions of the law. The law, however, still imposes considerable restrictions on associations, and they must register with the Ministry of the Interior.

Upon his accession to power in 1995, the Amir immediately expanded the independence and freedom of the press. Official censorship of the domestic press in Qatar was lifted, preparing the ground for what became the widest-reaching broadcast media of the Arab world: the satellite channel al-Jazeera. Self-censorship is generally practiced; there are no formal laws for censoring the media.

Political parties do not exist in Qatar, and organized opposition is illegal. Article 45 of the constitution assures the "freedom to establish societies according to the conditions and circumstances to be laid down by the law." In May 2004, Law No 12 of 2004, replacing Law No 8 of 1998, granted citizens the right to establish professional associations, and further legislation granted workers the right to establish trade unions with "the right to go on strike when amicable settlements cannot be reached between employees and employers." Both laws went into effect in November 2004.

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29- See *al-Hayat*, 7 February 2006.

The government does not allow political demonstrations; however, it often permits peaceful demonstrations against Israel's actions against the Palestinians. The Ministry of Islamic Affairs controls the construction of mosques, the administration of clerical affairs and Islamic education. The government does not permit the publication, importation, and distribution of non-Islamic religious literature.

## Saudi Arabia

The monarchy's political power in Saudi Arabia is mitigated by the traditional role of consultation in decision-making. Independent voluntary associations, trade unions, and political parties did not exist inside the Kingdom before 2003, but the Council of Saudi Chambers of Commerce and Industry is an important umbrella organization that helps to mediate between the Saudi society and the state. The "taboo" of collective action has lately suffered some momentous exceptions, at first with the "Vision for the Present and Future of the Homeland", a petition that was publicly received by the Crown Prince, and then submitted to citizens for feedback. In the framework of National Dialogue, Wahhabi scholars have even agreed for the first time to meet other Saudi Shiite and Sufi sheikhs, thus accepting a limited notion of religious pluralism in society.[30]

According to the Basic Law of Saudi Arabia, information, publications, and all other media have to employ "courteous language" within the state's regulations. A 1982 media policy statement urges journalists to uphold Islam, promote Arab interests, and preserve the cultural heritage of Saudi Arabia. The Ministry of Information appoints and may remove the editors-in-chief of newspapers. All Saudi newspapers are created by royal decree. In an effort to initiate the creation of civil institutions in Saudi Arabia, the King declared the creation of an independent journalists' organization in early 2003. The Saudi Journalists' Association is to consist of a chairman and a board of nine members elected by Saudi journalists. Elections to the board, originally scheduled for January 2004, were twice delayed by procedural difficulties in setting up the organization. The new organization has drawn some criticism because its founding documents were promulgated by the government, and the Information Ministry must approve all candidates for the board. However, the organization is independent from the government in most respects, and is designed to collectively represent the interests of journalists to the Saudi government.

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30- See Abdulaziz H. al-Fahad, "Ornamental Constitutionalism: the Saudi Basic Law of Governance", quoted.

In a groundbreaking decision, the formation of an independent human rights organization was announced in mid-2003. This organization is expected to mirror a national organization to be created with responsibility for enforcing human rights and bringing local legislation in line with human rights standards. These organizations have yet to materialize, however, and there are still basic disagreements between Saudi Arabia and human rights organizations as to what exactly is meant by 'human rights.'

Political parties are illegal in Saudi Arabia. There are two prominent political opposition movements, both of which operate from outside of Saudi Arabia. The first, which is linked to Muhammad Massari, is the Committee for the Defence of Legitimate Rights (CDLR), and the second, which is linked to Saad al-Fagih, is the Movement for Islamic Reform in Saudi Arabia (MIRA), which continues the work of the CDLR. Operating from London, the latter organization is characterized as a militant Islamist movement, and is also described as being financially supported by wealthy members in Saudi Arabia. Peaceful public demonstrations by MIRA in October 2003 resulted in the jailing of 150 demonstrators for activity deemed by officials to be 'incompatible with Islam.'

## United Arab Emirates

The Federal National Council and the Federal Supreme Council amended the 1971 interim constitution of the United Arab Emirates, drafted with the establishment of the federation, to make it permanent in 1996, after four extensions of the five-year validity in 1976, 1981, 1986, and 1991.

Public assembly and association are subject to government approval. All private associations must be licensed by local authorities. However, this requirement is enforced only loosely in some emirates. Although trade unions are banned, the Federation of UAE Chambers of Commerce and Industry and the UAE Women's Federation are officially recognized umbrella organizations. The latter federation of women's associations has been effective in teaching local women to organize themselves, setting up literacy campaigns, establishing craft and vocational centers, and thus, in preparing women to play an active role in social development.

Although the constitution provides for freedom of speech, the press continues to avoid direct criticism of the government and exercises self-censorship. All published material is subject to Federal Law 15 of 1988, which stipulates that all publications should be licensed by the Ministry of Information. The law also governs content and contains a list of restricted subjects. Many of the local English and Arabic language newspapers are privately owned but receive government subsidies. The Ministry of Information and Culture routinely reviews

imported publications before their distribution. All television and radio stations are government-owned and conform to government reporting guidelines. Satellite receiving dishes are widespread, and provide access to international broadcasts without apparent censorship.

Traditional and modern forms of government coexist in the United Arab Emirates. Over the years, a higher rate of institutionalization, both at the federal and emirate level, can be observed. Despite some erosion in the powers of traditional politics as tools of problem-solving, traditional institutions have proven to be resilient and adaptive to new forms. The political system in the United Arab Emirates is often described as direct democracy without suffrage. Political parties are not allowed in the UAE; instead, the rulers derive their power and legitimacy from their dynasties and their positions in their respective tribes. But in accordance with tradition and in order to maintain their authority, they need to retain the loyalty and support of their people. This was done by a strong adherence to the principle that the people should have free access to their ruler and that the latter should hold a frequent and open *majlis*, or informal assembly, in which his fellow tribesmen could voice their opinions. This tradition continues today. Many citizens and tribesmen prefer to wait for their ruler to hold an open *majlis* to discuss their grievances, rather than going through the institutions of modern government, especially in the smaller emirates. Debates in the *majlis*, especially in cases where consensus is formed, have the potential of affecting government policy.

*Oman*

The Basic Law of the Sultanate of Oman provides for freedom of opinion within the limits of the law. Citizens have the freedom to form associations on a national basis for legitimate objectives and in a manner that does not conflict with the stipulations of the Basic Law. It is forbidden to establish associations whose activities are inimical to social order, are secret, or are of a military nature. Oman has no legalized political parties. In order to obtain public participation in government, the Sultan travels annually with his top ministers from place to place within the country. During the tours, the Sultan interacts in public meetings (*majalis*) with citizens and listens to their personal requests and grievances. Few non-governmental organizations are active in Oman.

The 1984 Press and Publication Law enables the government to censor publications if they are politically, culturally, or sexually offensive. The state also owns and controls local radio and television companies. The Ministry of Information operates Oman Television and Radio. Private radio or television broadcasting is not allowed, but satellite dishes are permitted. Omani law prohibits individuals or the media from criticizing the Sultan. The government

controls the local radio and television companies, and does not allow the establishment of privately owned radio and television companies. Omani media do not air any politically controversial material. However, the availability of satellite dishes has made foreign broadcast information accessible to the public.

## Municipal Elections

A rather crucial and recent development in the constitutional history of the Gulf is the remarkable increase in the recourse to the polls in the last five years.[31] With the sole exception of Kuwait, which has held elections at fairly regular intervals since its independence, the other Gulf countries have experienced an unprecedented wave of popular voting lately. Even in the absence of full-fledged parliaments, ruling families have called and are calling for popular participation in local elections, probably comforted by the small amounts of power vested in the elected municipal councils, and by cabinet control over the latter's activities.

### Qatar

Since the beginning of Sheikh Hamad ibn Khalifa Al Thani's reign, a series of reforms has drastically increased popular participation in the political process. Soon after taking office, the Amir signaled his intention to move Qatar in a democratic direction, and the establishment of a popularly elected Municipal Council followed in March 1999. The 29-member Municipal Council, like the Advisory Council, serves only in an advisory capacity. Elections are open to all citizens of Qatar, both men and women, over the age of 18. Women can also participate as candidates in the elections, a fact that caught the attention of international observers and other states in the Gulf, and spurred similar reforms in other Gulf countries.

The Preparatory Committee for the Municipal Elections oversaw the 1999 municipal elections, and the International Foundation for Election Systems worked in conjunction with the Preparatory Committee to educate women voters and train potential female candidates. The IFES estimates that 70% of all voters who participated were women. Overall voter turnout, however, was not as high as initially expected, with about 22,000 votes cast, or 55 percent of eligible voters. The candidates campaigned in a variety of forums, including debates that were broadcast on Qatari television and radio. The city of Doha was host to numerous candidate speeches and rallies.

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31- I am not dealing here with very relevant issues such as gerrymandering or mass naturalisations as means of demographic manipulation, since I am not as much concerned with the fairness of polling at this stage.

The second elections to the Municipal Council took place on April 7, 2003. 78 candidates contested 29 seats. Four candidates, including one woman, stood unopposed, giving Qatar its first elected female official, after her two competitors simultaneously dropped out of the race. In general, public enthusiasm for the elections was lower than in 1999. Voter turnout plummeted to around 30 percent of eligible voters.

## Bahrain

The promulgation of the 2002 constitution found the opposition narcotized by the flow of *makramat* from the Crown.[32] Underestimating the new provisions of the constitution, unable to properly react, or facing the hardships of reorganizing public dissent after such a broad campaign of winning amiri munificence, the opposition took part in the municipal elections.

Candidates backed by informal Shia formations (as well as by Sunni religious figures) enjoyed sweeping gains, but partaking in administrative elections openly linked to the "new course" weakened later their claims of a lack of legitimacy of the entire system. Various hypotheses have been put forward to explain why Islamists or candidates supported by the religious establishment, whether Sunni or Shia, dominated local elections, winning nearly all of 50 seats. Some say that ever since the dissolution of the National Assembly, Bahrainis have had no locally elected representatives, thus leaving unchallenged the tendency to look towards the sheikhs, or figures of religious authority, for guidance and arbitration. Others simply argue that candidates and groups had little time to prepare their platforms.

Polls appear to have been carried out without any attempt at electoral fraud and with no major incidents. Shia critics accused the government of gerrymandering, and this would explain why 27 seats went to the Sunni ruling minority and just 23 to the overwhelming Shia majority, given that both Sunnis and Shiites voted along sectarian lines.[33] The issue was later addressed by the king, who reshuffled the seats in each district for legislative elections to better reflect their population densities. As in the 1999 Qatari municipal elections, no

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32- *Makramat malakiyya*, or "royal liberalities", played as a key feature of the general amiri design, and a listing of major *makramat* could be found on the official Home Page of Bahrain's Government. See Abdulhadi Khalaf, "Bahrain's Election: Just What the King Ordered," *Voice of Bahrain* 130, no. 4 (2002): 4.

33- Gerrymandering was – and still is – a very controversial issue, since constituencies could vary from 500 to 12,000 eligible voters. On the problematical coexistence between Sunni and Shia muslims in Bahrain see Fuad I. Khuri, *Tribe and State in Bahrain: The Transformation of Social and Political Authority in an Arab State* (Chicago: The University of Chicago Press, 1980).

woman was elected despite the government's desire to display so meaningful a symbol of "democracy." Multiple factors might have contributed to low turnout, among which could have been voters' "apathy and frustration."

## Saudi Arabia

The Kingdom of Saudi Arabia is divided into 13 provinces (*mintaqa*), each ruled by a governor. Governors are appointed by the king and usually report directly to him. Most governors are also members of the house of Sa'ud. The provincial government oversees the local offices of the central government and municipal officials. In some of the provinces, the governor has chosen to hold a public *majlis* to allow the people to voice their grievances; this is one of the main forms of popular participation in local government.

The primary objective of the governor and his staff is to administer the region in line with the public policy and regulations of the state. The governor's primary responsibilities include the maintenance of public security, order and stability, and the guaranteeing of individual rights and freedoms within the framework of the *shari'a* and governmental regulations, in addition to the promotion of social and economic development in the region.

In 2003, the king approved the creation of consultative councils on the municipal level; moreover, half of the officials in these bodies were to be elected by popular vote. A timeframe of one year was dedicated to the establishment of election procedures and institutions, and the first elections were held in the spring of 2005.[34] The Saudi Ministry of Municipal and Rural Affairs was established in 1975 and oversees all areas of municipal governance. The ministry controls municipal administration, city and town planning, and the development and maintenance of infrastructure such as roads and sanitation. Municipal leaders report to the minister of municipal affairs, and there is no fiscal separation between the central and municipal governments.

## Oman

In Oman, formal decentralization of government exists with the division of the nation into municipalities, but in practice these sub-units have limited autonomy. Oman has 43 municipalities; they are all overseen by the Ministry of Regional Municipalities and Environment, and no elections are held for municipal councils,

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34- A detailed report on Saudi municipal regulations can be found in Muhammad Abdallah al-Roken, "Constitutional and Legal Developments in the GCC States in 2004", in *Gulf Yearbook 2004* (Dubai: Gulf Research Center, 2005): 29-37.

even though elections for the *Majlis al-Shura* have a quite remarkable local character.[35]

## *United Arab Emirates*

In the UAE the degree of local governance varies in accordance with the size of the emirate and the size of the local community, but there are no elected municipal bodies. In Abu Dhabi, the largest emirate, there is a parallel government to the federal structure, including a consultative council and public administration. The city of Abu Dhabi is divided into two municipalities that provide a variety of services, whereas in rural areas and in the smaller and less developed emirates, the federal government tends to take a larger role in the provision of public services.

## *Kuwait*

Kuwait stands out among the Gulf states for its elected municipal authorities that control the administration of a number of public services. Fiscally, however, the government remains highly centralized with an inefficient bureaucracy. Kuwait also has five governorates, but they exist largely as administrative units for the central government. Due to the small size of Kuwait, decentralization is neither a pressing issue nor a policy directive.

Kuwait's Municipal Council was established in 1932. Over the past seventy years, the national government has assumed some functions previously controlled by Kuwait's municipality, but the Council still retains several important responsibilities. The local government provides a wide variety of public services and the Council is composed of sixteen members – ten elected and six appointed by the Amir. Scheduled for July 2003 together with legislative elections, the last municipal elections were repeatedly postponed and took place in June 2005; they were supposedly the last Kuwaiti elections with no women's participation, after the historic statute granting political rights to Kuwaiti women was approved by the *Majlis al-Umma* on May 16, 2005.

## Conclusions

In the history of world constitutionalism, some texts rise from their national context to the rank of model constitutions. It is the case of the 1962 constitution

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35- See Marc Valeri, "Liberalisation from Above: Political Reforms and Sultanism in Oman", Chapter 7 in this volume.

of Kuwait for the Gulf. The Kuwaiti constitution is a tailored outcome of an in-depth reflection on the core governance traditions of the area and on the nature and role of constitutional theory. It is far from being the finest possible text, but passed the test of time and suited the characters of Kuwaiti society on its adoption. Later shortcomings ought to be ascribed to the radical changes in Kuwaiti polity rather than to original flaws of the constitution itself. The tailor's work was accurate, but, as it often happens in the circulation of models, the custom-made constitutional formula did not fit other Gulf societies. Bahrain's 1973 constitution was the closest to the Kuwaiti text, but it only served the very brief "experiment," as it is commonly labeled, which ended in the summer of 1975. The Qatari and UAE constitutions were both provisional documents; the former lacked a number of features included in the Kuwaiti model, while the latter had to carefully regulate the federal organization.

For two decades, Kuwait was the only Gulf country to have a constitution and an elected parliament, even if discontinuously. On the one hand the basic laws of the 1990s drew fairly little inspiration from the Kuwaiti text, but nevertheless encountered severe impediments in their full implementation, especially in the Omani case, where a very liberal and advanced bill of rights was incorporated into the 1996 basic law. On the other hand, in the present decade, the ruling families of Bahrain and Qatar indirectly or directly submitted to popular vote draft constitutions. It is an unprecedented event in Gulf constitutional history, even if it does not by itself guarantee in any way a new and different attitude from ruling families towards political participation.

Ever since the turn of the century, eligible Gulf citizens have been called to the polls on rather high and unexpected numbers of occasions, both before and after constitutional referendums. Local elections have been held and are scheduled to be held even in countries where there are no elected national bodies and there is no polling record. Specific and often not very noble reasons for the recurrent resort to polls can be traced, but if the practice becomes customary, the Gulf would acquire a principle of constitutionalism that goes far beyond constitutional proclamations.

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# Chapter Four

# Elections and Parliamentary Activity
# in the GCC States: Broadening Political Participation
# in the Gulf Monarchies

*Andrzej Kapiszewski*

## Introduction

There is overwhelming agreement that a deficit of freedom undermines human development. As is also well known, there is a dramatic gap between the levels of democracy in Arab countries and in the rest of the world.[1] None of the 16 Arab majority countries has a democratically elected government. At the same time, the combined GDP of all Arab countries is less than that of Spain, and labor productivity in these countries dropped between 1960 and 1990 while it soared elsewhere in the world. Even Africa outperformed the Arab region in terms of rates of economic growth.

Nevertheless, for the countries belonging to the Gulf Cooperation Council (GCC), the situation is quite different from the portrait painted above. Saudi Arabia, Kuwait, Bahrain, Qatar, the United Arab Emirates and Oman are among the richest countries in the world. Further, despite having similar, highly conservative political systems, these countries have carried out significant political reforms in recent years, given citizens more say in state politics, and broadened freedoms. There is a movement from less transparent and accountable governments to more transparent and accountable ones; from less competitive (or non-existent) elections to freer, fairer, and more competitive ones; from very restricted liberties to better protected civil and political rights; from a totally censored media to a relatively independent one; and from underdeveloped civil

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1- *Arab Human Development Report 2002* and *2003*, New York, www.undp.org.

society institutions to more developed ones.[2]

Still, much progress needs to be made before the GCC countries can be characterized as "democracies," that is, countries in which nearly every adult can vote, elections are freely contested, the chief executive is chosen by popular vote or by an elected parliament, and civil rights as well as civil liberties are substantially guaranteed.[3] The existing systems often resemble what is sometimes called a "trick democracy," rather then a true democracy.[4] The highly publicized (although controversial) Freedom House democracy scale offers evidence for this assertion: In 2004, besides Kuwait and Bahrain (which were rated "partly free" countries), all the GCC states were considered "not free," and in 2002, Saudi Arabia was even labeled one of the world's ten most repressive regimes.[5] In turn, the Economist Intelligence Unit's political freedom indicator (with a scale of 1 to 10, 10 being the most free) gave the GCC states in 2005 the following scores: Saudi Arabia: 1.75; UAE: 3.25; Oman: 4.45; Bahrain and Qatar: 4.90; Kuwait: 5.95. Saudi Arabia's score makes the country the least free in the Arab world, while the score for Kuwait puts the country in the second place (after Lebanon).[6]

Scholars have different opinions on the issue, which they often display in the titles of their works. Some certainly talk about democracy in the GCC states already (Ghanim Alnajjar: "The challenges facing Kuwaiti democracy"; Louay Bahry: "Elections in Qatar: a window of democracy opens in the Gulf"); some question the extent of the democratic process (Susan B. Glaser: "Democracy in Kuwait is promise unfulfilled"; Abdulhadi Khalaf: "Bahrain: Democratisation by decree"), while others firmly believe that democracy is not yet present in the Gulf (Michael Herb: "Parliaments in the Gulf monarchies are a long way from democracy"; Marc Pellas: "Far from democracy in the Gulf. Bahrain: the royals rule").[7]

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2- David Potter, David Goldblatt, Margaret Kiloh, and Paul Lewis (eds.), *Democratisation* (Cambridge, Mass., Polity Press, 1997), p. 6; Marina Ottaway, Thomas Carothers, Amy Hawthorne, Daniel Brumberg, "Democratic Mirage in the Middle East", *Policy Brief*, Carnegie Endowment for International Peace (October 2002).

3- Bruce Russett, "A Structure for Peace: A Democratic, Interdependent, and Institutionalized Order", in: Tokashi Inoguchi, Edward Newman, and john Keane (eds.), *The Changing Nature of Democracy* (Tokyo, United Nations University Press, 1988), p. 32.

4- Fahmi Hweidi, "A trick democracy", *As Safir* (Lebanon), August 23, 2005.

5- *Freedom in the World 2002-2003* (New York, Freedom House, 2003).

6- "The dynamics of democracy in the Middle East", The Economist Intelligence Unit Special Report (London, March 2005), p. 3.

7- Ghanim Alnajjar, "The Challenges Facing Kuwaiti Democracy", *Middle East Journal*, vol. 54, No. 2 (2000), pp. 242-258; Louay Bahry, "Elections in Qatar: A window of democracy opens in the Gulf", *Middle East Policy*, vol. VI, No. 4 (1999), pp. 118-127; Susan B. Glaser, "Democracy in

This chapter describes and analyzes the development of the electoral process in the six GCC states from the 1990s up to mid-2005, and examines the rulers' decisions as well as the activities of the consultative councils and parliaments. The author believes that full democracy will not necessarily be the outcome of the aforementioned political liberalization.[8] In the case of the GCC states, it seems that a third type of relatively stable political system, somewhere "between" the old authoritarian regimes and Western-style democracy, may emerge. In these regimes, certain elements of democracy will be present while others will not.

## Saudi Arabia

Since its establishment almost a century ago, Saudi Arabia, by far the largest and most important GCC country, has been one of the most conservative ("absolutist") monarchies in the world. It has been ruled by the al-Saud family in a tacit alliance with the fundamentalist Wahhabi movement. Nevertheless, since the beginning of the 1990s, the country has witnessed political activity that has called for changes in the manner of state governance but has not directly questioned the religious base of the country's identity or the legitimacy of its rulers.[9] In particular, various groups submitted petitions to the king demanding political reforms. On March 1, 1992, King Fahd acted to calm the situation. He promulgated decrees establishing the long-promised Basic Law – a constitution-like document, the statute for a new consultative council, and a system of regional government for the kingdom's 14 provinces.

The most important decision taken concerned the Consultative Council, established as a debating assembly consisting of 60 members appointed by the King.[10] The Council was to study all government regulations, treaties, and international accords before their promulgation through royal decree. It was also supposed to deliberate upon and evaluate economic and social development programs. Finally, it could discuss annual reports submitted by ministers and present recommendations, and was empowered to question cabinet members. The

Kuwait is promise unfulfilled", Washington Post Foreign Service, February 27, 2003; Abdulhadi Khalaf, "Bahrain: Democratisation by decree", paper presented at the British Society for Middle East Studies, Edinburgh, July 2001; Michael Herb, "Parliaments in the Gulf monarchies are a long way from democracy", *Daily Star*, December 4, 2004; Marc Pellas, "Far from democracy in the Gulf. Bahrain: the royals rule", *Le Monde Diplomatique*, March 2005

8- Thomas Carothers, "The end of the transition paradigm", *Journal of Democracy*, No. 1 (2002), pp. 5-21.

9- Andrzej Kapiszewski, "Democratizing the Arab States. The Case of Monarchies of the Gulf, 1991-2004", *Krakowskie Studia Miedzynarodowe*, 2004, 3, pp. 78-80.

10- Selim Jahel, "A Parliament According to *Sharia*", *Arabies Trends*, April 1998, pp. 26-31; www.shura.gov.sa

Council was not, however, empowered to initiate debates on issues. To do so, it had to obtain permission from the king or await submissions from the government. The king retained the power to dissolve or reorganize the Council at will.

The Consultative Council finally set to work in mid-1990s. Members of the Council have been chosen from among the country's regions and important constituent groups: the religious establishment, the government bureaucracy, the business community, and followers of both conservative and liberal ideologies. They have usually been highly educated and experienced people, considered experts in their respective fields (for instance, academics, retired senior officers, former civil servants and private businessmen).[11] Shaikh Mohammed bin Ibrahim bin Jubair, a respected Hanbali jurist and former Minister of Justice, became the president of the first State Council and of successive ones (after his death in 2002, he was replaced by Saleh bin Abdullah bin Homaid.). The Council quickly established itself within Saudi political system. This is why the Council was enlarged from 60 to 90 members in 1997, to 120 in May 2001 and to 150 members in April 2005. Its influence, not necessarily grounded in law, has been a function of its members' prominence and diversity. It also reflects the tradition of governance, which "prizes consensus, strives to maintain harmony through consultation and is deeply averse to conflict."[12] Only occasionally have the Council's members been deeply divided over issues; in 2005, for example, they disagreed over whether women should have the right to drive cars. While the verdicts of the Council are neither binding on the king nor on the government, ministers usually either accept the recommendations of the Council or reach a compromise with it.

The establishment of the Consultative Council did not satisfy the opposition, which started to submit consequent petitions to the King requesting further reforms after 1999. An informal lobby of liberals, progressive Islamists, nationalists, and Shiites became even more vocal after the September 11, 2001 attacks, in which Saudi militants were heavily involved, especially in light of the subsequent international and local criticism of the Saudi regime, as well as after Al-Qaeda attacks inside the Kingdom. Vigorous debate then started about the causes of extremism, with the usual conclusion reached – that the closed nature of the Saudi political system, imposed to largely by the religious establishment, was the main cause. Of particular importance in that movement was the petition

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11- In 2005, out of 150 members, 108 held doctorate degrees.
12- "Can Saudi Arabia reform itself?", International Crisis Group Middle East Report No. 28, Cairo/Brussels, July 14, 2004, p.6.

submitted to King Fahd in January 2003.[13] The petition called "A Vision for the Present and the Future of the Nation," was signed by 104 academics, businessmen, religious scholars and professionals from various regions and representing different religious and political orientations.[14] Among the various issues raised in the petition was a call to provide the Consultative Council with legislative and control powers and to make it an elected body. It also called for an independent judiciary, freedom of expression and the establishment of civil society institutions. The petition, despite its non-confrontational tone and its respectful language towards the monarchy, essentially suggested the establishment of institutions to curb the power of the ruling family and to guarantee popular participation in decision-making. This meant replacing a system with absolute power for the ruler with a constitutional monarchy in which power was shared with elected representatives.[15]

Another petition appeared in September 2003. It was signed by more than 300 Saudis, including 50 women, Sunnis and Shiites from all parts of the Kingdom. Entitled "In Defense of the Nation," it basically repeated the demands from the previous petition. However, in view of the emergence of terrorist activity in the Kingdom, it openly blamed the existing political restrictions for its development. "Being late in adopting radical reforms and ignoring popular participation in decision-making [were] the main reasons that helped … our country [reach] this dangerous [position]."[16]

In another petition, prepared in December and entitled "An Appeal to the Leadership and the People: Constitutional Reform First," the diverse group of Islamist, liberal and Shiites signatories called for the implementation of the reforms outlined in the January petition. They went even further, demanding the adoption of the constitution, which would construct "a modern Arab Islamic state."[17]

One response of the government to these petitions was the organization of broad debates, the so-called National Dialogue sessions. The issue of elections

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13- Municipal elections were held in Makkah, Madina, Taif, Jeddah, Yanbu and Qunfunha in the past, between 1926 and 1967. Anita Pratap, "Saudi women make gains", *Saudi Gazette*, October 16, 2004.

14- Richard Dekmejain, "The liberal impulse in Saudi Arabia", *Middle East Journal*, No. 3 (Summer 2003); James A. Russell, "Political and economic transition on the Arabian Peninsula: Perils and Prospects", *Strategic Insights*, (May 2003).

15- "Can Saudi Arabia reform itself?", p. 14.

16- www. arabrenewal.com. Translation by Gwenn Okhrulik and Yara Youssef.

17- Ibid.

was raised during the second debate. This took place in Mecca in December 2003, and gathered 60 intellectuals, clerics and businesspeople, including 10 women (seated in a different room). Various political, social and educational problems were openly discussed at the meeting, which ended in the formulation of 18 recommendations that were later formally presented to the acting ruler, Crown Prince Abdullah. These included the holding of elections for the state Consultative Council and local consultative councils, encouragement for the establishment of trade unions, voluntary associations and other civil society institutions, the separation of legislative, executive and judicial powers, and a broadening of freedom of expression.[18]

The National Dialogue recommendations generally reflected the opinions of Saudi society at large. In particular, Saudis seem to be in favor of political reforms. In the second half of 2003, when what was probably the first relatively independent opinion poll on the matter was conducted, 85 percent of respondents thought that political reforms would be beneficial for the country, and 90 percent wanted to grant more rights to women.[19] On a somewhat contradictory note, only 12 percent of respondents had a positive view of liberal reformers, probably because they associated them only with the writing of inefficient petitions. Political reforms were perceived as the most pressing concern for fewer than 10 percent of respondents.

Responding to internal demands from liberals and the US pro-democracy pressures, and following a well-tested pattern in neighboring Bahrain and Qatar, the government began to think about organizing the first elections in the country, which were to be to municipal councils. Prince Abdullah stated in his address to the Consultative Council that "municipal elections will be the beginning of the Saudi citizens' participation in the political system," while the Foreign Minister, Prince Saud Al-Faisal, similarly remarked that Saudi Arabia "has reached a stage in our development that requires expanding political participation." Prince Turki al-Faisal said that "reforming the Kingdom is not a choice, it is a necessity."[20] Such vocabulary used to be taboo among the ruling family.[21] In this liberalized atmosphere, the issue of elections became widely discussed throughout the Kingdom. Islamist reformer Abd al-Aziz al-Qasim stated: "It is hard to overestimate the importance of this step in a society where non-interference in

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18- *Al Sharq Al Awsat*, January 4, 2004.
19- The survey was conducted by the independent Saudi National Security Assessment Projects. See Nawaf Obaid, "What the Saudi public really thinks?", *Daily Star*, June 23, 2004.
20- Toby Jones: "Social contract for Saudi Arabia", *Middle East Report*, No. 228, Fall 2003.
21- Khalid Al-Dakhil, "2003: Saudi Arabia's Year of Reform", Carnegie Endowment for International Peace, March 16, 2004.

politics is considered the condition of good citizenship. [The local] elections in themselves may not have much substance, but the decision to hold them breaks a barrier and establishes the principle that society can participate in making policy."[22]

Many Saudi officials, however, have continued to be afraid of such a move. They believe that elections would pose too great a risk to the stability of the country, and would strengthen the hand of radical Islamists. Some of them claim that "because conformity to strict religious dogma remains the principal criterion for judging matters public and private… political debates could potentially turn into religious clashes," while "the culture of democracy accepts the pluralism of opinions and relativity in all things. How can you reconcile relativity with a society that is governed by religion?" and "democracy now will produce something very similar to the Taliban."[23]

With this in mind, the government decided to go ahead with elections to municipal councils only. Nevertheless, only half of the seats were to be filled through balloting – the rest of the members were nominated incumbents, in theory, ones with the experience to assist new members. The elections in 178 municipalities would be held in three phases: on February 10, 2005, in Riyadh and the surrounding areas; on March 3, in the eastern and south-western regions; and on April 21 in the remaining parts of the country, including Mecca and Medina, which were busy with the Hajj pilgrimage until then. This approach was designed to give authorities the opportunity to take a step back and evaluate the impact of the voting before proceeding to the next phase.

Saudi women were not allowed to vote or stand in the elections. This decision relieved conservatives and dismayed liberals. Nevertheless, women may be allowed to vote during the next elections, in 2009. In fact, election rules are written ambiguously, and for quite a time it was unclear whether or not women could participate even in the first elections.[24] The reasons officially cited for not allowing women to participate in the elections were of administrative and legislative character. The Kingdom's limited experience in conducting elections was also cited. Religious norms or Saudi customs were not stressed, creating a

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22- "Can Saudi Arabia reform itself?", p. 19.

23- As reported in: "Can Saudi Arabia reform itself?", p. 19 and 20.

24- For example, Saudi Arabia Justice Ministry advisor was quoted in *Okaz*: "There is no reason to stop them from participating in the elections… Trends coming from the West which are beneficial and do not contradict our laws and religion should not be banned"; www.aljazeera.com, December 4, 2004. The decision not to allow women to vote was announced by the Interior Minister Prince Nayef on October 11, 2004.

window of hope for many liberals.[25]

In late November 2004, the government surprisingly allowed women to participate in elections for the first time, in order to let them choose board members of the Saudi chambers of commerce and industry (in the past, men voted on behalf of women members). Nevertheless, only a small number of women used that opportunity.[26] Later, in 2005, women were also granted the right to be elected to Jeddah Chamber of Commerce and Industry. Two women subsequently became members of its board.

Establishing municipal councils through elections was an innovation for Saudi Arabia, a deeply conservative country that is used to a tribal and extended family system of politics. Once these elections are seen to work, it can be expected that, the next ones will be for the entire municipal councils, followed by ones for regional councils, and eventually for the Consultative Council. Prince Sultan bin Abdel Aziz, the minister of defense and a key figure in the ruling family, told the Consultative Council that the country leadership agrees with demands for the body to be developed and given further powers in order for it to "monitor" and "supervise" the government in particular.[27] Following this reasoning, the royal decree of November 29, 2003 enhanced the Consultative Council's right to act as a partly legislative body, as opposed to purely advisory one. In particular, individual members were granted the authority to propose new legislation and were given more power in disputes with the cabinet. At the same time, it was decided to begin televised coverage of the weekly sessions of the Consultative Council for the first time. That became an important decision, as Saudis have a traditional aversion to public debate, preferring to settle matters behind closed doors instead. The *Shura* members and Saudi intellectual elite welcomed these steps. However, they clearly want to further enhance the Council's role, along the lines of Kuwait's parliamentary model. In particular, they wished to see an elected assembly with power to pass the budget and to give or withdraw confidence from ministers as well as the separation of the office of prime minister from that of the king.[28] In response to these proposals, the Council was further reformed in the spring of 2005; members were allowed to have access to state revenue data, and

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25- "Women shut up of upcoming Saudi vote", *The Associated Press*, October 12, 2004. The reasons cited by the government were: lack of women to run women's only registration centers and polling stations as well as the fact that only a fraction of Saudi women have the photo identity cards needed to vote. Moreover, a Saudi law prohibits men and women to work together – a major problems if a women became a council member.

26- Apparently only 46 women out of 2,750 women members in the Riyadh Chamber of Commerce and Industry participated in the elections; *Arab News*, December 1, 2004.

27- *Reuters*, March 22, 2004.

28- As reported in "Can Saudi Arabia reform itself?", p. 21.

could discuss the state budget and question ministers. Prince Sultan, however, dismissed calls for an elected Council, saying that voters might choose illiterate and unqualified candidates, and that the move would not serve national interests. "In some countries there are political parties and elections but the result is nothing, because of their quarrels and conflicts."[29] Instead, on January 26, 2005, Prince Sultan announced that the *Shura* Council would be further expanded, and that in its next term, all tribes, cities and villages would be represented. As previously mentioned, in April 2005, the Council was expended to 150 members. In May, 210 members of local consultative councils in the Kingdom's 13 administrative regions were appointed by the authorities.

By allowing municipal elections to take place, the ruling family seems to have tacitly recognized that some reforms are needed, including ones allowing greater transparency and accountability in decision-making. Nevertheless, the rise of internal security challenges – extremist Islamist violence – makes it difficult for the government to further advance the reform agenda. The leading members of the Saudi ruling family are not in agreement over the causes of existing tensions in the country, or on possible actions to be taken to confront them. In particular, many of them are afraid that political openings may be perceived in some quarters as a victory for "liberal" forces, a fact that may reinvigorate Islamist attacks. For that reason, the Saudi government is anxious to depict the whole process leading to municipal elections as being wholly compatible with Islam. This is an important matter, as many Islamists consider the elections un-Islamic. In particular, Osama bin Laden criticized the elections in his message released on December 16, 2004, noting "it is *haram* (forbidden) to participate in legislative bodies… because Allah is the only lawgiver."[30]

Nevertheless, in an interesting development, the first round of elections, which took place in the Riyadh region on February 10, 2005, was won by Islamists, who took all of the seven available seats. Of 400,000 eligible voters in the area, only around 140,000 men had registered to vote; 65 percent of them eventually went to the polls in the capital, while in other districts, the turnout often exceeded even 80 percent. 646 candidates were on the ballot. Immediately after the results were announced, many losing candidates accused the winning seven of the illegal formulation of an Islamist alliance, of using the backing of the Saudi religious establishment to get votes, and of breaking election laws by campaigning on the day of the election. The winners denied all the allegations.

29- Reuters, January 26, 2004.
30- Simon Henderson, "Saudi Municipal Elections: Royal Caution and Citizen Apathy", *Policy Watch* # 937, Washington Inistute for Near East Policy, January 3, 2005.

Interestingly enough, the winners didn't use posters or ads in Saudi dailies, and didn't they set up "discussion tents" where they could meet potential voters, as all the losing candidates did. Instead, they skillfully used the Internet and mobile phones (by means of short text messages), a tactic often used by Islamist groupings in the region.

The situation was repeated during the final round of voting on April 21: there was not much interest in the elections and Islamist candidates got most of the votes. In the Kingdom's commercial capital of Jeddah, only 55,000 men, or 22 percent of the city's eligible voters, registered. Similarly low turnouts were observed in Mecca and Medina. In Jeddah, the most liberal Saudi city, the seven winning candidates were those whose names had appeared on what was dubbed the "golden list" – the picks of prominent conservative religious scholars from among the 530 candidates. Five of the six winners in Buraydah, capital of ultraconservative Qaseem province, had similarly been given clerical support. Islamists won all the seats in the holy cities of Mecca and Medina as well.

It was only in the voting which took place on March 3 in eastern regions that several non-Islamists were elected and the turnout was significant in some Shiite-majority areas. For example, Shiites swept the board in the town of Qatif, and won five out of six seats in Al Hasa. But in the urban centers of Dammam, Dhahran and Al Khobar, where a significant Shiite minority also lives, Sunni candidates won with apparent backing from fundamentalist clerics.

The low turnout was due to several factors, including restrictions on campaigning, an inexperienced and poorly informed electorate, and the low stakes: voters were choosing only half the seats on city councils, bodies with limited responsibilities. The strong showing of the Islamist candidates was credited to the fact that as non-government political activity is forbidden in the Kingdom, religious gatherings are the only ones allowed, and clerics can speak there publicly. Nevertheless, most of the elected Islamists represent moderate religious standpoints, and many of them are graduates from Western universities.

Thus, the elections "should not be viewed as just an experiment in democracy, but also as a window into the possible ramifications that come with democracy in the kingdom. If the truth be told, the group that wanted victory the most – the Islamists – won."[31]

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31- Mohammed Alkhereiji, "Riyadh's polls, a window into Saudi social dynamics", *Daily Star*, February 19, 2005.

The Saudi rulers, or at least some members of the royal family, seem to be ready to allow a further broadening of political participation. They probably recognize the necessity to do so, owing to wide criticism of the existing system by Saudi citizens, and pressure from the West. In June 2005, Crown Prince Abdullah, now the country's King, apparently promised Secretary of State Condoleezza Rice that he would introduce reforms that could give the Kingdom an elected government within 10 to 15 years.[32] Prince Talal bin Abdel-Aziz, brother of King Abdullah, and one of the people closest to him, has also called for the adoption of a system of constitutional monarchy, similar to those of Jordan, Bahrain, and Kuwait. He called for the Shura Council to be given the privilege to both question and supervise the executive, and to issue electoral laws.[33] Apparently, King Abdullah is considering nominating Prince Talal to the position of second deputy prime minister, i.e. third in line to the throne. Prince Talal insists, however, that he get this post only through the ballots.

At the same time, there are forces in Saudi Arabia's ruling elites which strongly oppose the liberalization of the regime. For example, in March 2004, Prince Nayef, the interior minister, ordered the arrest, trial and imprisonment of 13 reformers, who were welcomed warmly by Prince Abdullah a year earlier after they submitted a reform petition to him.[34] Ten of them later submitted to his demand to stop asking for reforms, and were released; the remaining three, who refused to do so, were sentenced to several years of prison. Only when Abdullah became king were they pardoned.

*Kuwait*

The emirate of Kuwait has been ruled since the 18th century by the al-Sabah family. After the country obtained its independence in 1961, the constitution formally gave the amir broad executive powers. In particular, it is he who appoints the prime minister and the cabinet. At the same time, the constitution established a partially elected parliament with some legislative powers; for several decades it had been the only national assembly of that kind in the GCC.[35] The parliament has never been a rubber stamp; it has always openly discussed important issues. Its criticism of the government, or from another perspective, its

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32- Nicholas Kralev, "Abdullah sees elected leaders within 15 years", *The Washington Times*, August 19, 2005.

33- "Constitutional reform in Saudi Arabia", *Al Quds Al Arabi*, August 29, 2005.

34- Mai Yamani, "How to make violence inevitable in Saudi Arabia", *Daily Star*, June 2, 2005.

35- Jill Crystal and Abdallah al-Shayeji, 'The pro-democratic agenda in Kuwait: Structures and context', in: Rex Brynen, Bahgat Korany, Paul Noble, *Political Liberalization and Democratisation in the Arab World* (Lynnie Rennier Publishers, Boulder and London, 1995), vol. 1, pp. 101-125.

activities perceived as threatening the political stability of the country, caused the amir to dissolve it in 1976 (until its reestablishment in 1981) and again in 1986. When Saddam Hussein attacked Kuwait, the country's parliament was still disbanded. After Kuwait's liberation from Iraqi forces, the amir, Shaikh Jabir al Ahmad al-Sabah, was not eager to keep his earlier promises to promptly restore the assembly. Only after the mobilization of all Kuwaiti political factions, culminating in the presentation of a petition in the spring of 1991, did the amir agree to hold parliamentary elections in October 1992.

After years of limited political activity, the election campaign was very lively.[36] Despite the non-existence of formal political parties, individual candidates in their *diwaniyyas* as well as various voluntary and professional associations were effective in articulating critical views. This helped in increasing the political awareness and activities of different groups of society. Consequently, the majority of deputies returned to parliament by the election were opposition and independent candidates.

In Kuwait, the crown prince (as well as the whole al-Sabah family) is traditionally not subject to any criticism or control. Right after the elections, the opposition therefore called for the separation of the previously combined offices of prime minister and crown prince. Only when the amir appointed several members of parliament (who retained some credibility due to the fact that they had been popularly elected) as ministers for the first time in a conciliatory move did the opposition eventually give up and accept the status quo. Nevertheless, parliamentary committees initiated a series of investigations, including inquires into the events leading to the Iraqi invasion, government responsibility for the Kuwaiti defeat, alleged corruption and mismanagement in the Kuwait Investment Office (which manages the country's overseas capital), and the cost-effectiveness of arms deals with Western powers. These were very sensitive issues whose investigation led to confrontation with top government officials, including members of the ruling family. This was the first time in the history of the GCC countries that such people were publicly questioned, strongly criticized, and forced to take responsibility for their actions. The entire term of parliament was lively, with heated debates over the issue of power and wealth sharing, corruption and waste in defense spending, the way that privatization was conducted, and other important issues. Parliament also decided to broaden the base of its electorate, extending the right to vote to the large number of sons of naturalized Kuwaiti citizens (naturalized men are eligible to vote only if they have held

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36- Shafeeq Ghabra, "Kuwait: Elections and issues of democratisation in a Middle Eastern state", *International Journal of Islamic and Arabic Studies*, No. 1 (1993).

Kuwaiti citizenship for at least 20 years).

After tough experiences in its dealings with the opposition, the government made a serious effort to influence the results of next elections, and the parliament chosen in October 1996 was not as confrontational as the previous one had been. Nevertheless, tensions between the government and Islamist groups in the assembly did not subside. Consequently, in 1998, parliament blocked a government deal with the US to buy Paladin artillery due to irregularities in the procurement process. Then, in 1999, the Islamists attempted to bring down Shaikh Saud Nasser al Sabah, the Minister of Information. His ministry had permitted books critical of Islamic orthodoxy to be displayed at the international book fair in Kuwait. The minister had to resign. The government perceived the action of the opposition as a breach of the unwritten agreement that Islamists would never attack members of the ruling family. The Crown Prince and Prime Minister, Shaikh Saad al Abdallah al-Sabah, warned that criticizing the ruling family jeopardized the security of the country, and that this security would be always put "over and above democracy."[37] The Islamists, however, continued to criticize the government. They went on to attack the Minister of Religious Affairs for publishing a version of the Koran with typographical errors. Tensions increased. When the whole cabinet threatened to resign, the amir dissolved the parliament and called for new elections.

The election campaign was again characterized by intense activity on the part of various political groupings, which in the meantime had grown in popularity.[38] During traditional political meetings in *diwaniyyas*, candidates openly charged the government with conspiracy, interference in the elections, incompetence, corruption, etc. Women's political rights became a central issue in the campaign, as the amir, in a surprising move, announced his intention to award women the right to participate in future elections. Islamist groups opposed the decision, and the amir's decree was eventually defeated in the all-male parliament. Another highly debated issue was the suspended right to hold tribal primaries, whose results had significantly affected previous general elections.

Altogether, 288 candidates competed for the 50 parliamentary seats during the elections of July 3, 1999. Nevertheless, only 113,000 men cast their ballots, out of a total Kuwaiti population of 793,000. This showed a relative lack of interest in political proceedings. Six groupings played a crucial role in the election campaign, and won seats in parliament: the Islamic Constitutional Movement

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37- Youssef Alaonueh, "Islamists Movements", *Arabies Trends*, June 1998, pp. 15-16.
38- Alnajjar: "The Challenges Facing Kuwaiti Democracy".

(closely connected to the Muslim Brotherhood), the Kuwaiti Democratic Forum (an alliance of liberals, Arab nationalists, leftists, and independents), the Islamic Popular Bloc (an orthodox Salafi group demanding the strict implementation of Islamic law), the Salafi Movement (a splinter of the Popular Bloc), the National Islamic Alliance (a Shiite Islamist group) and the National Democratic Bloc (a liberal group connected with the academic and business communities). In the elections, the Islamists won 18 seats altogether: six went to Shiite candidates and remaining 12 to Sunnis. The main losers were the pro-government candidates, with 11 major incumbents losing what earlier had been considered secure seats.

In a short period of time, the winning Islamists undertook a number of actions in the new parliament. In effect, an entirely new Sharia-inspired version of the penal code was adopted, together with a ban on festivals and concerts "that are against tradition and morality." Later, the Islamists also managed to force the government to reintroduce gender segregation at Kuwait University. In general, Islamists have wanted to widen the role of the Islamic law. They would like to amend the constitution, changing the clause saying that Sharia is "a main source of legislation" to "the source of legislation." They also requested a ban on any law being promulgated by the amir unless it is first passed by the National Assembly.[39] Finally, they would like to get Kuwait's political parties licensed and formally written into the country's legal system. These motions were reintroduced in the following years, but have not yet been approved.

In 2002, a new crisis between parliament and government developed when the Finance Minister, Youssef al-Ibrahim, was accused of the abuse of power and the misappropriation of public funds. In particular, Islamist and independent deputies wanted him to acknowledge officially that senior ruling family members authorized the expenditure of billions of dollars without the supervision of the Audit Bureau, the legislature's watchdog for the monitoring of state finances. The interpellation proceeded to a vote of confidence. But when Shaikh Sabah, the Acting Prime Minister, threatened that the whole cabinet would resign if the minister lost the vote, the majority of deputies decided not to support the no-confidence motion. Another crisis was avoided.

The following parliamentary elections were held on July 5, 2003. They were affected by the political situation in the region.[40] The removal of Saddam Hussein influenced the campaign, as the government could not use the Iraqi threat any

39- Wendy Kristianasen, "'We don't want to box Islam in'. Kuwait's Islamists, officially unofficial", *Le Monde diplomatique,* June 2002.
40- Ammar Ali Hassan, "First parliamentary elections in post-Saddam Kuwait", *Al-Hayat*, June 30, 2003.

longer in securing support for its own candidates. In this time of change in the Gulf, liberals pushing for the modernization of the country expected to obtain more seats in the assembly. On the other hand, Shiites also hoped to do better thanks to internal mobilization, caused by developments in Iraq, where the Shiite majority began to gain power after years of discrimination. Tensions between the US and Iran, in the period when Kuwait was improving its relations with the Islamic Republic, were also expected to influence the election results. The issue of extending the vote to women became important in the campaign again, especially among liberals. Some women voted in a mock election as a demonstration of their desire to obtain more political rights in the country.[41]

The expectations for the election proved wrong. First of all, liberals suffered a stunning setback. "Shock and horror. Parliament topples liberals" was the headline in the daily *Al Anbaa*. Both members of the Democratic Platform present in the previous assembly, including prominent opposition leader, Abdallah al-Nibari, lost their seats. The number of independent liberals in parliament went down from six to four. Islamist traditionalists, both Sunni and Shiite, were the winners of the election, taking 21 of the 50 seats. At the same time, the number of members of parliament affiliated with existing political groupings went down from 32 to 25, probably due to government's efforts to weaken all unofficial political parties. The so-called "service" candidates, who emphasized services for their constituent, rather than political or ideological platforms, also did well in a number of districts. Interestingly, two of the three Islamist political groupings also lost seats. The Islamic Constitutional Movement (in the past connected with Muslim Brotherhood) went from five to two seats, while the National Islamic Alliance (Shiite) went from three seats to one. The *salafi* groupings gained seats, with the Salafi Movement rising from a single seat to three. Independent Sunni Islamists went up from five seats during the previous term, to six, and the number of independent Shiite Islamists elected went up from two to three. In general, the Assembly became rather equally divided between pro-government lawmakers and the Islamist-dominated opposition, with a very small presence of liberals. The defeat of the liberals was probably greatly influenced by American politics in the Middle East. President Bush's initiative to bring democracy to the region while occupying Iraq "sends many native liberals and democrats under their beds,"

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41- Some Kuwaiti women have for a long time been involved in political activity. For example, Rasha Al Sabah, a cousin of the amir, has held her own *diwaniyyas* for years. Several have been active in business and in professional associations. One Kuwaiti ambassador is a woman, there are also a few women undersecretaries in the government. In the 1990s, the Kuwaiti University had a woman president.

worried about being labeled American puppets.[42]

Elections were not completely clean: there were accusations of increased vote buying, the switching of districts and registrations in different areas.[43]

Right after the elections, Kuwait's emir, Shaikh Jaber, appointed Shaikh Sabah al-Ahmad al Sabah to the post of prime minister. For the first time in the history of Kuwait, the post of the prime minister was separated from the post of crown prince, officially as a response to the public demand, in reality perhaps only due to the poor health of the crown prince. The decision had significant meaning, as the prime minister can now be placed before legal inquires in parliament, something which had been impossible in the past, as the Kuwaiti constitution grants full immunity to the ruler and the crown prince.

The first major clash between the new parliament and the government occurred in March 2004. Many deputies tried to force the resignation of the Minister of Finance, Mahmoud Al Nouri, over allegations of mismanagement and the squandering of public money. Eventually, the minister won the no-confidence vote; nevertheless, the opposition accused the government of applying pressure on numerous deputies to achieve that goal.

In May 2004, the government introduced a bill allowing women to vote and to stand for election. The parliament, however, remained divided on the issue of women's suffrage, and did not take action on the bill at the time. A survey conducted by the Islamic Constitutional Movement, the Kuwaiti chapter of the Muslim Brotherhood, showed that 80 percent of those polled believed that women should only be allowed to vote, but not to become candidates; apparently, only five percent supported the notion that women should participate fully.[44]

At the same time, the Ministry of Islamic Affairs, responding to pressure from Islamist parliamentarians, announced a *fatwa* "forbidding women singing to men, revealing part of their body and using vulgar words and dancing."[45] Attend or watching such concerts was forbidden, as was providing any assistance to them and investing in them. Several Islamist deputies have also been trying to ban musical education from schools, as they consider it anti-Islamic activity. In December, Islamist deputies accused the Information Minister, Mohammed Abu Al Hasan, of allowing "immoral" Western-style concerts in the country. They see

42- Rami G. Khuri, "Kuwait's election and the freezing of Arab politics", *Daily Star*, July 10, 2003.
43- Saad Al Ajmi, "Gerrymandering and reform in Kuwait", *Gulf News*, June 25, 2004.
44- "Majority favours only right to vote", *Gulf News*, November 10, 2004.
45- *BBC News*, May 24, 2004.

this as a violation of Sharia law. To avoid being questioned in parliament over the issue the Minister resigned. The situation created additional tension, as Mohammed Abu Al Hasan was the only Shiite member of the cabinet, and was "grilled" by Sunni lawmakers. Many members of the Shiite community, which constitutes about 30 percent of Kuwait's population, perceived this move as discriminatory.

Tensions between the government and the opposition occurred also in mid-2004, when voting was postponed on a long-debated bill. These concerned reducing the number of electoral districts from the current 25 to 10, in order to make them more broadly representative (and less based on sectarian or tribal factors) and to discourage vote buying and changing residency.[46] The bills would also have allowed servicemen to vote and lowered the voting age from 21 to 18. Liberal deputies then accused the government along with many of their colleagues in the assembly of trying to maintain the undemocratic status quo.[47]

These reforms have been connected to the issue of women's suffrage. The government anticipates that on the whole, women constitute a moderate, pro-government force, which can mitigate the destabilizing effects that the aforementioned electoral laws will have on Kuwait's complex political scene.[48]

Somewhat surprisingly, on May 16, 2005, the Kuwaiti parliament accepted the ruler's long-pending initiative, and voted to give women full political rights. Women were given the right to vote and stand in parliamentary and local elections. A last minute amendment was introduced to require women voters and candidates to abide by Islamic Law. This was an attempt on the part of the ruling family to reassure Islamists, who had opposed women's suffrage in the past, arguing that Islamic law prohibited them from taking positions of leadership. The bill was nevertheless passed with a comfortable majority, with 35 votes in favor, 23 against and one abstention.

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46- There has been also a pending motion calling to raise the number of deputies from the current 50 to 60, to reflect the population growth and to allow the cabinet to expand from its current 15 to 20 members as according to Kuwaiti law, the number of cabinet ministers, who are *ex officio* members of the parliament cannot exceed one-third of the parliament; now many of them have multiple portfolios, which hampers effective governance. The last call requires however, to amend the constitution, much more difficult proposal to conduct.

47- Al Ajmi: "Gerrymandering".

48- Haya Abdulrahman Al Mughni, "The politics of women's suffrage in Kuwait", Carnegie Endowment for International Peace, July 19, 2004; Mary Ann Tetreault, "Women's rights and the meaning of citizenship in Kuwait", *Middle East Report Online*, February 10, 2005.

Using this momentum, the government began to appoint women to administrative posts. On June 2, 2005, the long-delayed ninth municipal elections took place. These were originally scheduled for the summer of 2003. Around 50 percent of the 130,000 thousand eligible male voters chose 10 councilors responsible for planning and public services from among 55 candidates. Tribal candidates won six of the 10 seats. Two of the seats were claimed by Islamists, while the rest were won by liberal-leaning businessmen. A few days later, the government named two women as members of the municipal council. They were among six appointed members of the 16-member municipal body.

On June 12, 2005, Prime Minister Shaikh Sabah Al Ahmad Al Sabah appointed Maasouma Al Mubarak as Minister of Planning and Minister of State for Administrative Development Affairs. This first woman minister in Kuwait is a liberal Shiite academic with a degree from the University of Denver. She is a veteran women's rights activist. Tribal and Islamist parliamentarians protested the government's decision, calling it unconstitutional. But the appointment of Mubarak served the Kuwaiti government well: it addressed the aspirations of Kuwaiti women, and also satisfied Shiites, who criticized their lack of representation in the Cabinet.

Allowing women to vote will significantly change Kuwait's electoral system and parliamentary politics. First of all, the number of eligible voters will increase from the current 145,000 to over 300,000 in the next parliamentary elections, scheduled for 2007. This means that more than a third of Kuwait's native population will be able to vote, as opposed to about 15 percent now. Secondly, Kuwaiti women will become a majority in future elections.[49] Many believe that this will reduce corruption and vote-buying in elections. Moreover, liberal members of parliament who supported giving women political rights may lose their seats to women who are eager to run for office. Tribal and Islamist members who opposed political rights for women may gain more votes. This is because women normally vote for conservatives as they focus more on family issues.[50]

At the beginning of 2005, much confusion was caused on Kuwaiti political scene by the establishment of the Hizb Al Ummah political party by the hard-line branch of the Sunni Islamist Salafi movement. Neither constitutional provisions nor regulatory laws dealt with the issue in a satisfactory manner, and the government had always opposed the idea thus far. Hizb Al Ummah sent letters to the prime minister, the speaker of parliament and lawmakers urging them to

49- Ali Taqi, "Kuwaiti women voters have the upper hand", *Gulf News*, May 22, 2005
50- Abdullah Alshayeji,"Women's suffrage means deep change in Kuwaiti politics", *Daily Star*, July 27, 2005.

amend Kuwaiti law to explicitly permit the functioning of political parties, saying it intended to promote pluralism and the peaceful rotation of power. Members of the organizing committee of the party were interrogated and later put on trial on charges of plotting to overthrow the government. The move created a heated debate. On one hand, all political groupings would have liked to obtain the chance to transform themselves into formal political parties, institutions which are necessary in any mature democracy. On the other, liberals and moderate Shiites have been afraid that any move in that direction by radicals Islamists could backfire and be dangerous for the political stability of the country. The Speaker of the Kuwaiti Parliament, Jassem al-Khorafi, called for the legalization of political parties in the emirate as part of democratic reforms: "Democracy in Kuwait cannot continue without political organization based on parties."[51] Pressure to legalize political parties will likely increase in Kuwait in the future– the large influx of women voters, the possible lowering of the voting age to 18 years and the allowing of military personnel to vote can together triple the electoral base. In such a situation political parties will be necessary to organize and channel increased participation.

Despite all these developments, the mood in Kuwait at the beginning of the 21st century is not very optimistic, in contrast to neighboring Bahrain and Qatar. Many Kuwaitis feel that their country is stagnating and that the authorities and parliamentarians are caught up in endless squabbles over minor issues, instead of transforming the country in the same way that many of the young and innovative rulers of neighboring GCC states have already done.[52] There are voices questioning any possibility of the further democratization of the state. Ghanim Alnajjar, for instance believes that "structural and political weaknesses in the Kuwaiti political system continue to hinder the spread of democracy, and may yet cause its failure, which might result in a major future political crisis."[53] According to many people, the reason for the limited progress toward a more participatory government is the ruling family's tacit alliance with Islamic fundamentalists (for example, to please them, the government recently established a committee on the Islamization of the law, refused to register civil society institutions except Islamic charities, and expanded religious instruction in school curricula).[54] "We have lost the 12 years since the liberation because of the resistance of the political Islamic

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51- "Kuwaiti political parties must be legalized", *Agence France Presse*, July 4, 2005.
52- Neil MacFarquhar, "Infirmity of its senior sheiks leaves Kuwait stagnating", *The New York Times*, June 13, 2002.
53- Alnajjar, "The challenges facing Kuwaiti democracy", p. 258.
54- Glaser: "Democracy in Kuwait is promise unfulfilled". Since the late 1970s, the Kuwaiti ruling family have courted the Islamists, perceiving them as safer for the regime than the secular Arab nationalist or other liberals.

movement" said Saud Nasir Sabah, oil minister and former ambassador to the United States.[55] In general, many believe that Kuwaiti democracy is in trouble. "There is not a democratic system in Kuwait, there is not democracy here," said Mohammed Qadiri, a former diplomat who quit the foreign service over the dissolution of parliament in 1986.[56] Similarly, Nasr Yousef al-Abdali, one of the leaders of the newly launched Justice and Development Movement, noted that "Democracy in Kuwait is a lie. The whole process has been hijacked by the fight between the Islamists and liberals who are not really looking to the future of the country."[57]

The situation in Kuwait has, of course, been a complex one. By many measures, Kuwait has had a more developed civil society than found elsewhere among the GCC states. It has a critical press enjoying relative freedom, a tradition of public debate in the *diwaniyyas*, established political groupings, and an active parliament, which exercises significant influence and control over governance by the ruling family. On the other hand – a fact emphasized every year by the US State Department report on human rights – there is a restricted freedom of assembly, as well as discrimination against women, Shiites and foreign residents, censorship of "morally offensive" materials, and a lack of independence in the judiciary, to mention only a few problems. Altogether, the country has so far remained a tightly controlled hereditary emirate where the al-Sabah family still wields undeniable power.

## Bahrain

Bahrain has been a state vulnerable to political conflicts. First of all, the country is relatively poor when compared to its oil-rich neighbors. This means that rulers cannot offer their subjects as much as in the neighboring countries, and the unemployment in the country has often been high. Secondly, it is ruled by a Sunni minority, and the Shiite majority on the island has often considered itself discriminated against. The al-Khalifa family ruling the country had a monopoly on power until the adoption of the constitution in 1973, which provided for a partially elected National Assembly. The Assembly was short-lived, however. In 1975, the amir called its activities "obstructionist" and dissolved it. With the Iranian revolution of 1979 and the accompanying spread of its Islamic ideas, resentment among Bahrain's Shiite population against the regime intensified. Since then, Shiites have clashed with the government numerous times. In particular, they have demanded the restoration of the National Assembly through

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55- Ibid.
56- Ibid.
57- *Gulf News*, December 19, 2004.

direct and free elections as mandated by the constitution, hoping that they may thus have more to say in the country's affairs.

Tensions grew also after the Second Gulf War. In July 1992, over 200 Bahrainis, both Sunnis and Shiites, signed and submitted to the amir a petition demanding the liberalization of the regime. Rather than complying with their demands, Amir Shaikh Isa bin Salman al-Khalifa established the appointed Consultative Council. Like its Saudi or UAE counterparts, the Bahraini Council could only review legislation sent to it by the government. Nevertheless, in an attempt to improve relations with the opposition, the 30 members of the Council were divided between Sunnis and Shiites, and a Shiite, former minister of transportation Ibrahim Hamidan, became its president. Despite this, protests continued. When the Committee of the Popular Petition, created in 1994, sent another petition to the amir calling for greater popular participation in government, the leaders of the Committee were arrested, leading to a two-year long wave of demonstrations and riots.

The situation only began to change in 1998 when, after the death of Shaikh Isa, his son, Shaikh Hamad bin Isa al-Khalifa, decided to liberalize the system. In the beginning of the year 2000, he appointed new members to the Consultative Council, including, for the first time, non-Muslims: a Jewish, a Christian and an Indian Bahraini, as well as four women. Then, the amir abolished the emergency laws that were in the force in the country for 25 years and pardoned more than 900 prisoners and exiles; consequently, many prominent figures from the former opposition, mostly Shiites, returned to the country. At the same time, Shaikh Hamad promised to grant nationality to several thousand of *bidoon*, mostly Shiite stateless inhabitants, which became another source of tension. The amir also decided to compensate government employees, mostly Shiites, for salaries lost while they were detained without a trial in connection with the political unrest of the 1990s. As all these measures were welcomed by the Shiite majority, the amir became ready to significantly reform his country.

In December 2000, the special committee operating under the amir's instructions proposed far-reaching changes to the political system of Bahrain. "The National Action Charter" proposed by the Committee stated that "there is agreement on the need to modernize the constitution of the country to benefit from the democracy experiences of other peoples in expanding the circle of popular participation in the tasks of ruling and administration."[58] The Charter, a constitutional declaration, made Bahrain a constitutional monarchy; Shaikh

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58- Quoted after Khalaf, "Bahrain: democratisation by decree," p. 4.

Hamad the King, and the al-Khalifa family the hereditary rulers of the island. A parliament was to be established with two chambers having equal legislative powers: The Council of Deputies consisted of 40 members elected by popular vote. A consultative council, the Shura Council, also composed of 40 people but was appointed by the King. The executive, the legislature, and the judiciary were to be separated. All citizens were made equal in the eyes of law, regardless of their religion, sect or social class. A Constitutional Court and Audit Bureau were to be established and enjoy full independence.

The changes proposed in the National Action Charter were submitted to a referendum. On February 14, 2001, they were approved by an overwhelmingly number of Bahrainis (98.4 percent), including the Shiite opposition.

On February 14, 2002, the first anniversary of the referendum, Shaikh Hamad issued royal decrees reinstating the suspended 1973 constitution, and amending it to implement the aforementioned changes, which effectively meant the promulgation of the new constitution.

The opposition was not happy with this development. It complained about the way the reforms were introduced; the King unilaterally made constitutional changes, contrary to the unambiguous provisions of the 1973 constitution itself, and in the absence of an elected legislature. The opposition would have preferred the restoration of the old constitution without changes, and the reinstatement of the elected parliament. It objected to the situation in which most powers remained in the ruler's hands, including full control of the government, the right to dismiss the prime minister, and to dissolve parliament for any "sufficient reasons," as well as in case of "emergencies."[59] Moreover, the opposition criticized the fact that the appointed chamber would have a direct legislative role equal to that of the elected chamber, and even taking certain precedence over the elected one, as its chairman was to be the speaker of the new bicameral National Assembly. For its part, the government argues that the appointed Shura Council is needed to guarantee that experienced and highly educated public figures will be able to take part in the process of policymaking. In general, the king's unilateral decree revived deep-seated distrust of the state's intentions among the politically active citizenry, and suggested that in spite of assurances, power and resources would remain firmly in hands of the Al-Khalifa.[60]

Despite the shortcomings of the reforms that were introduced, in the new

59- Hamza S. Olyan, "Royal Bahrain's journey to democracy", *Daily Star*, February 24, 2002.
60- "Bahrain's Sectarian Challenge", *Middle East Report no. 40*, May 6, 2005; www.merip.org

situation in the country, numerous political groups – the so-called "societies" – came into being, ranging from Islamic fundamentalists to liberals and Marxists. Bahraini law does not allow the establishment of political parties in the country, but these societies quickly began to play the role of full-fledged parties. The government tolerates the existence of the opposition holding open forums and issuing weekly magazines. Moreover, non-governmental organizations of all types: cultural, religious, and civic, as well as trade unions, have mushroomed.[61]

After amending the constitution, the king called the first elections. These took place at the municipal level. Women were allowed to participate, as were foreigners who owned property and were legal residents of the island. Political groupings actively engaged themselves in the election process. The authorities were criticized for redrawing the map of electoral constituencies to moderate, if not totally eliminate, the effects of the Shiite majority in most regions of Bahrain. Shiites voiced their grievances, saying that "the government is playing the sectarian card and trying to derail the democratic process through gerrymandering."[62] To calm down existing tensions, King Hamad decided that all members of the Bahraini Defense Force, the National Guard, the police and the security services would not be eligible to vote. Therefore, a solid bloc of approximately 15,000 Sunni voters was removed from the scene, thus increasing the chances of Shiite candidates. The king, addressing the public before the election day, called on his subjects "to exercise their constitutional right in complete freedom and responsibility. To exercise this right is a duty because without it democracy will not be able to survive."[63]

The elections took place on May 9 and 16, 2002, in two rounds of voting. Over 300 candidates, including 31 women, ran for five 10-seat councils. The voter turnover was substantial: 40-80 percent, depending on the district. Religiously affiliated candidates were the major winners, obtaining 38 of the 50 seats (the remaining candidates were considered independent runners). The Shiite Islamic National Wafaq Society, generally in opposition to the king, succeeded in placing most of its candidates in the councils. The failure of liberal and leftist candidates to win a single seat meant that they were unable to present themselves to the public as a viable alternative to candidates supported by the clerical establishment. The poor results for women were not really surprising in the traditional, male-dominated society, especially as they ran against male candidates from the same political organizations in most cases. Nevertheless, after

61- Interview with the Minster of Labour and Social Affairs, *Gulf News*, June 29, 2003.
62- Abdulhadi Khalaf in *Daily Star*, May 20, 2002.
63- *Daily Star*, May 8, 2002.

the elections, all of the women candidates urged the king to order an investigation into the "transgressions" witnessed during the elections, and to take any necessary steps against those behind them.[64] They complained that some male candidates used mosques and religious community centers to launch attacks on female candidates. The leading leftist group, the National Democratic Action Society, also criticized undemocratic practices exercised by many candidates on polling day, including illegal campaigning and vote buying.

The municipal elections were not that important in themselves, as the municipal councils are responsible only for public works and roads, but everybody perceived them as a "dress rehearsal" for crucial forthcoming polls to elect members to the new parliament.

In August 2002, when the parliamentary elections were approaching, 78 Bahraini intellectuals presented the king with a petition, protesting against the ban on the participation of political associations in the election campaign. Then, four major opposition groups (the Islamic National Wafaq, the National Democratic Action, the Islamic Action and the Democratic Nationalist Tajammu) sent a letter to the King again demanding the restoration of the unchanged 1973 constitution. In response to these protests, the King allowed political associations to participate in the election campaign. Nevertheless, as other demands were not met, major opposition groups decided to boycott the elections.

In such circumstances, only 190 candidates registered, substantially fewer than for the far less important municipal elections. Eight women decided to run in the elections, receiving highly publicized support from the king's wife.

The first round of parliamentary elections took place on October 24. Despite calls from the opposition to boycott the elections, 53.2 percent voters went to the polls, well above most expectations. Nineteen candidates who obtained more than 50 percent of the vote were elected to the 40 seat Parliament in the first round, including three who ran unopposed. The remaining 21 seats were decided in the runoff elections on October 31.

The elections went smoothly. The Bahraini Human Rights Society was allowed to monitor the polls. Nevertheless, opposition groups said that the government used authoritarian tactics to thwart the boycott. Moreover, voters had their passports stamped, leading to fears among citizens that they might suffer consequences if they did not have the stamp.

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64- *Gulf News*, May 20, 2002.

Sunni Islamists became the winners of the election, obtaining a majority in the lower house together with their sympathizers. Two Shiite Islamists were elected as well, despite the fact that many of their coreligionists stayed home, obeying a boycott call from their party leaders. Both woman candidates who made it to the second round runoff were defeated. Therefore, to balance the composition of the state bodies and to lower future potential problems in the legislature, the king himself appointed a large number of pro-government "secularists," "liberals" and women to the upper house. In particular, he nominated several defense officials and public servants, whose number included six women and a Jewish trader.

Political activities in the country intensified further after the parliamentary elections.The Council of Deputies demanded more legislative and monitoring powers for itself.[65] Several members of the Council submitted a proposal to legalize political parties. The deputies formed a commission to investigate the collapse of two government-managed pension funds. Despite government objections, in January 2004, the commission submitted a report providing information about extensive mismanagement and corruption by the funds' senior staff. As a result, the deputies questioned the Minister of Finance, the Minister of Labor, and Minister of State on the matter. It was a significant move, as it established a parliamentary tradition.[66] Using legal technicalities, however, the government managed to gain the upper hand in the proceedings, which could have led to no-confidence votes. The ministers remained in their posts.

The nominated Shura Council, trying to stress its role in the country's political system, urged the media to play a greater role in the democratization process. It asked the government to draw up a comprehensive national strategic plan for social and economic developments over the next 20 years, to establish a Financial Monitoring Bureau to help combat corruption, and an Administrative Monitoring Bureau to verify the soundness and legality of administrative systems and their compatibility with international quality standards in this regard.[67]

In another important development, six of Bahrain's major political groups, religious and secular, signed a "charter of unity" in March 2003. This was aimed at coordinating their opposition to the kingdom's amended constitution, which they claimed had eliminated the principle of separation of power. These six included three Islamists groups (the Islamic National Wefaq Society, the Islamic Arab Wasat Society, and the Islamic Action Society) and three secular groups

65- "Bahrain's House seeks more powers", *Gulf News*, January 22, 2003.
66- Abdulhadi Khalaf, "Bahrain's parliament: The Quest for a Role", Carnegie Endowment for International Peace, May 16, 2004.
67- "Bahrain Shura Council urges press to play greater role", *Khaleej Times*, January 31, 2003.

with left-wing inclinations (the National Democratic Action Society, the Progressive Democratic Minbar Society, and the Nationalist Block). All these groups boycotted the parliamentary elections, as they insisted that the elected council should have exclusive legislative powers. In April, they started a campaign of collecting signatures on a petition to the king in order to change the constitution. In their opinion, the government controls the parliament, and the elected house is unable to respond to the public needs.[68] The Bahraini royal court warned organizers that what they were doing was illegal, and that only the National Assembly and the king himself had the right to propose or endorse constitutional change. Eventually, several activists collecting signatures were arrested. In February 2004, four of these societies (the Wefaq, the Islamic Action, the National Democratic Action and the Nationalist Bloc) organized a controversial "Constitution Conference" to discuss the issue of establishing a genuine constitutional monarchy in Bahrain and restricting the powers of the Shura Council to make them solely consultative. Later in the year, the government began talks with these societies aimed at ending the stalemate over the constitutional issue, and to convince them to take part in the next parliamentary elections. The talks, however, were suspended by the government. In response, these groups decided to resort to "pressure tactics" to achieve their demands. In February 2005, they sent the king a petition signed by approximately 75,000 people which called for the restoration of the 1975 constitution.[69] They planned to organize peaceful rallies and send delegations to other countries, especially in the West, in order to meet with legislators and rights organizations there and to explain the situation in Bahrain. The government strongly criticized these actions, saying that they meant the involvement of foreign actors in Bahrain's domestic politics.

The fall of 2004 saw much tension between different actors on the Bahraini political scene. The arrest of human rights activist Abdul Hadi al-Khawaja after his public criticism of the Prime Minister, the King's uncle, and the closure of his Bahrain Centre for Human Rights, brought about opposition protests and street demonstrations. Then, a parliamentary committee rejected a draft law proposed by the government to regulate street protests and public meetings, saying it was "unconstitutional," as it would severely restrict freedoms. On the other hand, a new draft press law, proposed by the Shura Council, was warmly greeted by the opposition as being progressive, as it improved the protection of journalists and granted them better access to information.

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68- "Bahrain warns opposition groups", *Gulf News*, April 28, 2004.
69- Mohammad Almezel, "Groups 'will resort to pressure tactics to achieve their demands'", *Gulf News*, February 19, 2005.

A possible future source of tensions could be the growing power of religious fundamentalists, both Sunni and Shiite. Some Bahrainis worry that radicals may eventually move to restrict personal freedoms and attempt to amend the constitution to make Sharia the sole source of the legislation. Religious fundamentalists already demand greater public observance of Islamic practices. The first indication of this was their proposal to ban alcohol sales to Muslims, the closing down of hotels catering for weekend tourists from the GCC states, restrictions on the mixing of sexes at Bahrain's university and a stop to public concerts by Westernized Arab singers.

To summarize, while many praise King Hamad's actions as really introducing some democracy in the Kingdom, the opposition claims that they have just been window-dressing, calculated to deflect domestic and international criticism.[70] The Bahrain Human Rights Society acknowledged that Bahrain has taken "a giant step" in liberalizing its political system and extending personal freedoms, but stressed that much more needs to be done: "Political rights have been restricted to candidacy and voting in the municipal and parliamentary elections when the issue is much broader."[71] In particular, the parliament is so weak that it was unable to pass even a single law in the first years of its existence. On an even more sober note, *The Middle East Report no. 40* from May 2005, wrote that four years after Shaikh Hamad announced a sweeping reform plan, "Bahrain's fragile liberal experiment is poised to stall, or, worse, unravel. The overlap of political and social conflict with sectarian tensions makes a combustible mix. If steps are not urgently taken to address the grievances of the large and marginalized Shiite community… Bahrain, which is often touted as a model of Arab reform, could be in for dangerous times." But one has to remember that Bahrain is one of the most difficult countries in the region in which to introduce democracy. If the ruling family allows a powerful Shiite-dominated parliament to emerge, it would put at risk its own position in the country.[72]

## Qatar

Qatar, the smallest GCC country in terms of population, is ruled under its 1970 constitution by male representatives of the Al-Thani family. The emir holds absolute power, although he consults with leading Qataris on policy issues, and works to achieve consensus with the appointed 30-member Consultative Council (whose members have not changed since 1975).

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70- Abdulhadi Khalaf, *Daily Star*, December 3, 2002.
71- "Bahrain needs to do more to provide equality", *Gulf News*, February 21, 2003.
72- "The dynamics of democracy in the Middle East", p. 12.

In January 1992, 54 leading citizens presented the emir with a petition criticizing the lack of freedom of expression in the media, and unclear laws regarding citizenship and naturalization. They also demanded the establishment of a new consultative assembly with "wide legislative and investigative authority through which actual political participation is provided."[73] The authors of the petition called for this body to prepare immediately a new constitution "that guarantees the establishment of democracy." The petition did not bring any results. The old emir, Shaikh Khalifa bin Hamad Al-Thani, had rejected any liberalization of the regime, and the broadening of political participation did not begin until his son, Shaikh Hamad bin Khalifa, assumed power in 1995 by staging a successful coup against his father.

The new emir abolished the Ministry of Information, a move calculated to demonstrate his willingness to limit government censorship of the media. Then, in the new atmosphere, the now famous al-Jazeera satellite TV channel was opened. The channel introduced controversial and provocative new programs and news bulletins that criticized Arab rulers, governments and policies, as well as the lack of rights and freedoms in the Arab world. It advocated the need for significant change in Islamic law. Opposition figures and women often participated in al-Jazeera programs, which quickly became the most popular TV programs in the whole Arab world.

The next move by Shaikh Hamad was to call for general elections for the Central Municipal Council, a 29-member advisory body that oversees the work of nine municipalities. The emir allowed women to vote for and run as candidates for seats in the Council.[74]

This latest move faced certain opposition. Eighteen noted Islamist figures presented a petition to the emir that criticized the idea, given that this election would afford women "public authority" and the potential for "leadership over men."[75] The petition, however, did not have any effect on the emir's policies.

The first elections in Qatar, even before the ones to the Municipal Council, were for the board of the Chamber of Commerce, whose members had previously been nominated by the amir. Close to 3,700 Qatari businessmen cast secret ballots in April 1998, electing 17 members of the board. Next, the Ministry of Education

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73- F. Gregory Gause III, *Oil Monarchies. Domestic and Security Challenges in the Arab Gulf States* (New York, Council of Foreign Relations, 1994).
74- Bahry: "Elections in Qatar". In fact, this was not the first experiment in Qatar with elections to the Municipal Council. The first elections of this kind took place in 1963 and lasted for a few years.
75- Bahry: "Elections in Qatar", p.126.

called for the establishment of elected student unions in all schools. In another exercise of democracy, in November 1998, the Ministry of Finance and Economy cancelled the elections for the board of al-Muntazah Consumer Association after it had been discovered that the number of ballots cast was higher than the number of eligible voters; new elections were called simultaneously.

The elections to the Central Municipal Council took place on March 8, 1999.[76] On the ballot were 227 candidates, including six women. About 95 percent of eligible voters participated in the elections in Doha, with only a slightly lower percentage participating in the rest of the country (though the number of registered voters was only 22,225 people, which accounted for a small percentage of the total local population of approximately 160,000). The winners of the elections were mostly young technocrats and professionals, elected on the basis of personal preference or familial and tribal ties. Significantly, two noted political figures often critical of the government, Najib Muhammad al-Rubai, a former Minister of Justice, and Muhammad Salih al-Kawari, lost in the elections. No women were elected, suggesting that Qatar remains a traditional society.

The successful municipal elections made Shaikh Hamad easier about conducting the next step: the introduction of a permanent constitution (a temporary one has been in effect since 1972) providing for the establishment of an elected parliament to be chosen by all Qataris, regardless of gender. On July 2, 2002, the committee preparing the new constitution presented a draft of the document. In a popular referendum held on April 29, 2003, more than 96 percent Qataris voted in favor of the constitution (but only 24,000 people registered for voting).

The constitution describes Qatar as a democratic state, grants universal suffrage, and confirms the role of the state in providing for the social, economic, and educational well-being of its citizens. It also confirms Qatar as a hereditary state, and specifies the Sharia as the main source of legislation. The constitution creates a 45-member council (*Majlis al-Shura*) to legislate, vote on the state budget, and monitor government activities. It has the right to question ministers and to vote them out of office through a vote of no confidence. 30 members of the council are to be elected, and the remaining 15 are to be appointed by the emir. All Qataris over 18 years of age are eligible to vote and run for office. The constitution also provides for freedom of association, expression and religious practice, as well as for an independent judiciary.

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76- Ibid.

Shaikh Hamad promulgated the constitution on June 8, 2004, and it finally came into effect a year later. There are at least two reasons why Shaikh Hamad decided to broaden political participation in Qatar. First, having some problems with support from members of the older generation, he wanted to obtain it from younger Qataris, many of whom had obtained a Western education and had become more cosmopolitan. For many of them, democratization meant raising Qatar's prominence in the Gulf, and obtaining a dynamic and leading role in the there.[77] Secondly, Hamad wanted to win friends in the West, oppose threats from his ousted father and to balance off pressures from his more powerful GCC neighbors, especially Saudi Arabia.

Although Qatar is sometimes described as being at the vanguard of democratization in the Arab world, one has to be aware of the shortcomings of its constitution.[78] It qualifies the right of people to assembly, and does not allow the operation of political parties. The emir appoints the government and controls its agenda, has the power to block any legislation, can implement laws by decree, and can dissolve parliament at will. Legislation becomes law only with the vote of a two-thirds majority of the parliament and the amir's endorsement. But this has to be understood in the country's context. Qatari society is free of sectarian, ethnic, or even significant political divisions. There is no questioning of the legitimacy of the ruling Al Thani family. Reforms have been promulgated from the top, and not as a response to popular discontent.

Reforms in Qatar did not end with the introduction of a new constitution and the organization of municipal elections. Women were allowed to enter the political process. In 2003, Shaikh Hamad nominated a woman to become the Minister of Education – the first female cabinet minister in the GCC. At the same time, he appointed Shaikha Abdullah al-Misnad from the ruling family as president of Qatar University, and another woman as public prosecutor – the first woman to hold such a post in the GCC. The emir's wife, Shaikha Mouza Bint Nasser al-Misnad, has been greatly involved in the promotion of education and women's rights.

*Oman*

Oman has been ruled since the 18th century by the al bu Said dynasty. After a

77- Andrew Rathmell and Kirsten Schulze: "Political reform in the Gulf: The case of Qatar", *Middle Eastern Studies*, No. 4 (2000), p. 15.
78- Amy Hawthorne, "Qatar's New Constitution: Limited Reform from the Top", Carnegie Endowment – Arab Reform Bulletin, June 11, 2003.

series of internal and external conflicts in the 1950s and 1960s, and most significantly the Dhofar rebellion, Qaboos bin Said al-Said carried out a coup in 1970 against his unsuccessful father. Supported by the British, Qaboos won and became the sultan. He quickly proved to be an effective and modern leader. Under his rule, the country advanced economically despite limited oil reserves, relations with the neighbors were normalized, etc.

In the 1990s, Oman made several strides towards a broadening of political participation; this happened on the sole initiative of the ruler, without any demands from the public. First, in 1991, Sultan Qaboos established the new Consultative Council (*Majlis al-Shura)*, replacing the old State Consultative Council (*Majlis al-Istishari lil-Dawla*), which had existed since 1981. The 59-seat Council was granted the right to debate economic, social and development issues, review laws, evaluate government plans, question ministers, and hold joint meetings with the government twice a year. At the same time, it has no right to be heard on Oman's foreign, defense, and security policies. The Sultan's decree provided that elders, prominent businessmen and intellectuals from each of Oman's 59 provinces choose two potential assembly members and that the sultan appoints one of those two nominees to represent that province. The president of the Council is appointed by a royal decree, while his two deputies are elected by the members of the Council in a secret ballot.

After the end of the first three-year term, in 1994, the Council was expanded to 80 seats, giving the Sultan a chance to nominate more people, especially former government officials, to it. In a groundbreaking decision, the sultan appointed the first two women members of the Council. It was the first case in which women were allowed to participate in a political process of any kind in any GCC state.[79]

Membership of the Council was expanded to 82 persons in 1997, and to 83 in the year 2000, because of the increase in the country's population. Moreover, the sultan allowed women to stand for election and to vote for candidates to the Council. Over 20 women were among the several hundred nominees in the 1997 elections, and the Council eventually had two women members.

In 1997, Sultan Qaboos established a new 41-seat consultative body, the all-nominated State Council (*Majlis al-Dawla*). This Council, akin to an upper house, reviews the proposals of the *Majlis al-Shura*, and forwards those it deems important to the government or to Sultan Qaboos; it can also deal with more

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79- Abdullah Juma Alhajj, "The politics of participation in the Gulf Cooperation Council States: The Omani Consulatative Council", *Middle East Journal*, no.4 (1996), pp. 560-71.

important political matters. *Majlis al-Shura* and *Majlis al-Dawla* together constitute the *Majlis Oman*, or Council of Oman.[80]

One of the reasons to establish the new council was to give the sultan the chance to accommodate those who were unsuccessful in the elections to the *Majlis al-Shura*, and to eliminate potential tensions created between rival clans, tribes and businessmen by the election results. This was clearly visible in the formation of the first *Majlis al-Dawla*, whose nominated members were former ministers, under-secretaries, ambassadors, judges or retired officers. Five women were selected to it as well.

In 1998-99, Sultan Qaboos gave further support the idea of introducing women to the country's political life by appointing the first woman ambassador and naming three women deputy ministers in the cabinet. He also nominated the first woman to the board of directors of the Omani Chamber of Commerce. In March 2003, he appointed a woman to become President of the Public Authority for Craft Industries, at the rank of a minister. Finally, in 2004, he appointed three other women to the Cabinet, to manage the Higher Education, Tourism and Social Development Ministries.

The electoral body has been progressively expanded; in the September 2000 elections to the *Majlis al-Shura*, the electorate was raised to 175,000 people, or a quarter of Omani adults (as compared to only 51,000 in 1997 elections, about three percent of the population, and 5,000 in 1991), with women accounting for some 30 percent of the participants. Voters were chosen by tribal councils selected by the *walis*, or governors, and their representatives in the country's 59 *wilayats*. Out of them 114,567 – or 65 percent – registered to voting, with 87.8 percent actually casting their ballots. A total of 541 candidates, including 21 women, were in the fray (but only two women were successful, both from the Muscat governorate). In a move towards the goal of having the whole *Majlis al-Shura* elected directly, in 2000, candidates with the highest numbers of votes were for the first time automatically given seats on the Council, rather than being picked from among the top vote getters by the sultan.

In the 2003 elections, for the first time, all Omani citizens who had attained the age of 21 (approximately 822,000), both men and women, were eligible to vote. Nevertheless, only 262,000 (i.e. 32 percent) registered, and only 74 percent

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80- Abdullah Juma Alhajj, "The political elite and the introduction of political participation in Oman", *Middle East Policy*, No. 3 (June 2000), pp. 97-110.

of the registered, that is around 194,000, actually cast their votes on October 2. The elections did not bring about much change in the composition of the *Majlis al-Shura*. Only 15 women stood for election out of 506 candidates, and, as before, only two (actually the same ones as during the previous term) were elected, despite even the fact that a third of registered voters (95,000) were women.

Consultative councils play a certain role in the country's political life. They meet regularly, debate important social and economic matters, review new laws, and question government's officials. Certain hearings at the *Majlis al-Shura* have been broadcast live on television.

Another action of crucial importance for the development of democracy in Oman was the introduction of the Basic Law – the first *de facto* constitution – in 1996. It promulgated the principles governing the Sultanate, highlighted the rights and responsibilities of citizens, and, above all, defined the powers and duties of the executive. It provided for an independent judiciary, due process of law, freedom of the press and of assembly, and prohibited discrimination of any kind. Several laws and regulations required to implement these provisions were enacted in the following years. In particular, the Supreme Court in Muscat and courts of appeals in various *wilayas* were established, and a new press and publication law was introduced.

Oman has a relatively liberal environment, although the Sultanate is an absolute monarchy with no political parties.[81] All matters are subject to the sultan's interpretation and decrees. He has complete authority over all decisionmaking. The sultan is the head of state and the prime minister, as well as the commander-in-chief of the armed forces; moreover, he controls the portfolios of defense and foreign affairs. But at the same time, Sultan Qaboos is usually perceived as a fair-minded ruler who tries to maximize the support base for his policies by taking advice from a broad spectrum of people, especially tribal leaders, in accordance with Omani tradition. There is practically no opposition in the country, although in 1994 and 2005, the authorities arrested large number of people for allegedly plotting to destabilize the regime.

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81- "Oman – Ruling Structure", *APS Review Gas Market Trends*, February 23, 2004; J. E. Peterson, "Oman: Three and a half decades of change and developments", *Middle East Policy*, 2 (Summer 2004), pp. 125-37.

## The United Arab Emirates

The United Arab Emirates is a federation of tribally based sheikhdoms, established as a unified state structure in 1971. Thanks to huge oil revenues, the UAE managed to transform itself in a short period of time into a very modern and wealthy country. Under the constitution, the rulers of the seven emirates make up the Federal Supreme Council, the highest legislative and executive body. The Council elects a state president, and the president appoints the prime minister and cabinet. Shaikh Zayed bin Sultan Al Nahyan, the ruler of Abu Dhabi emirate, was the president of the country from 1971 till 2004. When he passed away, the presidency was taken over by one of his sons, Shaikh Khalifa bin Zayed.

The UAE has the least developed system of political representation among the GCC states. The male-only, ruler-nominated, 40-person strong Federal National Council plays only an advisory role and cannot introduce bills or debate any matter of public concern if the government objects (that is, "if it is detrimental to the higher interest of the union").[82] Nevertheless, in the late 1990s, the number of issues discussed by the Council, and the number of cabinet ministers appearing before it (including some members of the ruling family) increased. In some emirates, Sharjah in particular, local consultative bodies have also been developed to advise rulers.

For approximately a quarter of a century, the UAE did not have a permanent constitution, as numerous attempts to approve one failed due to a lack of agreement among the emirates on the prerogatives of the federal authorities; small emirates have traditionally worried that large and rich emirates, like Abu Dhabi, would dominate them. The temporary 1971 constitution became eventually permanent in 1997, though practically no changes were introduced to it at that time, despite criticism that it contains outdated laws.

Like in all other GCC states, the judicial system comprises of both Sharia and the secular courts. The judiciary is not independent; its decisions are subject to review by the political leadership. However, basic due process of law does exist. The media is controlled by the government, but non-censored foreign television broadcasts via satellite and the Internet are widely available. The government limits freedom of assembly and association. Nevertheless, in general, the country, especially the highly cosmopolitan emirate of Dubai, has been much more liberal and open to the world than other GCC states.

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82- Hassan Hamdan Al-Alkim, "The prospect of democracy in the GCC countries", *Critique. Journal for Critical Studies of the Middle East*, Fall 1996, p. 34.

Women are well represented in the workforce and are well educated. Until recently, they did not hold any high-level positions in the government. Only the progressive ruler of Sharjah, Sheikh Sultan bin Mohammed al Qasimi, appointed several women to his local consultative council in the early 2000s. In an interesting occurrence, the crown prince of the emirate of Ras Al Khaimah was dethroned by his father in June 2003, apparently largely due to the activity of his wife, who was criticized by conservative members of the ruling elite for being a women's rights activist.[83] Finally, in November 2004, a woman was appointed the UAE Minister of Planning and Economy.

Among limited recent political moves, the UAE, under pressure from the International Labor Organization, has initiated measures to allow the formation of workers' organizations in the country. Moreover, the election of officers was allowed in certain public institutions, including the chambers of commerce and industry, suggesting that authorities are testing the possibility of introducing such democratic procedures in other public bodies.

The issue of the establishment of an elected parliament in the UAE has been put forward only very recently. Earlier, there was no pressure from the public at large to change the situation, as the enormous wealth of the country had continued to satisfy most people; no opposition or political groups have operated in this rentier state. It was only after Saudi Arabia held municipal elections and voting for Iraqi expatriates voting was organized in the UAE (the out-of-country voting managed by the International Organization of Migration for the January 30, 2005 Iraqi elections) that some UAE academics and members of the Federal National Council raised the issue. They stressed that when millions of Arabs in Palestine, Iraq, and even Saudi Arabia had gone to the polls, the UAE could no longer continue to lag behind.[84] Thus, they began calling for elections to the consultative council and municipalities, as well as for transparency in the government, freedom of expression and independence of the judiciary. These calls were encouraged by the decision of the ruler of Sharjah who, in February 2005, announced the establishment of nine local municipal councils, with members who are presently appointed but are to be elected in the future. Finally, in December 2005, President Shaikh Khalifa bin Zayed Al Nahyan announced that half of the members of the Federal National Council would be elected.

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83- *Gulf Studies Newsletter*, June 2003.
84- *Khaleej Times*, February 24 and 27, 2005.

## Gulf parliament

At the GCC level, the Consultative Council (often called the Consultative Commission) has functioned since 1997. It consists of 30 appointed members – five from each of the GCC states – and is charged with studying matters referred to it by the GCC Supreme Council. Nevertheless, so far it has not played a meaningful role. During the December 2004 GCC summit, Bahrain submitted a proposal from its country's Council of Representatives to establish a GCC parliament to replace the current Consultative Council. No decision on the matter has been taken yet.

## Summary

Summing up, the Gulf monarchies – notwithstanding the actions and achievements mentioned above – do not have yet a fully developed and truly democratic electoral process, or properly empowered bodies representing their people. In particular,

- Rulers can amend constitutions at will and pass laws by decree.

- In the UAE there are no elections at all; In Saudi Arabia, only municipal elections are on the agenda.

- In Saudi Arabia, women still cannot participate in elections.

- In Bahrain, electoral districts are drawn with the intention of underrepresenting the country's majority Shiite population; in Kuwait, small electoral districts make vote-buying easier, and favor certain candidates.

- In Oman and the UAE, consultative councils can neither introduce legislation nor dismiss ministers; the Saudi *Shura* Council cannot dismiss cabinet members.

- In Bahrain and Qatar, the elected lower chamber can dismiss ministers only with a two-thirds majority, which is very difficult to attain.

- The Bahrani and Qatari parliaments need a large majority to block legislation, and the Omani and the UAE consultative councils cannot block legislation at all.

In most cases, changing these realities would require constitutional revisions, which are very difficult to carry out. Michael Herb recently summed up the state of affairs in a commentary simply titled, "Parliaments in the Gulf monarchies are

a long way from democracy."[85]

At the same time, however, Herb underlined that "Gulf elections are much fairer than those organized by most authoritarian regimes." In particular, "Kuwait's elections compare well to those of many emerging democracies." Furthermore, the Kuwaiti parliament is able to successfully block legislation, and has the power to mount a very serious challenge to the primacy of the ruling family, as it can remove any minister through a no-confidence vote. Therefore, a Gulf monarchy can implement a system, which has a number of typically democratic futures; the Kuwaiti way can be, and probably will be, gradually adopted by other GCC states.

## Prospects for a Further Broadening of Political Participation in the Gulf Monarchies: The GCC and the Western (American) Democratization Agenda

Will the broadening of political participation in the GCC states continue? Can the occurrences presented above actually lead towards the Western type of democracy?

On the one hand, there are many obstacles to the democratization process. First of all, as time has shown, Gulf monarchies are quite stable regimes, contrary to stereotypical views in the West. There, they are frequently seen as anachronistic systems destined to disappear with modernization. Thus, rulers do not always see the necessity of transform their regimes quickly and extensively to stay in power. Moreover, they do not think they need the support of their people to govern; constitutions and traditions legitimize their positions. They also feel secure given that the United States and other Western countries, despite their occasional rhetoric criticizing non-democratic regimes, would not like to destabilize the region further after the Iraqi experience. With a few exceptions, they continue to be committed to the maintenance of the status quo for the GCC countries, due to the strategic importance of oil they possess. In such circumstances, rulers often perceive the broadening of political participation in their countries as another gracious gift they may offer their subjects, rather than an action required to satisfy the vital needs of their populations. The circumstances have seemed different only in Saudi Arabia, Bahrain, and Kuwait, where pressure from the West and the al-Qaeda terrorist attacks, the demands of the Shiite-led opposition, and the activities of political groupings are factors strongly influencing change.

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85- Herb: "Parliaments in the Gulf monarchies are a long way from democracy".

In turn, the "subjects" at large, with the possible exception of the Shiite population have so far not looked for major political reforms themselves, being worried that change could negatively affect their socioeconomic situation. They have generally been satisfied with what they have gotten from their governments, and even the extensive existing controls that regimes exercise over them do not dispose them negatively to their rulers. This is why, for example, even the demands of opposition groups have only been for reforms, and not for revolution: opposition movements wish to improve existing regimes, not to overthrow them.[86] The middle class in the GCC states – usually the main reformist, pro-democracy grouping in other parts of the world – has little reason to support the downfall of the monarchy. This allows the monarchies to prosper. Similarly, the military as well as the majority of tribal sheikhs, large beneficiaries of the existing regimes, usually strongly support the rulers. So far, there has been no "revolutionary proletariat" in the GCC states; in future, only a growing number of young, unemployed school graduates may lead to the establishment of such a group. Last, but definitely not least, most people lack political awareness; civil society, the ultimate source of political change, is in the very preliminary stage of development.

On the other hand, there are many factors which can further enhance the broadening of political representation and the "democratization drive."First of all, as has already been mentioned, in the GCC states of Kuwait, Bahrain and Saudi Arabia, there are significant groupings pushing for democratization. Moreover, the presence of active parliaments and a free media, wherever they are present, boosts the democratization process.[87]

Next, the economic situation can have a significant impact on the process. At the beginning of the 21st century, the GCC countries were earning far less than they used to during the oil bonanza three decades earlier. While these states are still relatively rich, several are running budget deficits. They are borrowing nationally and internationally, and are now trying to cut expenses. Moreover, while until recently many services were free in the GCC countries, some regimes have begun to charge their citizens for them, and have even considered introducing income taxes. Should citizens be obliged to pay for the running of the state, the state will be forced to open up to their scrutiny. The "no taxation, no representation" rule has already begun to change to "some taxation, some representation." The situation has changed, however, with very high oil prices

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86- Gawdat Baghat: "The Gulf monarchies: Economic and political challenges at the end of the century", *The Journal of Social, Political and Economic Studies*, No. 2 (1998).

87- Michael Herb, "Emirs and parliaments in the Gulf", *Journal of Democracy*, vol. 13, No. 4 (2002), p. 47.

dominating the market since 2004. The increased revenues considerably improved the economic situation in the oil-producing GCC states, thus giving governments the chance to postpone certain reforms.

Another factor that can influence the change is the population of the GCC countries. Not only are these states growing at a rate that makes the maintenance of such generous welfare states problematic, but they are also becoming more literate, educated, and urban. These features are characteristic for other societies that, in similar conditions, have usually experienced political upheaval leading to further democratization.

Young new leaders, who may replace old rulers in Saudi Arabia and Kuwait, but also in the UAE and Oman in the not-so-distant future, may also speed up reforms, as events in Qatar and Bahrain have already shown.

Events in neighboring states – Egypt, Iran, Yemen, and the new Iraq, which all have more political representation for their citizens in the process of governance – also indirectly influence peoples' thinking across borders. This takes place mostly through media reports, but also through their large numbers of their citizens living in the GCC states.

Finally, there have been numerous attempts by the West, and the United States in particular, to democratize the Arab world. These relate to the situation in the GCC states as much as they do to other Arab countries. After 9/11, there have been a number of voices in the United States linking a lack of democracy to the roots of terrorism, and calling Washington to "save the Arabs from corrupt autocrats and radical Islam as it once was engaged in saving the world from communism" and to "pressure Arab states to democratize rather then shielding them."[88] For example, Rohan Gunaratna, in his book *Inside al Qaeda*, expressed a common belief that there have been so many terrorists produced by Saudi Arabia because it's not democratic – the government is not representative of the people.[89] Commenting on elections in Bahrain, S. Rob Sobhani wrote in the *Washington Times* on November 25, 2002, that "the United States has a vested interest in the success of King Hamad's reform movement because tiny Bahrain can be a model for the rest of the Arab world, especially in neighbouring Saudi Arabia. Shiites comprise a majority in the oil-rich eastern province of Saudi Arabia, where 25 percent of the world's remaining oil reserves are located. Therefore Bahrain

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88- Susan Sachs, "Remembering how to rig a democracy" *The New York Times*, June 30, 2002.
89- Rohan Gunaratna, *Inside al-Qaeda: Global Network of Terror* (New York, Columbia University Press, 2002).

should be rewarded and singled out for its bravery, friendship and pursuit of democracy." Bahrain has become one of the closest non-NATO allies of the United States, a seat of the US Army Central Command, and a free-trade agreement partner.

Since 9/11 the goal of democratizing the Arab Middle East has been elevated by the American government from a rhetorical ideal to national security imperative.[90] Therefore, the administration decided to reorient US diplomacy and American foreign aid policy to lend more support to pro-democracy movements in the region. In January 2003, the United States introduced the "US-Middle East Partnership Initiative," which was aimed to spread democracy and political reforms in the Middle East. That March, President George W. Bush decided to go to Iraq. Among other things, he believed that overthrowing Saddam Hussein would allow the rapid democratization of the country, which would produce a democratic boom in the Middle East comparable to the successful one which occurred earlier in Eastern Europe and put the end to the Cold War.

Many Arab leaders were unhappy with the US pro-democracy initiatives. In response to them, in January 2003, Crown Prince Abdullah of Saudi Arabia proposed his own "Charter to Reform the Arab Stand," which was meant to encourage regional economic development and peoples' participation in politics. It was briefly discussed at the Arab leaders summit in Cairo in March 2003, which, on the eve of US military intervention, was devoted generally to the Iraqi problem, and later at the Tunis summit, in May 2004, although Saudi Arabia did not attend.

On November 6, 2003, President Bush delivered the now-famous address on the need to strengthen democracy around the world and, in particular, to support its development in the Middle East. He called to end "sixty years of Western nations excusing and accommodating the lack of freedom in the Middle East" and to adopt "a new policy, a forward strategy of freedom in the Middle East." As a follow-up, US authorities began working on the details of what later became known as "The Greater Middle East Initiative." The project called for economic transformation "similar in magnitude to that undertaken by the formerly communist countries of Central and Eastern Europe."

The leakage of the draft version of the project to the London-based newspaper *Al Hayat* in February 2004 was met with strong criticism from Arab governments,

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90- Andrzej Kapiszewski, "Democracy Promotion in the Arab Word: The Bush Agenda", The *Polish Quarterly of International Affairs*, No. 3 (2004), pp. 65-92.

intellectuals and media, all of whom saw it as unacceptable interference with their internal affairs and another sign of Western imperialism.[91] In particular, Bahrain's Prime Minister, Shaikh Khalifa bin Salman Al Khalifa, asserted that "the imposition of any foreign view is not in the interest of the countries of the region." Saudi Arabia's foreign minister, Prince Saud al-Faisal, said that the US proposal "include[d] clear accusations against the Arab people and their governments that they are ignorant of their own affairs… those behind this plan ignore the fact … that we are able to handle our own affairs."[92]

In such a situation, and facing all this criticism, the US government scaled down the original proposal and presented it under the new name "The Broader Middle East and North Africa Initiative"

Nevertheless, the plan did provoke debates concerning the need for change. Most Arab rulers adopted a middle-of-the-road position, supporting reforms and democratization gradually emerging from within the system, but rejecting their imposition by outside powers.[93] They attacked the paternalistic way in which the US plan was introduced, while not entirely rejecting some of its content. Several Arab governments and civil society activists produced declarations on the need for broad political, social, and economic reforms, which were directly inspired by the G8 plan.[94] Some GCC states became venues for such activities as well. In particular, on June 3-4, 2004, Qatar University hosted a conference of Arab democracy advocates – civil society activists, professors, journalists and members of political movements from across the region. The Amir of Qatar, Shaikh Hamad bin Khalifa Al Thani, stated in his widely reported speech opening the event that: (1) Arab states should consider US proposals for democratic reform rather than reject them outright; (2) there are many problems "of our own creation that have nothing to do with the outside world," and that in particular "do not spring only from the Palestinian cause"; (3) many Arabs have claimed that "if popular participation is broadened it would only result in bringing in those who would endanger peace and put an end to security. Yet, the adoption of reforms has always been the right way to stability."[95] There are not many Arab leaders who

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91- As reported in Carnegie Endowment for International Peace, March 17, 2004.
92- As quoted by K. Gajendra Singh, "America's democracy initiative in Middle East", South Asia Analysis Group, paper No. 1052, www.saag.org.
93- Elie Podeh, „Between stagnation and renovation: The Arab system in the aftermath of the Iraqi war", *MERIA, The Middle East Review of International Affairs*, vol.9, no. 3 (September 2005); www. http://meria.idc.ac.il
94- Main conferences were held in Saana, Yemen and in Alexandria, Egypt. Moreover, the Arab League for the first time took a position on the political reform issue at its summit in Tunis in May 2004. See Kapiszewski: "Democratizing the Arab states", pp. 127-129.
95- Hamad bin Khalifa Al Thani: "Out of the fog through Arab reform".

would so openly say such things, opposing the popular Islamist standpoint. The conference adopted "The Doha Declaration for Democracy and Reform," calling all Arab states to acquire modern, democratic institutions; hold free, fair and regular elections; place limits on executive powers; guarantee freedom of association and expression; permit the full participation of women in political life; and end extrajudicial procedures, emergency laws, and torture. It also called for the creation of a body to monitor Arab governments' progress on reform and to track the fate of other reform initiatives launched recently in the region. Finally, the declaration stated that "hiding behind the necessity of resolving the Palestinian question before implementing reform is obstructive and unacceptable."

The issue was also raised during the Arab summit in Tunis in May 2004. In the final declaration, Arab states pledged (although vaguely) to carry out domestic reforms such as expanding political participation, increasing the role of civil society, widening the role of women in the social and political spheres, promoting educational reforms, and enhancing research.

The Bush plan was discussed at the G8 summit at Sea Island, Georgia, on June 8-10, 2004.[96] The resolution adopted there called for a "partnership for progress and a common future with the region." In particular, that goal is to be achieved through the establishment of the 'Forum for the Future,' a framework for regular ministerial meetings, as well as parallel meetings of civil society and business leaders to discuss political and economic reforms.[97] A call to settle the Israeli-Palestinian conflict, an idea conspicuously absent from an earlier version of the plan, causing wide criticism of the same, was included in the document. The plan acknowledged that reforms cannot be imposed from outside, and that different societies will change at different rates. The summit also welcomed the Tunis declaration, in which Arab leaders expressed their readiness to implement democratic reforms.

Despite its new form, the G8 reform plan initially received a cold reception in the Arab world. Only five Arab countries accepted an invitation from President Bush to its launch at the summit, of which only Bahrain was from among the GCC states. The most important Arab countries, Saudi Arabia and Egypt, as well as close US allies, Kuwait and Morocco, turned down the invitation, making it clear that they would have nothing to do with the project. Only the Amir of Qatar,

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96- The term "greater" in the draft version was changed for "broader", as some countries objected to the first one as having some negative political connotations.
97- Marina Ottaway, "The Broader Middle East and North Africa Initiative: A hollow victory for the United States", Carnegie Endowment for International Peace, June 12, 2004.

Shaikh Hamad bin Khalifa Al Thani (who, incidentally, was not invited to the summit due to controversies related to his country's Al Jazeera TV station's anti-American reporting) stated cautiously that "the calls for reform coming from abroad need reflection by the people of our region."[98]

Following the G8 plan, the issue of reforms was next discussed at the Forum for the Future meetings, which took place in Morocco in December 2004, and Bahrain in 2005. Foreign and finance ministers from about twenty countries in the Middle East and North Africa, representatives of the G8 countries, as well as members of various Middle East NGOs attended it. In addition to certain economic initiatives, the Forum participants decided to establish a Democracy Assistance Dialogue. The meetings did not bring about meaningful results, and the one in Manama ended without any result at all. There, Egypt, Saudi Arabia and Tunisia expressed reservations about the wording of the final declaration, in which states were to pledge to expand democratic practices, enlarge participation in political and public life, foster the roles of civil society, including NGOs, and widen women's participation in all fields and reinforce their rights in society.

Thus, the expansion of reformist discourse and the introduction of certain liberal measures that may eventually bring about some political change have been observed in the Arab world. Only time can show whether those actions will have any effect on the democratization of the GCC states. It remains to be seen whether the rulers of these countries will be ready to introduce further reforms. Democratization is always a long-lasting process. One can foresee future developments in the GCC states, which can lead towards that goal, but there are also many obstacles which can slow it down, or even reverse it. One can agree with the opinion of Hassan Hamdan al-Alkim that "although democracy may not be realized within the coming decade, it is acquiring a significant importance in the GCC states' political life. Thus, its realization becomes a matter of time."[99] A thought that should always be taken into account, however, is that democratization may not immediately produce more peaceful and stable GCC regimes. Political reforms can weaken existing regimes, or even destabilize countries. The opposition forces in the GCC states, where they exist, are to a large extent rooted in Islamic fundamentalism. If they come to power through otherwise-praised democratic elections, they can reform the political system into a

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98- Hamad bin Khalifa Al Thani, "Out of the fog through Arab reform", *Daily Star*, June 21, 2004.
99- Al-Alkim: "The prospect of democracy", p. 41.

theocracy that is much less democratic than the present type of government. An indication of such approach can be found in the latest parliamentary elections in Kuwait and Bahrain, where Islamists have won majorities and continue to press for the Islamization of those countries.[100] So far, however, the development of the electoral process in the GCC states, as well as the enhancement of their parliaments' activity allows one to look at the future of the democratization process in the monarchies of the Gulf with cautious optimism, especially when they are compared to the political reforms, or rather the lack thereof, in many other

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100- Marina Ottaway, Thomas Carothers, Amy Hawthorne, Daniel Brumberg, *Democratic mirage in the Middle East* (Carnegie Endowment for International Peace, Policy Brief, October 2002); Vahan Zanoyan, "Time for making historic decisions in the Middle East", Kuwait, Center for Strategic and Future Studies, November 2002.

# Chapter Five

# Media Policy as a Litmus Test of Political Change in the GCC[1]

*Naomi Sakr*

## Introduction

Media laws and policies are at the heart of political reform. Since public discussions of policy options and outcomes can only bring together large numbers of people when conducted through the press and broadcasting, any censorship of the media — whether by governments or commercial interests — reduces public involvement in policy formulation. Censorship not only limits the opportunities for the expression of public opinion about policy choices, but also restricts the way in which such choices are framed in the first place. That is why development of the media towards transparency, freedom of expression and political pluralism is a prerequisite for fair and meaningful public participation in policy debates. That is also why it is not to be expected that ruling groups will willingly relinquish control over the organization, operation and content of media outlets.

For example, the policy of glasnost (openness), adopted in tandem with efforts at perestroika (reform), under Mikhail Gorbachev in the final years of the Soviet Union, was at first sight top-down liberalization, comparable perhaps to the Brazilian military regime's 1975 policy of distensão, or "decompression" (Downing 1996: 81). Yet, top-down liberalization generally proves less liberal in intent than it purports to be, and any part it plays in the actual decentralization of decision-making is likely to depend as much on the forces claiming power as on

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1- In this chapter, news items from daily newspapers and websites are cited in footnotes but not in the list of references. All other sources are cited in brackets in the text, with full details give in the References.

those that appear to be surrendering it. In fact, glasnost was a Leninist principle already familiar to Russians. They understood it to mean not wholesale press freedom, but merely frank media exposure of economic shortcomings that would serve to legitimize government control of the press and lend credibility to its coverage (Price 1991: 92). Moreover, the contribution made by the policy of glasnost to power shifts that followed its introduction should not be overstated. These shifts also have to be seen in the light of activities undertaken by dissident movements, politico-economic pressures, individual initiatives by journalists, and upheavals elsewhere in the Soviet bloc (Downing 1996: 81).

The experiences of struggles over media liberalization outside the six countries of the Gulf Cooperation Council (GCC) can help in assessing the importance of media policy changes within them. Already, this introduction's brief reference to literature on glasnost has indicated that proclaimed policy initiatives cannot be taken at face value. Instead, their relative significance can only be judged through a comparison with the policies that preceded them, and by the expectations of people outside the main circles of power. They must also be assessed for the extent to which they establish new institutional and regulatory structures, and the extent to which these new structures give voice to previously unrepresented interest groups. Once such groups are formally empowered to contest established policy positions and communicate their own policy positions, new channels of interaction come into play that power elites may find difficult to close down. In other words, concessions over the regulation of media activity may form part of a process that is more or less irreversible.

Questions about irreversibility underlie the notion put forward in this paper that media policy can serve as a "litmus test" of political change. This is not intended to imply that political change is a linear or one-way process. In linear models of democratization, the opening up of space for dissenting voices is seen as a stage in a structured or unstructured transition from an old authoritarian order to a new, more participatory one (Rozumilowicz 2002: 17-21). Yet, even such a linear approach allows for reversals. It accepts that backsliding may occur and that the drafting of new laws and the creation of new institutions may still be prone to "elite capture" (Ibid: 21). That is to say that new institutions may differ in outward appearance but not in substance from what went before. It is the degree and nature of differentiation that needs to be examined. Hence the main body of this paper proposed the analysis of media policy changes in the GCC by referring to elements of differentiation theory.

The theory of structural differentiation dates from the work of Durkheim at the end of the nineteenth century, and can be traced through to Talcott Parsons in the 1960s (Jones 1993:38). It is linked to a functionalist and positivist school of sociology, which sees sociological phenomena in terms of linear causality and the

changing needs of a putative social system. Thus, social units that were previously undivided are seen to split and form new units that are differentiated from their origins and from each other by the specialized functions they perform. In differentiation theory, this process is attributed to external influences, such as industrialization. The weaknesses in this overly scientific explanation of social change, which views society as if it were a biological organism, have been explored amply over the past 40 years. Not least is the assumption that social units exist to serve a function, which leads to a focus on function, rather than on the conflicts and unequal power relations of which such units are part. Nevertheless, a phenomenon akin to structural differentiation can be observed in the creation of new media-related institutions in the GCC since the start of 2000. The phenomenon itself and associated socio-legal processes merit scrutiny to see how far they enable hitherto unrepresented groups to express crosscutting, competing or conflicting interests. As one critique of Durkheim's theory of differentiation puts it, "on the one hand it outlined theoretically the development of complex, multi-layered social structures in which the collective forces enabled individuals to become increasingly autonomous; and on the other it failed to grasp that this process of structural differentiation is effectively a democratization of culture, an expansion of civil society and its institutions which enabled individuals, collectively organized into unions, political parties and professional associations, to articulate specific interests which bring them into conflict with other groups, classes and the state itself" (Swingewood 1991: 188).

Hallin and Mancini find the theory of differentiation "unquestionably useful" for their purpose of understanding differences between media systems (2004: 79). However, they do not adopt it uncritically. They seem to reject normative accounts that interpret the differentiation of media organizations from the state and from political or religious groups as part of a process of "modernization," or progress towards an "ideal" (ibid). They also note a Habermasian argument to the effect that the recent history of the public sphere in Western societies is characterized more by de-differentiation than differentiation. This is because media institutions that enabled public affairs to be debated openly in the "early days of the development of liberal institutions" have since been collapsed into the market or into systems of political power (Ibid: 81). Differentiation is therefore not to be confused with the marketization of media institutions or the party political use of public relations bodies and techniques. Nevertheless, as the notion of de-differentiation testifies, a non-functionalist version of differentiation theory may provide a conceptual framework in which to analyze the diffusion of power. The remainder of this paper proceeds from this perspective to explore legal and institutional change in the media sectors of the GCC states. It begins by considering recent developments with regard to basic laws or constitutions as well as specific media laws. It goes on to examine newly formed media-related institutions, especially journalists' associations. Thirdly, it investigates whether a

form of structural differentiation may take place across GCC borders in the sense that differentiated groups in one country may be able to voice the interests of their counterparts in another country where such interest group formation and expression is prohibited. The analysis does not assume that new institutions automatically mean that differentiation is under way. Nor does it concern itself with whether they have a social "role" or "function" in the grand sense, instead focusing only on their apparent objectives and rationale. Rather, the aim of the research is to trace the origins and tangible outcomes of media policy initiatives, so as to gauge their significance in terms of decentralizing political power.

## Media-related Legal Changes

The constitutions of GCC states provide a suitable starting point for the investigation of basic legal stimuli or constraints affecting the formation of new media-related institutions that are separate from existing entities. Constitutions establish the extent of separation between executive, legislative and judicial powers, and whether the legislative body is elected or appointed. Arguably, the potential for structural differentiation might be said to reside in the separation of powers, which is achieved to strikingly differing degrees among the six GCC states. For example, Kuwait's constitution has provided for an elected parliament since the 1960s, whereas Saudi Arabia's Basic Law of Governance, which promised an appointed Consultative Council, was not adopted until 1992. Constitutions themselves have not guaranteed security to the institutions they underpin, as demonstrated by the suspension of national assemblies in Kuwait and Bahrain over the years. Moreover, Saudi Arabia's Basic Law, far from restricting the monarch's absolute authority, essentially codified it. Nevertheless, the point has been made that constitutions, even when adopted for "non-constitutionalist purposes," may contain some constitutionalist practices or encourage constitutionalist movements (Brown 2002: 66). Thus, the creation of an unelected Consultative Council in Saudi Arabia in 1993 – under pressure from the US, after it led the coalition that ousted Iraqi forces from Kuwait in 1991 – made it possible for reformers to petition the king for movement towards an elected assembly. They did so with increasing frequency in the two years after Saudi and other hijackers undertook suicide attacks against US targets on September 11, 2001. In other words, it was only once the Council had come into existence that petitioners could collectively frame coherent campaigns for its development.

Indeed, events since the Consultative Council was created (and enlarged in stages from 60 to 120 members) demonstrate how new opportunities for interaction between political and media institutions can build on each other and multiply. After the Saudi authorities suppressed a rally by campaigners calling for economic and political reform in late 2003, the same authorities decided to broadcast Consultative Council deliberations on state television as part of a top-

down reform package. The 30-minute programs were to be screened weekly, on Saturdays, to show viewers what the Council had discussed the previous Sunday.[2] This was later extended to longer programs on more days.[3] The decision followed precedents set elsewhere in the GCC, notably including the televising of sessions of Kuwait's National Assembly, which started in 1999 (EIU 2003: 25), and the question and answer sessions between ministers and the *Majlis al-Shura* in Oman in 2003 (US State Department 2004a). Meanwhile, it is a feature of parliamentary bodies that they form specialized committees; the Consultative Council was permitted to form eleven parliamentary-style committees with the right periodically to question government ministers (EIU 2002:5). The Council's Cultural and Media Affairs Committee started to become more vocal in 2004, after the government responded to repeated petitioning for reform by inaugurating a series of conferences in June 2003, with the banner "National Dialogue." The first rounds of the dialogue process involved male and female representatives of different regions and religious communities meeting in private for a number of days every six months to draw up recommendations for the government. After the second round took place in December 2003, local press comments called for wider representation in open forums.[4] Significantly, the creation of a secretariat for the National Dialogue meant that a named individual felt obliged to parry such demands by insisting that the dialogue was still at the experimental stage and should be conducted in private. Members of the Consultative Council's Cultural and Media Affairs Committee disagreed, however. In March 2004, they recommended to the government that press freedom be expanded in line with the "concept of dialogue" and that private local investment in radio and television should be encouraged alongside official state-owned broadcasting.[5]

In theory, privately owned broadcast media outlets are not banned under Saudi law. In practice, however, the government retains a broadcasting monopoly. A new Press and Publications Law was issued by Royal Decree in December 2000, replacing the previous law of 1982. It formed part of a series of reform initiatives introduced after Crown Prince Abdullah bin Abdel-Aziz became the kingdom's de facto ruler in the summer of 1999. Article 2 of the law makes clear that the 2000 law, like its predecessor, covers radio and television, as well as the press, while Article 7 sets out the fees payable for obtaining a license for radio

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2- "Saudi TV to show council debates", online at news.bbc.co.uk, November 1, 2003
3- "Expansion of Shura coverage, *Arab News* website, February 27, 2004
4- The Jeddah-based English language daily *Saudi Gazette* urged in a website editorial on December 28, 2003, that the debates should be open and involve a wider range of people. The Arabic-language *Al-Watan* posted recommendations from the closed conference on its website.
5- Lydia Georgi, "Appointed council seeks to expand freedom of expression in Saudi Arabia", *Agence France Presse* English Wire, April 1, 2004.

and television production and studios.[6] However, Article 4 stipulates that the activities listed in Article 2 may only be practiced with permission of the Ministry of Information and "other parties concerned." Consequently, the right to "freedom of expression," allowed under certain conditions by Article 8, is highly circumscribed: it applies only to what may be expressed in media outlets that have been authorized officially. Although Article 31 of the 2000 law states that "no newspaper shall be denied publication rights, except under extraordinary circumstances and with the approval of the prime minister," this effectively described the status quo. The status quo had already allowed a mildly reformist branch of the ruling Al-Saud to launch a new national daily newspaper, *Al-Watan*, to compete with Saudi Arabia's other privately-owned newspapers. Significantly, the 2000 law did not alter the longstanding practice whereby the Ministry of Information appoints or removes editors-in-chief of privately owned newspapers (Al-Khamis 2003: 112; US State Department 2001). On the contrary, Article 11 of the highly detailed and prescriptive Regulations for Press Organizations issued with the new press law made ministry approval mandatory for the nomination, appointment or dismissal of editors-in-chief. Nor did the new law lead to the licensing of non-governmental locally-based terrestrial broadcasters, although a few foreign media companies, notably Reuters and the Dubai-based affiliate of the business television network CNBC (CNBC-Arabiya), managed to mark a break from decades of tradition by obtaining licences to open offices in the kingdom. This concession reflected an acknowledgement by some government agencies, in particular the Saudi Arabian General Investment Authority, which was created in April 2000, that potential foreign private investors needed better information about the Kingdom if they were to fulfill the government's hopes of attracting foreign direct investment to create urgently needed jobs for Saudi nationals.[7]

Enactment of the new press law of 2000 did not invalidate the Media Charter, adopted by the Council of Ministers in 1982, and overseen by the Supreme Council of Information, which is chaired by the interior minister. According to the Charter, "freedom of expression is guaranteed within the framework of Islamic and national objectives and values." The charter saw the purpose of the media in Saudi Arabia as supporting Saudi Muslims in their faith, injecting in them a "sense of cohesion and integration" and proving to them that the "security and stability" they enjoy result from the "adoption of Islam and Sharia as the

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6- The author wishes to thank Mohammed Shoukany, deputy editor of *Saudi Gazette*, for supplying a semiofficial English translation of the law.

7- Author's transcript of remarks made by Abdullah bin Faisal bin Turki , then head of SAGIA, to an audience at the Royal United Services Institute in London on June 24, 2003.

Kingdom's sole constitution."[8] Crown Prince Abdullah indicated in a press interview in May 2002 that adherence to "tradition" (as officially interpreted) was a major theme in the new press law (Al-Rashed 2002: D8). The prince's view that the purpose of the press is to provide constructive and credible criticism in a "spirit of responsibility and patriotism" is somewhat reminiscent of the Leninist principle of glasnost described in the introduction to this paper. His main emphasis, however, was on controls that would keep citizens feeling safe about their honor, reputations, and private lives. According to Prince Abdullah, the new publications law aimed to "reconcile between the freedom of the press and the fundamental rights of society that no one has the right to infringe upon" (Ibid.). It would, he said, be subject to review as conditions and circumstances changed. The norm in GCC constitutions is for media regulation to be referred to only in vague, general terms and for detailed provisions to be left to specific laws. So, for example, under the 1992 Basic Law, the media in Saudi Arabia are viewed more or less as a tool of the government (Sakr 2001a: 41). Article 39 of the law states that the media shall help to bolster the nation's unity. "All acts that foster sedition or division or harm the state's security and its public relations or detract from man's dignity and rights shall be prohibited. The statutes shall define all that."[9] Similarly, Article 37 of Kuwait's 1962 Constitution states that "freedom of the press, printing and publishing is guaranteed in accordance with the stipulations of the law." In Kuwait, as in Saudi Arabia, a press law predated the constitution, and did not guarantee freedom of the press. Kuwait's Press and Publications Law of January 1961 was issued in preparation for independence, and was subsequently amended four times. By the end of 2004, a replacement for it had been under consideration by the cabinet and National Assembly for more than four years. A replacement was felt to be necessary, partly because new communications technologies had rendered the old law anachronistic, and partly because of confusion arising from the status of amendments to the 1961 law that were issued by decree but were not ratified by the National Assembly (Aldayin 2003: 83-84).

Kuwait's 1961 law authorized the government to suspend newspapers and jail journalists for criticizing "the person of the amir," "tarnishing public morals," "disparaging God [and] the prophets," "violating the national interest," or "creating divisions among people" (CPJ 2004). The new draft law, prepared in consultation with the Kuwait Journalists Association, went before the elected National Assembly in 2001 (EIU 2001:13). Its principal innovations were to replace automatic jail sentences for certain offences with fines, and to make the

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8- Quotations are taken from a semi-official English translation. See Note 5.
9- Translation taken from Anders Jerichow (1998) *The Saudi File: People, Power, Politics*, Richmond: Curzon.

suspension or closure of a newspaper subject to a court ruling, rather than a unilateral government decision. A close reading of the draft, however, showed that the key changes were more cosmetic than real, especially given the vague language used to describe offences such as "propagating a spirit of discord" and "eroding confidence in the economic situation" (Aldayin 2003: 85-86). Under Articles 26 and 27, imprisonment was retained as a possible punishment for violations of security and other offences.[10] The bill was presented as a means to end the 20-year government freeze on the licensing of new newspapers. However, under the proposed Article 8, newspapers would still only be published if licensed by the government. The government would also remain the only arbiter in cases where a license was denied because the bill did not entitle the applicant to appeal to a court of law. Similarly, even though the power to enforce the suspension or closure of newspapers was officially transferred from the minister of information to the attorney-general, under Article 16 of the draft law, it is still the minister's advice to the attorney-general that can trigger a three-month suspension for a newspaper accused of "serving a foreign power or jeopardizing the national interest" (Aldayin 2003:85). Needless to say, few commercially independent media outlets could survive three months out of circulation.

Despite stringent safeguards for the government enshrined in the new press bill, government ministers demonstrated their lack of support for it by failing to attend the parliamentary session in June 2004 at which it was debated. In Kuwait, cabinet members are ex officio members of the National Assembly. Yet, only one minister out of 16, and only 23 members of parliament out of 50 turned up for the debate. With the assembly inquorate, the debate was not held.[11] The prospects for any eventual changes made to the press law also have to be weighed against the need for corresponding changes to the Penal Code, which can still be invoked to punish alleged offences against religion or "public propriety" (Aldayin 2003: 85). The same tight restrictions of the Penal Code and the 1961 Press Law also still apply to the three private Kuwait-based satellite television channels which the information minister, Shaikh Ahmad Fahd al-Ahmad al-Sabah, announced that he would license in July 2003.[12] As of late 2004, two of these were in operation, transmitting from the Egyptian-owned satellite, Nilesat.[13] The first to be formally launched, in mid-October, was Al-Rai TV, owned mainly by Jassem Boodai of

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10- Kuwaiti MP Mohammad Al-Busairi told AFP that the bill retains one-year jail sentences for religious abuse, calls to overthrow the government and insults to the amir. See AFP "MPs to debate new press law on Wednesday", *Jordan Times*, June 23, 2004

11- AFP, "Opposition accuses government of scuppering reforms", *Jordan Times*, June 24, 2004

12- "Private TV stations licensed in Kuwait", online at arabicnews.com July 3, 2003.

13- Peter Feuilherade, "Niche TV channels target Arab viewers", online at newsvote.bbc.co.uk, October 15, 2004

Kuwait's Boodai Corporation, and broadcasting news, entertainment, and religious programming. Boodai announced his project in an editorial in the Kuwaiti newspaper *Al-Rai al-Aam*, which he also owns, describing it as a "pioneer of freedom" and "openness."[14] The second private venture, Al-Mishkat, was focused on real estate and tourism.

As in Kuwait, a new and reputedly more liberal press law was under consideration in Bahrain at the end of 2004. In contrast with Kuwait, however, Bahrain's new draft followed a series of legal changes, including the adoption of a new constitution in February 2002, and the introduction of a new press law in October that year. In other words, had another new press law been passed in Bahrain in 2004, it would have been the second in as many years. This amount of legislative activity has to be understood in the context of the accession of a new amir in 1999, his compromise with exiled opposition groups during 2000, and the holding of a plebiscite on a National Action Charter in February 2001, in which top-down political concessions were exchanged for public endorsement of the amir taking the title "king" (Sakr 2001b: 230). Many of these concessions were effectively withdrawn on the very day Shaikh Hamad bin Isa al-Khalifa pronounced himself king and decreed for himself the right to amend the constitution and restrict the National Assembly's mandate by appointing a second chamber (Khalaf 2004: 26-27). Continuing broad restrictions on media activity in Bahrain are contained in the 2002 constitution's two articles on freedom of expression and freedom of the press. Article 23 includes guarantees of the right to express opinions "under the rules and conditions laid down by law, provided that the fundamental beliefs of Islamic doctrine are not infringed, the unity of the people is not prejudiced, and discord or sectarianism is not aroused." Article 24, referring to the provisions of Article 23, states that freedom of the press, printing and publishing is guaranteed "under the rules and conditions laid down by law."[15]

Law 47 of 2002, on the organization of the press, was issued on October 23, at a time when Bahrainis were preoccupied with elections to the National Assembly. In line with the tone of the relevant articles of the constitution, the law made several vaguely worded offenses related to religion, national security and the king punishable by prison terms of six months to five years. It made 14 other offenses, also wide-ranging and vaguely worded, punishable by fines. These provisions provoked so much outrage in the press community that the prime minister decided to convene a committee of newspaper editors to review the law and make recommendations (Al-Salehi 2003: 26). Even though he declared the law to be

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14- AP, "Kuwaiti publisher launches first privately-owned television station", October 16, 2004.
15- Translation obtained online at oefre.unibe.ch/law/icl

frozen, it continued to be enforced while amendments were drafted. The proposed amendments numbered 40. However, before they were put before the National Assembly in 2003, the government whittled them down to 14, eliminating those which aimed at transferring powers to intervene in the press from the government to the courts (US State Department 2004b). The Assembly took no action, which explains why a further draft of a new law was said to be under study by the government's legal affairs committee in late December 2004. Press reports of a statement by Ibrahim Bashmi, of the appointed upper chamber of the National Assembly (and general manager of *Al-Ayyam* newspaper), said that this would abolish jail sentences for press offenses, limit the situations under which journalists could be prosecuted, and transfer the authority to close newspapers from the information ministry to the judiciary.[16] Pending passage and implementation of a more liberal law, international human rights groups were kept busy following criminal cases pursued against media outlets and practitioners in Bahrain.

Qatar is another GCC state to have adopted a new constitution in the early 2000s and to have had a new media law in preparation in 2004. As in Bahrain, change followed the accession of a new amir, although in Qatar's case this took place not through the death of the incumbent but through a palace coup in 1995. The new Qatari constitution, which replaced a Provisional Political Order of 1972, received public endorsement in a referendum in 2003, was formally issued in June 2004, and was due to come into effect in 2005. It provides for a two-thirds elected legislature that will have the right to question ministers, enact legislation and vote on the national budget. Articles 47 and 48 guarantee freedom of expression and press freedom without specifying any restrictions, but say that they are assured in accordance with "conditions and circumstances to be stipulated by the law."[17] The Press and Publications Law in force when the constitution was issued dated from 1979, and hence the drafting of an updated version was said to have started (Al-Jaber 2004: 35). In contrast to other GCC states, Qatar no longer had an information ministry in operation by the end of 2004. Media bodies that previously operated from within the ministry were reorganized when the ministry was formally abolished in October 1998. The Qatar News Agency and Department of Foreign Information were merged with the Ministry of Foreign Affairs. State television and radio services had already been transformed into a separate public authority in 1997 (Al-Jaber 2004: 36).

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16- Mohammad Almezel, "Bahrain studies new press law", *Gulf News*, December 27, 2004
17- Translation obtained online at constitution.org/cons/qatar/constit_2003.htm

It can be said of both Oman and the UAE that their constitutional status has changed somewhat since the mid-1990s, although this had not had any tangible impact on media regulation in either case by end-2004. Sultan Qaboos of Oman established his country's appointed Consultative Assembly by decree in 1991 and then codified its existence in the constitution he issued by decree in 1996 (Brown 2002: 61). That constitution left rules affecting the press to be specified by law. Oman's Press Law of 1984 makes the information minister responsible for the licensing of new publications, and stipulates fines and prison sentences as punishment for press offenses. An updated draft law, said to be more liberal, was reportedly approved by the outgoing lower house of the Omani Consultative Assembly before its three-year term expired in late 2000.[18] The provisions of this draft were not released, and nothing more was heard of it after it was passed to Sultan Qaboos for enactment. The 1984 law was slightly amended in August 2004; however, one of the amendments included a provision that actually raised the amount of capital required to launch a publication, thereby making it harder to start a new title.[19] In the UAE, where a constitution that was provisional since the early 1970s was made permanent in 1996, the press law dates from 1980 (CPJ 2002). It is similar to those in force in most other GCC states in that it makes the Ministry of Information responsible for the licensing of all publications, and imposes fines and imprisonment for any speech that "criticizes the head of state or leaders of the Emirates," "harms Islam or the regime," "threatens the supreme national interests," or "shames leaders of friendly Arab or Islamic states" (Ibid).

## New Media-related Institutions

The foregoing analysis has indicated that GCC press laws offer strictly limited opportunities for the formation of new media organizations that are separate from existing state institutions in the sense that they are free to perform different functions. Differentiation theory, as applied in the scholarly literature on media systems to date, has helped to highlight degrees to which the media – in particular the news media – are differentiated from other social bodies that have historically been active in the political sphere, such as political parties or religious groups (Hallin and Mancini 2004: 80). This suggests that gauging degrees of differentiation in the media requires an understanding of other social and political bodies in a given society.

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18- Arif Ali, "Oman's Shura passes press law", *Gulf News*, November 1, 2000
19- Reporters sans frontieres, "Oman media ordered to blacklist writers", November 24, 2004, online at rsf.fr

Across the GCC, there are wide differences in the existence and purpose of such bodies, with named political groups operating only in Bahrain and Kuwait. The diwaniyya tradition in Kuwait offers another case in point. This is the practice of hosting gatherings in private houses where people may speak freely about public affairs. In light of this tradition, the clause in Kuwait's 1962 constitution that guaranteed the inviolability of personal residences took on a particular significance not only for freedom of assembly but also for freedom of speech (Brown 2002:57). Each time the amir suspended the National Assembly and enforced special controls on public meetings and the media, diwaniyyas functioned as primary sites for political activity and were fiercely protected by leading figures in society against the security forces' attempts to disrupt them by force (Tétreault 2000:70).

Social institutions of this nature form a backdrop to the functioning of the media. They illustrate the possibility that efforts to sustain media outlets that are separate from the ruling establishment may be strengthened by connections to certain social groups. It is therefore proposed in the following section to take a broad view of the types of organizations that may influence media differentiation. Instead of being reviewed country by country, the data is arranged according to type of organization. The focus is on entities such as broadcasters, journalists' associations and human rights groups either created or closed in 2000-4.

It emerged from the first section on media laws that non-governmental broadcasting in the GCC is extremely limited. Where it exists, as in Kuwait since late 2004, or in Dubai Media City, it is restricted to transmission by satellite. Nevertheless, there have been changes in the legal status and organization of some GCC state broadcasters, and these should not be overlooked. For example, Saudi Radio and Television and the Saudi Press Agency, former adjuncts of the Ministry of Information, were turned into public corporations in 2002. However, this was only a nominal separation, since their boards of directors were still chaired by the minister of culture and information (SAMA 2003:54). With this maneuver completed, the state television network was then expanded from two to four channels, with the addition of a sports channel in December 2003 and, in January 2004, a satellite channel named Al-Ikhbariya, broadcasting news 24 hours a day.[20] This constituted a structural increase in the number of jobs available to Saudi media practitioners inside the country, and in the demand for media training. Each time a separate channel is created, it represents a set of operational and managerial interests that may not always accord fully with those of the parent

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20- The timing of the launch of the two new channels was announced on the Saudi news agency (SPA) website on December 22, 2003.

company. According to official statements, Al-Ikhbariya was created to improve the flow of favorable information about Saudi Arabia's part in fighting armed attacks by religious militants at home and abroad.[21] To this end, the channel was given priority in transmitting pictures of suicide and other bombings inside the kingdom. It also made a deliberate departure from precedent when its inaugural newscast was read by Saudi TV's first female Saudi news presenter.[22] This, again, was officially said to be part of a policy of creating a new image. New images and practices in one part of an organization that is undergoing diversification may influence other parts.

As a satellite channel devoted to news and current affairs, Al-Ikhbariya entered a field populated by a growing number of Arabic language news channels, including Al-Arabiya in Dubai and Al-Jazeera in Doha. Since Al-Arabiya, privately owned by a brother-in-law of the late King Fahd of Saudi Arabia, was explicitly created to compete with Al-Jazeera (Sakr 2004: 77), it is worth briefly considering the legal status of Al-Jazeera to explore whether or not it can be regarded as structurally separate from the Qatari government. For example, the Qatari Ministry of Information, which might in another context have been assigned to supervise Al-Jazeera, was formally abolished, as already discussed above. However, Shaikh Hamad bin Thamir al-Thani, a member of the ruling family who was undersecretary at the information ministry, was appointed chairman of Al-Jazeera's board, and financial responsibility for the channel was assumed by the accounting section of the Amiri Diwan (Ghareeb 2000: 405-406). Plans for Al-Jazeera to become self-financing mainly through advertising revenues fell by the wayside when resistance to the station in other parts of the Gulf distorted the flow of advertising and prevented it from growing, leaving Qatar's head of state to continue paying the bills (Sakr 2004b: 152-154).

His reasons for doing so can be explained in terms of Qatari foreign policy. Foreign relations are a central preoccupation for a small country, and according to some accounts, the foreign policy of the very small State of Qatar has been particularly assertive over several decades (Abadi 2004:14). On this basis, it is reasonable to suggest that by sponsoring Al-Jazeera and giving it relative editorial freedom to articulate pan-Arab political discontent, the Qatari leadership could establish its credentials as a defender of Arab interests while at the same time maintaining a close military alliance with the US. By means of Al-Jazeera, the

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21- Al-Ikhbariya's director, Mohammed Barayan, told Reuters: "The American media put out things about Saudi Arabia that are not true - like that Saudi Arabia is not fighting fundamentalists. We want to tell the world about our country, to give a new image". Quoted in BBC Monitoring Research, ""Saudi rulers ease their grip on the media", May 28, 2004.
22- Raid Qusti, "Al-Ikhbariya makes waves", *Arab News*, January 13, 2004

ruler helped his country to gain influence disproportionate to its size. Nevertheless, for the purposes of this chapter it may also be noted that Al-Jazeera had already added a sports channel to its original single news channel in 2004, and was planning to diversify further through the addition of an English-language channel and others showing children's programs and documentaries. In 2004, it also opened the Al-Jazeera Media Training and Development Centre in Doha as a business venture. In the diversification process, Al-Jazeera may well have started to develop organizational interests of its own that can be differentiated from the foreign policy interests of Qatar's amir.

When media organizations such as Saudi TV or Al-Jazeera split their output into specialized channels, this is a form of horizontal disintegration that, as explained above, creates a new, more complex, dynamic of relations among management and editorial staff. A reverse process may also take place, as happened when several media outlets in Abu Dhabi were merged into the single state conglomerate, Emirates Media Incorporated, under the chairmanship of the UAE's information minister at the end of the 1990s (Bounajem 1998: 54). Alternatively, attempts at diversification may come to a halt, as happened at Radio Oman, which experimented briefly with a breakfast show and drive-time program run privately by a female member of the ruling family. These shows, which broke with tradition in the way they delved into local current affairs, went off the air when the person responsible for them took her young family to the UK.[23] Where horizontal disintegration does take place, however, it creates a situation in which media professionals, by being more in demand, may have more occasion to articulate specific interests. Whether or not they can do so collectively depends on the organizations that exist to represent them.

Preliminary authorization for the formation of a Saudi Journalists Association (SJA) accompanied the press law and regulations for press organizations issued by royal decree in 2000.[24] Crown Prince Abdullah later explained in a press interview that labor unions were not needed in Saudi Arabia since the state had "set itself as the workers' protector and the defender of their rights" (Al-Rashed 2002: D8). He cited professional associations as an "acceptable alternative" that could "play their role in full alongside the state in a cordial and peaceful way" (Ibid.). In practice, however, the opening up of a dedicated space for public

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23- Telephone interview with Sayyida Zawan Al Said, July 9, 2004. See also "A new type of feminism emerging in Gulf" online at albawaba.com, accessed June 21, 2004.
24- Article 44 of the Press and Publications Law states: "Subject to a decision by the Minister, associations may be formed for activities mentioned under Article 2 of this law, to address problems and coordinate function. Every such association has to lay down regulations stating its goals and tasks, which are subject to approval by the Minister".

interaction among journalists as a group, as well as between journalists and, for example, the Ministry of Information, did create scope for the articulation of a range of conflicting interests. Between March 2003, when the Association's Constituent Committee first met, and June 2004, when its board was finally elected after elections were repeatedly postponed over several months, attention was publicly drawn to questions about its membership, autonomy and purpose. Differences over whether staff qualified as full-time or part-time journalists provoked resentment, as some applicants who believed themselves to be full-time staff were disqualified. According to one report, as many as 770 people working in newspapers were deemed ineligible.[25] In order to resolve this issue, a special committee was formed, consisting of three members of the Constituent Committee, two members of the Riyadh Chamber of Commerce, and two legal advisors from the Ministry of Culture and Information.[26] The composition of this committee, like that of the Constituent Committee itself, underlined the ministry's intimate involvement. Not only was the Constituent Committee formed of editors-in-chief, but all newspaper editors-in-chief in Saudi Arabia (as noted earlier in this paper) are ultimately appointed or dismissed by the Ministry of Culture and Information. Daoud al-Shiriyan, formerly a journalist with *Al-Hayat* who was working freelance in 2004, openly declared the SJA to be a "semi-official organization with its laws set out by the ministry."[27] Nevertheless, elections to the nine-member board also afforded opportunities for candidates to air their aspirations for improving journalists' working conditions, whether materially, or in terms of what one described as "problems arising out of published reports."[28] Repeated postponement of the elections allowed women journalists to clarify their status in the association, to stand as candidates in elections to the board, and to win two out of the nine seats on it. Five of the nine seats went to editors-in-chief of major Saudi newspapers.

As demonstrated by the struggles over the formation of the SJA, even an association that is run virtually directly from within the government has the potential to highlight calls for professional autonomy. The Bahraini government attempted to avert a similar outcome when it coopted members of the press into

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25- Raid Qusti, "Elections to Saudi Journalists Association postponed again", *Arab News*, February 23, 2004.

26- See Omar al-Midwahi's interview with Turki al-Sudairi, then head of the SJA's Constituent Committee,published on the website of Asharq al-Awsat on February 22, 2004.

27- Omar al-Midwahi, "Journalists Association to Protect Freedom of Expression: Al-Sudairy", *Arab News*, January 6, 2004

28- Qinan al-Ghamdi, a former editor-in-chief of *Al-Watan*, was quoted to this effect by Sabriya Jawhar in a report entitled "Saudi journalists association votes board members Thursday" on the website of *Saudi Gazette*, January 5, 2004

endorsing its new press law in 2002. A Bahraini journalist, who was prevented by the Bahraini authorities from reporting for *Al-Watan* in Saudi Arabia, said of the Bahraini Press Committee, composed of newspaper owners and publishers as well as journalists, that it would be "a real challenge for anybody to differentiate between the Press Committee and any official sub-committee of the Ministry of Information" (Salehi 2003: 27). That was why Bahraini journalists took action in 2002 to form a trade union, only to find that the Press Committee also wanted to be involved (Ibid.). Forming a trade union became possible in 2002 when the Bahraini government reversed its ban on them, making Bahrain only the second GCC country after Kuwait to allow workers to join trade unions. Qatar's government announced in May 2004 that it was introducing a new labor law that would make it the third GCC country in this category.[29] However, foreign staff working on Al-Jazeera's English-language website in Doha had previously run into trouble when they tried to arrange union representation in late 2003.[30] Overall, given regional precedents for journalists' bodies to be denied autonomy, the Omani government's decision in November 2004 to approve the first Omani Journalists Association could not be taken to signal the invigoration of Omani civil society. Approval was granted at a moment when the Omani Ministry of Information was trying to deflect international criticism for banning two intellectuals from writing for Omani media because of comments they made to the Iranian-owned Arabic-language news channel Al-Alam.[31] As for the Dubai Press Club and UAE Journalists Association set up in 1999-2000, these were top-down initiatives supported by the Crown Prince of Dubai (Sakr 2001a: 128).

When media workplaces and professional associations are limited in the extent to which they are separate from government institutions, questions also arise about the differentiation of human rights groups. The year 2004 saw several developments related to human rights groups in the GCC, but these activities included not only licensing such groups, but also closing them down. In March 2004, the Saudi government appointed 41 members of a National Human Rights Association and then arrested a dozen local figures who called for an alternative nongovernmental human rights body. Campaigners for the latter were adamant that the official association could not be independent. One said it was "100 per cent selected by the Interior Ministry" and that "75 per cent" were "agents or loyal

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29- BBC news, "Qatar to allow unions and strikes", online at newsvote.bbc.co.uk, May 20, 2004
30- Two members of staff were sacked after 17 out of 21 journalists at the website signed up to form a branch of the UK's National Union of Journalists, according to a series of reports online at journalism.co.uk between October 2003 and January 2004.
31- Carnegie Endowment for International Peace, "New Journalists' Associations", *Arab Reform Bulletin* December 2004, online at carnegieendowments.org/publications

clerks."[32] This judgment appeared to be vindicated when the official association refrained from comment on the government's insistence that the detainees would only be released if they pledged in writing neither to petition for reform of the Saudi system nor to talk to reporters.[33]

In Bahrain, permission to form the country's first independent human rights group was denied in October 2000, but then granted in March 2001 after the National Action Charter referendum (Sakr 2001b: 230). By the end of September 2004, the Bahrain Center for Human Rights, one of two human rights groups in the country, had been dissolved by order of the Ministry of Labor and Social Affairs. Its premises were declared off limits to staff after the center's director was charged under the 1976 Penal Code with "inciting hatred" because he had criticized the government's economic performance.[34]

In Kuwait, by contrast, a body that had existed informally since 1993 finally received government authorization in August 2004. The Kuwait Society for Human Rights (KSHR) was formed after the 1992 elections but was banned under a 1993 decree dissolving all unlicensed voluntary organizations. Licenses are conferred only by the Ministry of Social Affairs with full cabinet approval. In other words, licensing of human rights groups in the GCC works in the same way as licensing of newspapers and journalists' bodies in order to curb autonomy or independence.

## Testing Legal-institutional Boundaries across Geographical Borders

In cases where media outlets or media-related organizations are coercively enmeshed with government institutions in the countries where they operate, it is conceivable that they may be able to escape enmeshment by conducting their activities abroad. It should be possible (and relevant to the present paper) to identify instances where uncensored media coverage or media freedom advocacy was attempted at a transnational level within the GCC and thereby overcame national constraints. Media policy differences from government to government in the GCC may also create potential for interest groups that are suppressed in one

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32- Tawfiq al-Khusayer, a professor of engineering, was quoted to this effet by Elizabeth Rubin in "A Saudi response to reform: round up the usual dissidents", *New York Times*, March 21, 2004. See also the comments of Jafar Shayeb quoted in an AP report, "Saudi Arabia approves first independent human rights committee", *Jordan Times*, March 22, 2004.
33- AP, "Seven of 13 Saudis detained are released", March 21, 2004
34- Human Rights Watch, "Bahrain: Rights center closed as crackdown expands", New York, September 30, 2004; Amnesty International, "Bahrain: Amnesty International welcomes the release of Abdul Hadi al-Khawaja", London, November 22, 2004.

country to be represented via media outlets based elsewhere in the GCC, even where the outlet concerned is itself an "appendage"[35] of the government of the country where it is based. Thus, Al-Jazeera, for example, regularly covered political struggles in the GCC during the period under review, often interviewing dissidents from countries such as Saudi Arabia and Bahrain. In response, Al-Arabiya's management is understood to have encouraged its staff to give airtime to dissidents in Qatar.[36] Political news items that would be subject to internal censorship often emerged in newspapers elsewhere in the GCC, or in the foreign-based Saudi-owned pan-Arab papers *Asharq al-Awsat* and *Al-Hayat*.

The question for the present research is whether this practice was subject to a significant change of policy or relaxation of rules during the period 2000-4 when the other developments analyzed in this paper were under way. For part of the answer, it is necessary to refer back to the press laws already discussed, since it is here that the practice of "offending" or "defaming" the leaders of friendly countries is often outlawed. The UAE's press law, for example, explicitly prohibits media content that "shames leaders of friendly Arab or Islamic states". Yet Abu Dhabi TV, which relaunched in 2000, just before the outbreak of the second Palestinian intifada, adopted a policy of allowing people to air criticism of Arab leaders. A spokesman for the channel said that freedom to express critical views had a "salutary impact on both leaders and people" (Sullivan 2002). Similarly, Dubai Media City, launched as a free zone for international media organizations in 2000, was able to attract companies like CNN and Reuters by promising that the right to freedom of expression would be observed. According to its own promotional literature, the management of Dubai Media City was said to be working with the government to draft regulations that would "guarantee freedom of expression within the dimensions of responsibility and accuracy" (CPJ 2002). At the same time the UAE government's willingness to intervene openly in editorial matters was demonstrated in August 2003 when it closed the Zayed Centre for Coordination and Follow-up, a think tank that published reports, sponsored lectures and operated a website, in response to allegations that material produced by the centre was anti-Semitic (US State Department 2004c).

As these UAE examples suggest, the vague wording of laws allows those in power to interpret them according to the pressures of the moment. All GCC press laws on the statute books at the end of 2004 prohibited content deemed to

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35- This term is borrowed from an article by the veteran columnist Rami Khouri, "Arab satellite marriage - Ben Laden and Madonna", *Jordan Times*, November 27, 2002

36- A job applicant, who asked at interview if Saudi dissidents could appear on Al-Arabiya programmes, was told: "Yes, and while you are about it, find some Qatari dissidents too". Personal communication from the interviewee, London, June 10, 2003.

jeopardize the "national interest" or "serve the interests of a foreign power."[37] The dissemination of content liable to damage relations with the governments of other states in the GCC could be banned on this basis. Al-Jazeera consequently remained unusual in its degree of editorial openness, and was obstructed by other Gulf governments by various means. Bahrain's information minister announced in May 2002 that Al-Jazeera would not be allowed to report from Bahrain.[38] Kuwait sued the channel for damages in 2001 and closed its Kuwait office in November 2002, claiming that Al-Jazeera had taken a "hostile stand" against the country (Sakr 2004b: 154; Sakr 2004a: 77). Saudi Arabia prevented Al-Jazeera crews from covering the pilgrimage in 2002-4 and GCC ministerial meetings held in Saudi cities in the months preceding the US-led invasion of Iraq (Sakr 2004a: 77). GCC governments also decided whether or not their officials should appear on Al-Jazeera programs, and whether or not to penalize any nationals choosing to work for the channel. When a Saudi newscaster, Ali al-Dhafeery, signed a contract to join Al-Jazeera in April 2004, he drew attention to the absence of Saudis there, and urged more compatriots to join, so as to "contribute to making the news."[39] The Kuwaiti government's aversion to Al-Jazeera encouraged it in early 2003 to join in the formation of Al-Arabiya, the predominantly Saudi-owned Dubai-based competitor to Al-Jazeera, although it soon withdrew from this venture in protest at aspects of its coverage of the invasion of Iraq.

Media freedom or media development advocacy across territorial borders within the GCC was meanwhile conducted primarily by individuals, rather than groups. An entity calling itself the Gulf Press Freedom Organisation, formed in late 2003 by some participants in a seminar organized in Yemen by the US National Endowment for Democracy and led by an Omani journalist, could not establish itself on the ground in the GCC until it found a state government that would allow it to register.[40] Plans to create a guild for independent filmmakers and cinema professionals, announced in the UAE in December 2004, drew attention to the growing importance of film as a medium at a time when a proliferation of television channels has significantly increased the capacity to show locally-made

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37- E.g. Article 9 of the Saudi Press and Publications Law of 2000, Article 16 of Kuwait's draft press law, etc.

38- Islamic Republic News Agency, "Bahrain bans Al-Jazeera channel from reporting inside kingdom", online at middleeastwire.com, May 12, 2002

39- P K Abdul Ghafour, "Dhafeery urges Saudis to join Al-Jazeera", *Arab News*, May 1, 2004

40- Arab Press Freedom Watch, "Gulf Press Freedom Organization launched", online at apfw.org, November 20, 2003.

films and dramas. Plans for the guild suggested that it might be regional, but seemed to originate with a single person.[41]

Finally, a sense of why independent initiatives may be kept at a personal level rather than collective one can be gathered from the Bahraini government's response to a group of Bahraini politicians and intellectuals who wrote to the Saudi authorities in August 2004 to call for the release of three Saudi reformists. The three Saudi detainees, Ali al-Demaini, Matruq al-Faleh and Abdullah al-Hamed, were among a group detained that March, apparently because they were preparing to criticize the government's decision to create an appointed human rights body and not allow an independent one to operate as well (EIU 2004:13). A spokesman for the Saudi interior ministry told the Saudi Press Agency that the detainees had been arrested for interrogation about "issuing statements that do not serve the unity of the homeland." While others in the group were released after pledging not to continue their campaign or talk to the press, Demaini, Faleh and Hamad refused to make such pledges and remained in the custody of the General Intelligence Service for nearly five months before being brought to trial in Riyadh on August 9, 2004, the same day that local and foreign news media were preoccupied with the long-awaited announcement of arrangements for holding municipal elections. Since, unusually for Saudi Arabia, the court hearing was held in public, the nature of the indictments against the three men was revealed. Their alleged crimes included calling for Saudi Arabia to become a constitutional monarchy and questioning a provision in the 1992 Basic Law provision that makes the king the head of Saudi Arabia's judicial authority.

Although the first court hearing in August was open to the public, the Saudi government had made strenuous efforts at the time of the men's detention in March to prevent media coverage of the affair (EIU 2004). Abdel-Rahman al-Lahem, a lawyer who discussed the detentions by telephone with the satellite channel Al-Jazeera, was himself arrested on March 17. An edition of *Al-Hayat* was withheld because it contained a Western news agency report on the events. Similar efforts to clamp down on coverage occurred later when the trial, which was twice adjourned, resumed in December. Police then arrested nine people who tried to enter the court, including two journalists working for *Saudi Gazette* and *Al-Madinah*.[42] By this time the government had also confirmed its intention to enforce an existing decree prohibiting public employees from opposing state

41- Diaa Hadid, "Filmmakers' guild likely to be set up", *Gulf News*, December 11, 2004
42- BBC news, "Arrests at Saudi reformers' trial", online at newsvote.bbc.co.uk, December 2, 2004

policies and programs, whether by signing statements, making speeches or appearing on radio or television talk shows.[43]

It was against this background of suppression inside Saudi Arabia that 200 Bahrainis wrote their letter calling for the men's release. Their action immediately provoked a warning from the Bahraini minister of labor and social affairs that the registered societies they belonged to might be closed because they had infringed the rules under which they existed. According to the minister, these included abiding by the international undertakings agreed to by the Bahraini government. Under the GCC Security Agreement, he said, Bahrain has a duty to take "necessary action" to prevent its citizens and residents from interfering in the internal affairs of GCC member states. A signatory to the letter replied that it had been sent by individuals on their own personal behalf and not as representatives of societies or political groups.[44]

## Conclusion

The evidence presented here shows that the period from 2000 to 2004 was an active one for most GCC states in terms of legal developments affecting the media. Two GCC states (Bahrain and Qatar) introduced new constitutions during this time, but two others (Saudi Arabia and Oman) had promulgated their first constitutions as recently as the 1990s. New press laws were issued in Saudi Arabia in 2000 and Bahrain in 2002, with new ones still in the draft stage in Kuwait and Qatar by the end of 2004, and a further new law promised in Bahrain. The same period was also a busy one for the creation of GCC-based media institutions and associations. The Kuwaiti government decided in 2003 to allow private domestic satellite channels for the first time; Saudi Arabia's state TV spawned two new channels, including a 24-hour news operation; and a privately-owned Saudi-backed competitor to Qatar's Al-Jazeera was launched in 2003 and based in Dubai Media City, which in turn was opened as recently as 2000. A journalists association and a human rights association came into existence in Saudi Arabia in 2004, while dissatisfaction with the Bahrain Press Committee, formed in 2002, prompted Bahraini journalists to establish a trade union. A human rights body was finally licensed in Kuwait in 2004 after existing informally for eleven years, and the Omani government announced later the same year that it was authorizing the formation of an association for journalists.

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43- Khalid al-Dakhil, "Quiet time in Saudi Arabia", *New York Times*, November 29, 2004
44- Mohammed Almezel, "Bahrain's groups chided over Saudi reformists", *Gulf News*, August 31, 2004

However, when this activity is assessed in terms of whether it increased opportunities for interest groups to differentiate themselves from existing social and political formations and from each other, the situation looks much more subdued. The actual content of media laws and laws governing the licensing of new organizations clearly hampered attempts at differentiation and seemed to do so deliberately. Media laws, whether new or old, strictly circumscribed the possibilities for media coverage or licensing of new newspaper titles or television companies, and in some cases prescribed for the media the role of furthering government agendas. Meanwhile, new bodies set up to represent journalists in Saudi Arabia and Bahrain were stuffed with establishment appointees.

The situation with regard to the media and political reform became even clearer when viewed from the perspective of the whole GCC. This allowed cross-border initiatives to be weighed against the legal armory available to individual governments seeking to minimize the impact of independent media activity or media freedom advocacy. The study as a whole demonstrated that developments taking place over this period were worth monitoring because small, piecemeal innovations had an incremental effect on freedom of expression. The diversification of Saudi media perspectives on the Kingdom's reform programis one example. Structural evolution of Bahraini opposition activity is another. Overall, however, media policy during the period in question failed the litmus test: it could not be said to have facilitated or supported the widening of political participation in the GCC.

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# Chapter Six

# The Constitutionality of Discrimination: A Search for Women's Political Equality in Kuwait

## *Farah Al-Nakib*

## Introduction

On May 16, 2005, women in Kuwait were finally enfranchised when the National Assembly voted 35 to 23 in support of women's political equality after several months of intense debate over the issue. This monumental event took place exactly six years after the Amir of Kuwait passed a decree in May 1999 granting women the right to vote and run for office. This decree was made after the Amir dissolved the National Assembly constitutionally (meaning that elections for a new assembly had to be called within thirty days) that same month. The new National Assembly, which convened that June, vetoed the decree, and when the issue was brought to the table once again by members of the assembly as their own bill the following November, it was again rejected by just two votes (32 to 30). The events of 1999 raised the volume over the past six years over a critical question for advocates of women's rights in Kuwait: After more than forty years of independence, why were women not enfranchised yet? Now that this objective has finally been reached, the question can be changed to: Why did it take so long, both since independence in 1961, and since the events of 1999, for the National Assembly to finally vote in favor of women's suffrage?

The debate on women's political equality in Kuwait has found its way into discussions at practically all levels of Kuwaiti society: from the National Assembly building to the average home and from political activists to housewives. There are several different dimensions to the debate, and each side has a range of arguments and analyses, these being too numerous to be outlined coherently here. There is, however, one question that has seemed to emerge in

nearly all discussions on the issue: Does the constitution of Kuwait grant or deny women political equality?

Although the main topic of this chapter is the search for women's political equality in Kuwait, it is not strictly about women's suffrage. The chapter also does not represent an argument or take a stand either for or against a woman's right to vote and run for office. Therefore, with the exception of an analysis of certain legal cases made by women's rights activists against the Kuwaiti government, little time is spent discussing women's rights as an actual *movement* in Kuwait. Rather, this chapter is about the constitution of Kuwait – in its existence as a written text, where the issue of women's political rights is used purely as an example to illustrate how reading the constitution as an independent entity with a single absolute meaning is in fact impossible. For purposes of analysis, the chapter considers the debate on women's political equality in Kuwait, and in particular, on the role of the Constitution within this debate, to be a live and active one, despite the fact that on May 16, 2005, advocates of women's rights in Kuwait ultimately achieved victory. In fact, notwithstanding the vote, discussions surrounding the issue are not likely to die out soon. Furthermore, the issues surrounding the language of the constitution in relation to women's rights are still relevant despite the May 16 vote. The search for women's political equality within the language of the constitution is, again, used purely as an example to demonstrate the problematic nature of language within a historical and political framework.

The Constitution of the State of Kuwait was written in 1962, less than a full year after the country had attained independence from Great Britain. Although it appears to be a rather liberal document, especially when considering the conditions under which it was drafted and ratified, upon closer examination, several problems and discrepancies emerge. This fact becomes most evident when put into the context of the fight for women's suffrage. In the years since 1999, it was regularly argued in several legal cases made against the government that the constitution does not openly discriminate between men and women, and therefore women should be enfranchised if the document is truly to be seen as the 'law of the land.'

Although the constitution does not seem to openly sanction political discrimination against women, the language used in the document is problematic. The constitution is riddled with ambiguities and problematic terms, and conflicts between the Arabic and the English translation further emphasize these ambiguities. These problems result in an overarching conflict that cannot, due to the nature of language, ever be fully resolved. A close reading of the various articles of the document allows both sides of the women's rights debate to find passages and interpretations that support their arguments. Although each side

could potentially present convincing arguments to support their views, the nature of language itself prohibits us from stating definitively whether or not the constitution in fact advocates or opposes political rights for women in Kuwait.

## Language and Meaning

An examination of the construction of the language that is used today in defining Kuwaiti society and politics, through the use of terms such as gender, citizenship, equality, and the like, is of primary concern here. This language, the meaning of which goes beyond just the actual words, is used over time for the creation of meaning through differentiation. In other words, the terms that will be examined here are part of a structure of language that is never absolute and is always in flux and changing. Therefore, the 'meaning' of terms such as equality and citizenship are constantly changing over different times and within different contexts. If this is truly the case, as several different epistemological theories on language have argued, then the language of the constitution as it was drafted in 1962 will in many cases have different meanings, or will be understood within and under different conditions, when read today than it did when it was written. Rather than reading the constitution as an independent entity with a single absolute meaning, a deconstructive approach to the language of the document will show that such a reading is in fact impossible. This is where the ultimate problem lies in using the constitution as the final arbiter in an argument such as the one surrounding women's political rights in Kuwait.

Within such a discussion of language and meaning, several different theories on the issue come to mind, namely those categorized under the framework of poststructuralism and deconstruction. The ideas that are most pertinent to the patterns of language and meaning that are used within the context of the Kuwaiti constitution and women's rights are those of Joan Wallach Scott and her book Gender and the Politics of History.[1] Several arguments that Scott makes throughout her analysis are salient when examined through the case study of the constitution of Kuwait in relation to women's suffrage. A general outline of some of the themes Scott discusses in her book (in her introduction and first three chapters) will be provided, before various examples are examined to see how these theories can be applied to a close reading of the constitution of Kuwait.

1- Joan Wallach Scott. *Gender and the Politics of History*. New York: Columbia University Press, 1999.

## Scott's Theories of Language

The first issue Scott brings to the fore is the question of why writers of history have consistently ignored or denied any evidence of the existence of women in that history. "Apart from the allusions to male bias, there was nothing to account for the absence of attention to women in the past and, if male bias was the cause, there was nothing (but faith in the progress of democracy) to guarantee that it would not continue to stand in the way of pluralism's promise of equality."[2] This notion of the absence of women in the construction of history fits well into the backdrop of the Kuwaiti constitution, with only one slight alteration. If we substitute the actual historical 'actors' – in this case, the members of the Constitutional Council of the Constituent Assembly that ratified the constitution – for the historians, the question then remains the same. In fact, the members of the Council can themselves even be seen as the "writers," since they were the ones who wrote the constitution, or at least played a part in its writing through their discussions of it. Throughout the conversations that took place among the five Kuwaiti and two Egyptian members of the Council, not a single reference to women was ever made, even within their discussions of equality, justice, liberty, citizenship, and other catchphrases of democracy. Once again, "apart from the allusions of male bias," there does not seem to be any reason or plausible conclusion for why women, as a specific group, were left out of the discussions concerning the constitution and democracy in Kuwait.

As Scott argues through her analysis of post-structuralism and deconstruction, meanings are never fixed within a given culture, but rather are constantly in flux. A deconstructive analysis of language makes it possible to examine the various processes that create those meanings. Language is not simply a collection of individual words, each with an established and fixed definition. Rather, terms such as those that will be discussed here, are constantly in conflict with one another, and are constantly changing. Meaning is multidimensional, and there are no single, clear definitions to words as part of a universal, fixed vocabulary. Rather, words acquire their meanings within different contexts, different times, and different discourses, through what is implicit in their usage, as well as explicit. In other words, meaning is created through differentiation. Various external factors play a part in such changes, such as historical events and actors. In the analysis of the constitution of Kuwait, the meaning of the document will be examined within this paradigm of language to show how the document's language is problematic in relation to women's rights in Kuwait.

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2- Scott, 3.

In her analysis of language, Scott brings up the notion that meaning is also "constructed through exclusions," i.e. it is not just what the text says, but also what it does not say that constructs its meaning.[3] The problematic wording of the constitution of Kuwait falls into this same framework of language as well – in many cases, it is in what the constitution does not say that the meaning becomes apparent. In several places, the document relies heavily on certain laws to elaborate on what the constitution itself does not say. The blank spaces in the document are filled in by the laws it refers to. Thus, the real meaning behind many of the articles of the constitution is created through exclusion and through what the document itself does not specify, but is stated more clearly in the laws. This factor, coupled with the problems that arise due to the ambiguities inherent within the language, and the malleability of the language itself, are the two main reasons why the constitution of Kuwait cannot be used as the determining factor with regard to women's suffrage in Kuwait.

## Historical Background of the Constitution

When read within the context of women's rights, the constitution is vague, ambiguous, and consistently problematic. It can be argued that it is because of problems that exist in the document's language and wording that the debate on women's suffrage in Kuwait has not been resolved easily. Each side of the discussion is able to interpret the language used (both in the original Arabic version and the English translation) in their own way to support their respective arguments. It is first necessary, however, to understand the constitution within the historical context in which it was written, and the circumstances under which it was drafted and ratified.

Under the Agreement of 1899, Kuwait became a protectorate of Great Britain, and was not granted independence until 1961, under the leadership of Shaikh Abdallah Al-Salem Al-Sabah (also known as Abdallah III). The steps Shaikh Abdallah took towards democracy immediately following independence seem extremely liberal and radical for a country that had only just attained independence, and was about to start running its own government for the first time since it had become a modernized state under the British. However, when seen in relation to his own history in Kuwait both before and during his reign as the Amir, Abdallah's post-independence actions do not seem quite as surprising. From the early days of his career, Abdallah had always seemed reluctant to collaborate with the British, which was why the British government supported his cousin Ahmad's claims for succession to power after Abdallah's father, Shaikh

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3- Scott, 3.

Salim I, died in 1921. After this incident, a growing rift developed between the two sides of the ruling family, namely between Abdallah and his ruling cousin.

During this same period, around the 1920s and 1930s, several merchant resistance movements that emerged within Kuwait. These movements opposed the ruling family, and were primarily a response to severe economic recession and hardships, as well as to the role of the British in the state of economic affairs in the country. These merchant groups looked to Abdallah as their leader, and as the middleman between themselves and the Al-Sabah rulers.

In his analysis and genealogy of Kuwait's ruling family, Alan Rush outlines Abdallah's role in the matter quite clearly: "As criticism of the government increased, Abdallah became the patron of a movement aimed at introducing wide-ranging reforms and a system of government that would restrict the powers of the ruler."[4] It was during this period that Abdallah formed the basis for his attitude towards democracy and distributive politics. His most noteworthy experience was when he worked alongside several merchant opposition leaders as one of the frontrunners of what came to be known as the *Majlis* Movement of 1938. The group managed to persuade Shaikh Ahmad to grant the creation of a legislative assembly, over which Abdallah presided, in order to create a balance of powers within the Kuwaiti political arena. Although the assembly was short--lived, it served as a blueprint for the next major legislative movement of Kuwait, which came in 1961.

Abdallah became Amir of Kuwait in 1950. He was determined to attain independence from Great Britain, and was less collaborative with the imperialist power than his predecessors had been. Furthermore, he began the act of distributing power to a greater number of people, rather than keeping it solely to himself and his family (although some of his attempts at distributive politics failed due to conflicts with members of his own family). Throughout the 1950s, Abdallah was successful at gradually phasing the British out of the internal affairs of the state, and in 1959, went so far as to bring in Egyptian jurists to help establish a comprehensive judicial and legislative system.

By 1961, it became clear to both Kuwait and Britain that the Agreement of 1899 was rapidly becoming "obsolete and inappropriate," and Kuwait was granted independence.[5] The first issue Abdallah had to deal with as the ruler of

4- Alan Rush. *Al-Sabah: History & Genealogy of Kuwait's Ruling Family, 1752-1987*. London: Ithaca Press, 1987. 40.
5- Rush, 42.

newly independent Kuwait was the threat of an Iraqi invasion only six days after signing the new "friendship agreement" with Britain. Although the British came to Kuwait's defense and no attack took place, popular support for Abdallah inside Kuwait grew immensely, and "this in turn increased Abdallah III's resolve to trust the people and encourage the establishment in Kuwait of a political system offering more civil and political rights" to his people.[6] He called for a popularly elected National Assembly, much like the *Majlis* of 1938 that he helped establish. Abdallah was not only sharing what had historically been the power of the shaikh with members of his own family, but he was also disseminating power to the people of Kuwait, namely to the leading merchant families who so badly wanted a stake in government since the early days of the opposition movements. For the first time, political power was about to extend beyond the genealogical structure of the ruling Al-Sabah family.

Abdallah called upon several members of the merchant groups, most of whom he had collaborated with in the 1930s and who had played a role in the *Majlis* Movement of 1938, to establish a Constituent Assembly and help draft a constitution for the country. The constitution itself was written by Egyptian law experts, led by Dr. Othman Khalil Othman, and was then submitted to a five-member sub-council of the Constituent Assembly to be discussed, revised, and ratified. It can be argued that Abdallah brought in Egyptian lawyers to draft the constitution because nobody in Kuwait really had any formal training, background, or experience in democracy and representative governance, as Kuwait itself had only just been granted independence.

Kuwait had become a modernized state while under British protection. It had undergone such a rapid degree of change in the first few decades of the twentieth century that the state that was handed back over to the Al-Sabah family and people of Kuwait in 1961 bore no real resemblance to the Kuwait that had been incorporated into the British Empire in 1899. Therefore, a new system of government had to replace the old system that had existed prior to British intervention. However, nobody in Kuwait was truly qualified to create such a government, thus prompting Abdallah to summon Dr. Othman to draft the constitution and help devise a legislative system of government in Kuwait.

## The Constitutional Council

The Constitutional Council, the *Lajn-at al-dustur,* was comprised of five members of the Constituent Assembly, as well as two Egyptian lawyers, Muhsin

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6- Ibid.

Abdul-Hafith and Dr. Othman Khalil Othman. The group met in March 1962 to discuss each article of the constitution that was written by Dr. Othman. The five members, who first met on March 17, 1962, were: Abdullatif Mohammed Thunayan Al-Ghanim (Chairman of the Constituent Assembly); Shaikh Sa'ad Al-Abdallah Al-Salim Al-Sabah (Minister of the Interior, also the son of Shaikh Abdallah III, and the previous Crown Prince of Kuwait); Humoud Al-Zaid Al-Khalid (Minister of Justice); Ya'qoub A1-Humaidhi (member of the Constituent Assembly), and Sa'ud Al-Abdulrazaaq (member of the Constituent Assembly).

## Scott's Theories and the Constitution

During the meetings of the Constitutional Council, various conversations took place within the discussion of each article of the constitution. In some cases, the discussions focused on word usage; in others, the actual meaning and implications of what the article stated were considered, along with the different ways in which articles could be interpreted or even misconstrued by people, and how to remedy those problems.

Not once throughout these discussions was a direct reference to women made. Overall, gender issues seem to have been left out of the conversations. When discussing the different voting rights among the citizenry, as well as other kinds of rights and duties, the discussions primarily centered around the distinction between "first-level" and "second-level" citizens, rather than men or women. As Scott's theories suggest, there is no definitive explanation that can be assumed from their meetings as to why gender issues were not discussed or directly mentioned. It can be argued, although not necessarily effectively, that the fact that women were left out of their conversations proves that women and their rights were not an issue that they felt necessary to even consider when discussing the constitution. This reasoning can follow the lines of the argument that since the document makes no specific reference to women, what is written inside does not concern women. However, there is no way for any person today to know exactly what the members of the council were assuming or implying in their discussions. Perhaps gender issues were not discussed because to the five men reviewing the constitution, both sexes are implicit within the words "citizen" and "people." Once again, we cannot assume *a priori* any specific intention that the members or the author of the document may have had. It is just as possible that the men simply did not realize that gender issues were going to become so vehemently debated in Kuwait one day; again, these were men who were working as newcomers in the nascent stages of a fledgling democracy. Rather than taking it for granted that whatever they left out of their conversations they intended to keep out of politics (i.e., women), it can be said that by not openly and directly stating

that women should be left out of the structure of distributive politics, they were inversely granting women political equality.

Here, the notion of the construction of meaning through exclusion comes into focus. Although the document does not directly state that women and men have equal rights, because it does not directly say the opposite either (that women are not equal), it can be argued that the meaning of equality in this case can be found in the blank spaces, through exclusions. However, considering the fact that several articles of the constitution refer to specific laws to elaborate on issues, such as voting rights, the exclusion of women from the document itself may not merely have been an oversight. (This idea will be discussed in greater detail below.) It is within this play of ambiguities that each side of the debate can follow their own arguments and propose their interpretation of the document to justify their cause. What will follow here is a close look at specific issues covered by the constitution, the language used in it (in the Arabic as well as English versions), alongside the discussions on each article that took place among the members of the council.

## The Gender of the Language

One overarching characteristic of the discussions was that when speaking about the citizenry as well as members of the National Assembly, the members of the council consistently spoke in the masculine tense in Arabic. This could be one potential argument utilized by opponents of women's rights; that is, since the members of the council were speaking in the masculine tense when discussing equality, voting, running for office, and other similar issues, it is implicit that they solely considered men to be true 'citizens' (a term that is itself problematic). However, this argument is oversimplified. In the Arabic language (as is the case with most languages), the masculine tense is always used when referring to a specific group of people of mixed sexes, or when the sex of the group is unknown. This is true when speaking in the singular as well as in the plural. A similar pattern is seen in English: when one does not know the sex of the person being referred to, it is most common to see the word "he" used. Although it has become more common in recent years to use "he/she" in English, this trend has not yet passed on to Arabic.

## The Malleability of Language

### Article 7

The first article in the constitution that discusses equality among the citizens is in Part II, under the heading "Fundamental Constituents of the Kuwaiti Society," (*Al-bab al-thany,* "*Al-muqawwam-at al-asasiyy-a lil-mujtama' al-kuwaity*").

Article 7 reads: "Justice, Liberty, and Equality are the pillars of Society; co-operation and mutual help are the firmest bonds between citizens."[7] ("*Al-'adil wa al-huriyy-a wa al-musaw-a da'amat al-mujtama', wa al-ta'awun wa al-tarahum sil-a withq-a bayn al-muwatinin.*")[8] Within the translation itself, there are no conflicts in language. In this case, the constitution seems quite straightforward in regards to "justice, liberty, and equality." However, no specifications are made as to what, or whom, the word "society" entails. It can, on the one hand, be reasonably *inferred* (although no absolute definition can ever be *assumed)* that "society" here encompasses both sexes. Thus, men and women in Kuwait both share in "justice, liberty, and equality." However, this reading is not complete, since we are reading the article from a completely different perspective from the one in which it was written. Society in Kuwait today normally does encompass both sexes. However, the meaning of the term "society" is one that is multidimensional and constantly changing, as is the case with the word "equality."

In the minutes of the meeting dated May 31, 1962, this article is discussed by the members of the Council. In the conversation about this article, the only debate that ensued was with regards to the use of the term "*withq-a,*" meaning "strong" (this word translates in the English version as "firmest" with regards to "bonds," or "*sil-a*": thus, "*sil-a withq-a*" becomes "firmest bonds"). It was brought up by Abdul-Hafith that the word "*withqiyy-a,*" which has the same meaning but is used in a different tense, would be more effective. Dr. Othman stated that he took the word "*withq-a*" from the Quran and that it is "stronger and heavier" ("*aqw-a wa amtan*"). This issue is what shaped the entire discussion of Article 7.[9] Within their debate on language, none of the members present thought it necessary to question or discuss the meanings of the other more problematic terms used in the article: namely "justice" (*al-'adil*), "liberty" (*al-huriyy-a*), "equality" (*al-musaw-a*), or "society" (*al-mujtama'*). This suggests that the Council did not in fact find these terms problematic or questionable (at least not within this article). This could potentially prove that to them, terms such as "equality" and "society" do not present themselves as inherently dubious in relation to, for example, gender. This argument is further enhanced by Article 8, which was agreed upon by the members with absolutely no discussion or debate. This article states that: "The State safeguards the pillars of Society and ensures security, tranquility and equal

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7- Constitution of Kuwait, Article 7. English translation printed by Kuwait Government Press.
8- *Dustur al-kuwayt, mad-a 7.*
9-*Al-majlis al-ta`sisi - Lajn-at al-dustur. Mahdar al-jals-a al-tasi-'a.* Constituent Assembly – Constitutional Council. Hearing of the 9th Meeting. May 31, 1962. 7. Written transcripts of the meeting. All English translations of quotes taken from the transcriptions of all council meetings are the author's own. (Abbreviated in citations as CA-CC).

opportunities for citizens,"[10] ("*Tasun al-dawl-a da'amat al-mujtama' wa takful al-`amn wa al-tama`nin-a wa takafu` al-furs lil-muwatinin*"),[11] where the pillars of society are those specified in Article 7 (justice, liberty, and equality). Once again, there was no debate as to what "equal opportunities for citizens" meant, or a clarification as to who those "citizens" were (just men, or both sexes?). Again, by not specifically stating that "citizens" does not include women, the constitution can inversely be granting women equal rights to men; or, to put it another way, it is possible that political equality for women lies in what the constitution does not say. This, however, is only one possible interpretation of the meaning of the language used. Similarly, it cannot be assumed that by not defining the word "citizens," the men were solely referring to the male sex. No absolute definition can ever be assumed, especially when reading the constitution within a different context and time.

*"Equality"*

An examination of the meaning of the word "equality" can help prove the fluctuating characteristics of language and meaning, and allow us to see how the meanings of certain terms and ideas do in fact change over time. To read the term "equality" in Articles 7 and 8 today is not necessarily the same as reading the word with the same meaning it had when these articles were written.

The main focus of the members of the Constitutional Council when discussing issues of equality in Kuwait was the relationship between first-level and second-level citizens. Society in Kuwait was broken down into two main camps: those who could trace their family origins back to Kuwait prior to 1920 were considered "first-level" or "original" citizens ("*kuwaity bil-asil*", or "*asil*"). Those who were not "original" were "second-level" or "naturalized" citizens ("*kuwaity bil-tajannus*", or "*mitjannis*"). This is the only distinction between "citizens" with regard to "equality" that comes up throughout the discussions of the Constitutional Council. For example, when discussing Article 82 concerning the requirements for a member of the National Assembly, the debate that ensues regards whether or not second-level citizens should be allowed to run in elections. They also discuss whether or not it is within the realm of the constitution to elaborate what it means when the document says that a member must be "Kuwaiti." This article will be discussed further below.

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10- Kuwait Const, Art 8.
11- *Dustur al-kuwayt, mad-a 8.*

Today, several different issues are raised with regard to equality: gender equality, citizenship equality, religious equality, and so on. However, just as during the constitutional period, the most prominent issue was between levels of citizenship, so today there is one main issue surrounding the meaning of "equality": the gender issue. Although the citizenship question has continued to exist over the years, it is no longer the most noticeable form of differentiation among the population. In 1992, the sons of naturalized citizens were granted the right to vote, and in 1996 all second-level citizens were enfranchised. What constitutes the basis for people to be considered equal or not equal today mainly raises the question of women's rights, as will be demonstrated below.

What all of this shows is how the construction of meaning within the term "equality" has altered over time and now has different connotations and different meanings from the ones it had in 1962. It is thus difficult to read the constitution under the conditions of today and come to an absolute definition of what "equality" really means, or to assume what the members of the committee meant by the word, and the rest of the language used. The meaning has been constructed by language through differentiation.

## Article 29

The next article of the constitution that is inherently ambiguous and problematic is Article 29. This states that: "All people are equal in human dignity, and in public rights and duties before the law, without distinction as to race, origin, language, or religion."[12] ("*Al-nas siwasiyy-a fi al-karam-a wa al-'insaniyy-a, wa hum mutasawun lada al-qanun fi al-huqooq wa al-wajibat al-'amm-a; la tumayyaz baynahum bisabab al- jins aw al-`asil aw al-lugh-a aw al-din.*")[13]

The two sides of the women's debate in Kuwait have focused their arguments on this article, making this one of the most critical parts of the document. This is the article that most supporters of women's suffrage refer to, stating that it is here that the constitution guarantees equal opportunities to men and women in the country. While being the most quoted article in the document with regard to women's rights, it is also the most problematic in its language. Nowhere in the constitution are the arguments concerning language that have been outlined above (that is, that meaning is constructed through differentiation) more evident than in Article 29. It can be argued that because of the problems that arise from the language used, this article cannot solve the question that many have sought to

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12- Kuwait Const, Art 29.
13- *Dustur al-kuwayt, mad-a 29.*

answer: does the constitution (and specifically Article 29) grant women the right to electoral suffrage in Kuwait?

Article 29 starts off with a phrase that is itself inherently ambiguous within the context of Kuwaiti society: "All people are equal..." Immediately, a problem arises. Who is being referred to by "people," and what is meant by "equal" (as analyzed earlier, in 1962, the word equal could have meant something different from its meaning today). Furthermore, the constitution does not specify what "public rights and duties" are. It can be argued that voting and running for office are among a society's public rights and duties. The real problem in the language, however, becomes evident in the latter half of the article, and it is because of the problems in this section that phrases such as "all people are equal" and "public rights and duties" are not easily interpretable.

The article states that the law does not distinguish amongst citizens on the basis of "race, origin, language, and religion." This is the wording used in the English translation of the document that was printed by the Kuwait Government Press. The Arabic version of this clause uses the words "*al-jins,*" "*al-`asil,*" "*al-lugh-a,*" and "*al-din,*" in the same order. The second, third, and fourth terms are all translated from Arabic into English correctly and without any inherent problems. It is the first word, however, where the critical dilemma lies. In the Arabic language, the word "*jins*" has multiple meanings. More so in today's context, as the word is used primarily as meaning "gender." However, this is not the sole definition. "*Jins*" is also the root word of the term "*jinsiyy-a,*" which means citizenship and also nationality. In her paper "Citizenship in the Gulf States: Conceptualisation and Practice," Anh Nga Longva discusses this meaning quite clearly: "Urban Kuwaitis... understand citizenship as *jinsiyya*, from the root verb *jns,* to make alike, to assimilate, to naturalize... There is here an idea of similarity and horizontal solidarity... *Jinsiyya*... does not posit *a priori* an idea of hierarchy or supreme authority."[14] *Jins* is also often defined as origin, type, or class – equivalent to the Latin "genus."

It is impossible to assume which meaning of the word "*jins*" the authors or ratifiers of the constitution had in mind here. It can be argued that since the constitution was written for people of one nationality and one citizenship, that is, Kuwaitis, why would they need to specify that the law does not differentiate between citizens based on nationality or citizenship? It could then be argued that

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14- Anh Nga Longva. "Citizenship in the Gulf States: Conceptualisation and Practice," paper presented at the Conference on Citizenship and the State in the Middle East, University of Oslo, November 22-24, 1996.

by "citizen," the document refers to levels of citizenship, first or second.[15] The final meaning of the word "*jins*" to be discussed here is the one provided in the English translation of the constitution: "race." There is no way to assume for sure which definition or meaning of the word the members of the council had in mind. However, it can be inferred from the transcription of the conversation that took place on March 31, 1962, that the meaning they were using was the second one: that is, citizenship level.

## "Al-jins" in 1962

In the written transcripts of the meetings, at the beginning of every discussion of an article, the article was written out under its number heading. Most of the transcriptions are mis-numbered in different areas. However, we know which article they are discussing because it is written out before the conversation begins. In the minutes for the meeting that was held on March 31, 1962, Article 29 is discussed under the heading Article 7.[16] Under this heading, the article is written out in full with a few additional words that did not make it to the final draft of the constitution. After the phrase "without distinction as to," or "*la tumayyaz*

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15- In his article entitled "Jinsiyya versus Muwatana: The Question of Citizenship and the State in the Middle East: The Cases of Israel, Jordan and Palestine", Uri Davis distinguishes between "passport citizenship", or *jinsiyya*, and "democratic citizenship", or *muwatana*. *Jinsiyya* is defined as a citizen's right of abode in the state (including holding the passport), whereas *muwatana* is defined as a citizen's right of equal access to the civil, political, social, and economic resources of the state. Within the context of Kuwait, a citizen's right of abode is defined by their possession of the Kuwaiti *jinsiyya* (literally, a document of citizenship), whereas a citizen's right of access to the civil, political, social, and economic resources of the state is determined by their "level" of citizenship (first-level or second-level, by origin or by naturalization). In Kuwait, a person's "democratic citizenship" or *muwatana* is defined by his/her citizenship level, also know as "*asil*" or origin. As Davis indicates, "…the fact that one human being is classified as 'citizen' of a given state, and another human being is also classified as 'citizen' does not (in itself) make them 'equal' legal persons." Therefore, in the case of Article 29, to examine the term *jins* as the root word of *jinsiyya* within the context of citizenship level rather than simply nationality (i.e. passport or *jinsiyya* document), Davis' definition of *muwatana* would be used instead of his definition of *jinsiyya*. In other words, again since the Constitution was written for one "nationality" or "passport citizen" then why would it be necessary to specify that the law does not differentiate between the citizens based on *jinsiyya* as defined by Davis? It could therefore be argued that by "citizen", the document is referring to levels of citizenship, first or second, in which case *jins* as the root word of *jinsiyya* would be the citizen's "democratic citizenship" (or Davis' *muwatana*) as defined by his/her citizenship level. (Uri Davis. "Jinsiyya versus Muwatana: The Question of Citizenship and the State in the Middle East: The Cases of Israel, Jordan and Palestine." *Arab Studies Quarterly* 17, no. 1/2 [winter/spring 1995]: 19-21.)

16- *Al-majlis al-ta`sisi - Lajn-at al-dustur. Mahdar al-jals-a al-thalith-a*. Constituent Assembly – Constitutional Council. Hearing of the 3rd Meeting. March 31, 1962. Written transcripts of the meeting.

*baynahum bisabab,*" the list of characteristics that the law does not differentiate between is slightly different here. Three terms are added, and one is taken out. The list here runs: "*al-'unsur*" (race), "*al-lawn*" (color), "*al-jins*" (which is being discussed here), "*al-lugh-a*" (language), "*al-din*" (religion), "*al-tharw-a*" (wealth).[17] The word "*al-`asil*," meaning origin, is in the final draft, but is not discussed here. From this transcription of the article as the committee members were discussing it, it can be argued that since the word "*al-'unsur*" was listed, the word "*al-jins*" cannot also be translated into race, as stated in the English translation, since the former is more widely used as signifying race (although the two terms, *jins* and *'unsur*, are by and large translated differently into English, they do share one common term in their official dictionary translations into English: "genus"). In the conversation that follows, the main issue being discussed is the different levels of "*jinsiyy-a,*" or citizenship. Member Sa'ud Al-Abdulrazaaq brings up the question of whether or not certain jobs, such as the directors of certain government agencies (in this case, the "*baladiyy-a*" or municipality), should be available to all levels of citizenship. He said that "if the answer to this question is in the negative, then this negates equality" ("*Itha kan al-jawab 'ala hatha al-su`al bil-nafi fa `inna thalik yatanafi ma'a al-musaw-a*").[18] In this case, equality is being discussed on the basis of levels of citizenship, as argued earlier. The members agreed that not all citizens were equally eligible to hold certain positions in society. However, by stressing equality in the constitution, this would generate a conflict. Therefore, the members agreed that the constitution would guarantee equality, but an "equality [that] has certain implications that are determined in the laws of the state" ("*al-musaw-a laha madlul yuhadid fi al-qanun*").[19] This trend towards the use of "laws" to elaborate on articles in the constitution will be analyzed and discussed in depth below.

## *"Al-jins" Today*

It is more than a coincidence that in discussing Article 29, the members of the Council chose to debate the issues of *jinsiyy-a,* with the root word of that term being one of the listed words present in the article. Therefore, it can be inferred (again, though not assumed) that the council members interpreted the word *jins* as signifying *jinsiyy-a,* rather than race or sex. However, today this article is interpreted in a different way. Today, "*al-jins*" is consistently read as meaning "gender." In 1996, an article in one of Kuwait's leading English daily newspapers, the Arab Times, opened with the lead that "The Constitution of

17- CA-CC, March 31, 1962. 2.
18- CA-CC, March 31, 1962. 3.
19- Ibid.

Kuwait does not prevent women from exercising their political rights, a noted Kuwaiti academician stated."[20] The academic they are referring to is Dr. Mohammed Al-Fily, a professor at the Faculty of Law at Kuwait University. "[He] said that the constitution of Kuwait did not discriminate between the genders in this regard." The article goes on to say that "Article 29 stipulated that all Kuwaiti citizens should be treated with equality irrespective of gender."[21] In this case, a leading Kuwaiti law professor, Dr. Al-Fily, interpreted the word "*al-jins*" in this article as signifying sex, rather than race or citizenship. Dr. Al-Fily is not alone in this regard. Another example of this interpretation of the meaning of Article 29 as read within today's context comes from Ali Al-Baghli, a former Minister of Oil, and former member of the National Assembly. In a December 1999 Arab Times article that came out in the midst of the heated debates on women's suffrage triggered by the Amiri decree of that May, Al-Baghli begins with the statement that "Article 29 of the Constitution states, 'People are equal in human dignity. They are also equal before the law regardless of sex, race, language and religion.'"[22] Here, Al-Baghli is using his own translation of the Arabic version of the constitution, since his wording is different from the official English translation. In his translation, he uses the word "sex" for "*al-jins*," and "race" for "*al-`asil*," rather than "origin."

## Egyptian Origins

One possible explanation as to why the council ratified the constitution with a word as problematic as "*al-jins*" in Article 29 could be because the document was not in fact originally written specifically for Kuwait. As mentioned earlier, the constitution of Kuwait was written by an Egyptian lawyer, namely Dr. Othman Khalil Othman, at a time when the country was emerging as a newly independent state with little experience in democracy and distributive politics. Since Shaikh Abdallah called upon Dr. Othman to write the constitution so soon after independence in 1961, there was no definitive political or social structure to serve as a basis upon which the constitution would be drafted. The constitution, rather, would create that state apparatus, with its society, government and new political arena.

Dr. Othman therefore had to look elsewhere in order to find something upon which to base the new constitution of Kuwait. That base became the constitution of his own country, Egypt. Much of the constitution of Kuwait can find its origins

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20- "Women not barred from exercising political rights." *Arab Times*. Wednesday, July 3, 1996. 5.
21- Ibid.
22- "'Fanatics' shun the 'bright.'" *Arab Times*. Thursday-Friday, December 9-10, 1999. 1.

in the constitution of Egypt. Several of the articles found in the former, specifically some of those that have been analyzed here, were based almost directly upon similar articles found in the latter. It can therefore be argued that some of the problems within the Kuwaiti constitution have come about because it was based on another document that had been written for a completely different society, i.e. for the Arab Republic of Egypt, and not specifically customized for Kuwait.

In several places, Dr. Othman used articles found in the Egyptian constitution and copied them almost verbatim into his constitution for Kuwait. In some instances, the wording was altered slightly to fit more specifically into the context of Kuwait, and in other cases, the language was changed, it seems, purely for the sake of not having both documents completely mirror one another. Of course, there are several differences, namely in the places where the forms of government or certain laws are different in the two countries. However, in some of the more general articles, the Egyptian document seems to be a direct blueprint for the Kuwaiti one.[23] For example, Article 3 of the Egyptian Constitution reads: "Sovereignty is for the people alone who will practice and protect this sovereignty and safeguard national unity in the manner specified by the Constitution."[24] This article coincides with Article 6 of the Kuwaiti document, which states that: "The System of Government in Kuwait shall be democratic, under which sovereignty resides in the people, the source of all powers. Sovereignty shall be exercised in the manner specified in this Constitution."[25] Article 7 of the Egyptian document says, "Social solidarity is the basis of society," and Article 8 says, "The State shall guarantee equality of opportunity to all Egyptians."[26] These two articles seem to relate almost directly to Articles 7 and 8 of the Kuwaiti constitution, which have been discussed in depth above. It was examined earlier how the Kuwaiti constitution failed to assess what the phrase "equal opportunities for citizens" truly meant: were women included in "citizens," and to what extent were citizens actually considered "equal" and through what "opportunities"? It is possible that these ambiguities and problems are found in the Kuwaiti document

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23- In the examples that follow here, the 1980 version of the Egyptian Constitution is used. However, the amendments made in both this version as well as the 1971 version of the document are not pertinent to the specific articles mentioned here, which have not changed from the original draft of the document.

24- Constitution of the Arab Republic of Egypt, Article 3. English translation taken from the official Web site of the Egyptian parliament, the People's Assembly.
http://www.parliament.gov.eg/EPA/en/Levels.jsp?levelid=6&levelno=1&parentlevel=0

25- Kuwait Const, Art 6.

26- Egypt Const, Art 7-8.

precisely because it was not written exclusively for Kuwait, but rather was taken out of the context of Egypt and placed within the context of Kuwait.

There are certain issues covered by both constitutions where each document is clear and unproblematic, even in places where it is obvious that the Kuwaiti article was extracted from the Egyptian version. Examples of such articles are those that discuss issues such as the importance of family, religious freedom, and education (articles 9, 12, and 13 in the Kuwaiti version, and articles 9, 19, and 18 in the Egyptian one, respectively). Other similar issues covered identically in both documents deal with freedom of opinion, the right to assembly, and the right to address public authorities (articles 36, 47, and 45 in the Kuwaiti constitution, and 47, 54, and 63 in the Egyptian one, respectively). However, one main article that generates a potential problem in its transfer from its Egyptian context to the Kuwaiti context is Article 29 of Kuwait's constitution, which coincides directly with Article 40 of the Egyptian one.

Article 40 of the Egyptian constitution reads: "All citizens are equal before the law. They have equal public rights and duties without distinction due to sex, ethnic origin, language, religion or creed."[27] This is the English version of the constitution, as printed on the official website of the Egyptian parliament, the People's Assembly. The Arabic version reads as follows: "*Al-muwatinun lada al-qanun siwa`, wa hum mutasawwun fi al-huquq wa al-wajibat al-'amm-a, la tumayyaz baynahum fi dhalik bisabab al-jins aw al-asil aw al-lugh-a aw al-din aw al-'aqid-a.*"[28] The Arabic version is almost identical in both documents. The English versions have one main difference: the word "*al-jins*" is translated in the Kuwaiti document as "race," whereas in the Egyptian document, it is translated as "sex." This discrepancy relates back to the discussion as to which meaning for the word "*al-jins*" was intended by the members of the Constitutional Council of the Kuwaiti Constituent Assembly in 1962. Since he was basing this article on the one found in the Egyptian constitution, where the word translates into "sex," it can therefore be argued that Dr. Othman intended to define this word as meaning sex. However, whether or not the Kuwaiti members of the council interpreted the word in the same way is impossible to definitively ascertain.

This issue brings to the foreground yet another problem inherent in the language of the constitution of Kuwait. The document becomes more problematic and dubious than ever since it can now be proven that it was not custom written to fit solely within the context of Kuwait's life and society in 1962, but rather, was

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27- Egypt Const, Art 40.
28- *Dustur jumhuriyy-at masr al-'arabiyy-a*, *mad-a 40*.

based on a document that was written to first fit within the life and society of Egypt. In this case, language has been transported not only to a different time, but also to a different place. Just as it was proven earlier how the meaning of certain words and ideas such as "equality" have changed over time, it can be argued that the meaning of certain parts of the constitution have also altered as the language traveled across geographical borders. Here, again, meaning is created through differentiation, this time, however, through a shift from one country to another.

Even if Dr. Othman did intend the word "*al-jins*" in Article 29 to mean sex, as in the Egyptian constitution, regardless of what the English translation of the Kuwaiti document says, that does not mean that the constitution inherently grants women political rights equal to those of men. There is one main difference between the two documents that suggests that if the Kuwaiti version does in fact employ the same language as the Egyptian one, it nevertheless does not grant women the same rights that the Egyptian one seems to. This is because there is one article from the earlier document that did not make it into Dr. Othman's version. Article 11 of the Egyptian constitution states that: "The State shall guarantee coordination between women's duties towards her family and her work in the society, considering her equal to man in the political, social, cultural and economic spheres without detriment to the rules of Islamic jurisprudence (Shari'a)."[29] Nowhere in the Kuwaiti constitution is there any such direct reference to women, and to equal rights for women. In fact, the word "women" does not even come up at any point in the Kuwaiti version. If it was the intention of Dr. Othman and the members of the council to grant women political equality through the use of the term "*al-jins,*" why did they not include an article similar to Article 11 of Egypt's constitution in the Kuwaiti version? By *not* including an article guaranteeing women equality to men "in the political, social, cultural and economic spheres," it is possible that they did not wish to transfer this Egyptian constitutional right over to Kuwait. The use of the term "*al-jins*" may then have been an oversight. However, the real answer to this dilemma can never be assumed. What this does show is that the use of the language of the Egyptian constitution as a blueprint for the wording of the Kuwaiti document generates several problems and ambiguities. Meaning has changed from place to place, just as we saw earlier how it changed over time.

What all of these examples demonstrate is the inability to draw any definitive conclusions as to what the constitution does or does not say with regard to the enfranchisement of women in Kuwait. The malleability of the wording and language makes it impossible to assert whether or not the document, and

29- Egypt Const, Art 11.

specifically Article 29, relates directly to women. However, this flexibility of the language is not the only problem that arises from the use of the constitution in the women's rights debate. It has been argued above, through the analysis of Scott's notion of the creation of meaning through exclusion, that it is possible that the meaning of the document lies in the blank spaces. That is, if the constitution does not openly deny women the right to political suffrage, then it inversely grants women this right. However, this argument is itself unstable since the opposite case is also plausible: that it is in the document's obvious ambiguities and areas of silence that the constitution in fact indirectly *denies* women the right to vote and run for office. This argument can be employed in the analysis above with the example of Article 11 of the Egyptian constitution. The one article guaranteeing women political equality in the Egyptian version was left out of the Kuwaiti version, whereas in most other areas concerning society and culture, the two documents are almost identical. Meaning is being created in the blank spaces – in what the document *does not* say.

## Meaning Through Exclusion

It is true that nowhere does the constitution itself use language that is discriminatory against women. However, many articles make use of saving clauses by way of references to specific national laws, and it is in these laws, external to the actual constitution, that the discrimination that the constitution so carefully avoids is made. Based on the discussions of the members of the Constitutional Council of the Constituent Assembly, it can be argued that this was done deliberately in order to make the constitution appear straightforward and clear, and not messy with details. These details were left to be sorted out by laws, with the constitution appearing clean and fair.

## Legal Analysis

In the months and years leading up to the events of May 2005, it was regularly argued by advocates of women's rights that it is not the constitution that denied women the right to enfranchisement, but rather the Electoral Law (No. 35) of 1962: "Concerning the Election of the National Assembly Members" ("*Qanun raqam (35) lisin-at 1962: Fi sha`n intikhabat `a'da` majlis al-`umm-a*"), and that this law, was therefore unconstitutional, and should be amended. Article 1 of this law reads as follows: "Every male Kuwaiti from the age of 21 years has the right

to vote...” (“*Likul kuwaity min al-dhukur baligh min al-’umur ihda wa ’ishrun sin-a miladiyy-a kamil-a haq al-`intikhab…*”).[30]

In the months directly leading up to the May 16, 2005 National Assembly vote in favor of women’s suffrage, the Electoral Law was put under intense scrutiny. A group of ten members of the National Assembly, including Dr. Mohamed Al-Sager and Dr. Yousef Al-Zalzaleh, requested an interpretation of the Electoral Law from the Constitutional Court. In a panel discussion on women’s rights held at the American University of Kuwait on March 22, 2005, Dr. Al-Sager said that when he and his colleagues “requested an interpretation of Article 1 of the Electoral Law from the Constitutional Court, [they] were certain that the court would rule in favor of voiding this article,” based on the provisions of equality found in Article 29 of the constitution.[31] Furthermore, the Council for the Protection of the Constitution of the Kuwait Bar Association also released a statement calling upon the legislative and executive branches of government to “rectify the fatal legislative error in Article 1 of the Electoral Law that soils the sanctity of Article 29 of the Constitution that guarantees equality and non-discrimination between citizens, and that has led to the loss of women’s rights, who represent half of society, in voting and candidacy.”[32]

The spotlight has been shining on the Electoral Law for many years. Since 1999, several civil lawsuits have been brought against the government by women fighting for what they say is their constitutional right to vote. Two of the most popular cases were those brought to court by two prominent Kuwaiti women, Dr. Bedriya Al-Awadi, and Rola Dashti. The two cases have several similarities, and ended with similar results.

The origin of both lawsuits can be traced back to the Amiri decree of May 1999, which the amir passed after dissolving parliament, stating that women would be enfranchised. After passing this decree, the amir also changed the wording of the Electoral Law (No. 35) of 1962, with Article 1 now stating that: “Every male and female Kuwaiti from the age of 21 years has the right to vote...” (“*Likul kuwaity min al-dhukur wa al-`inath baligh min al-’umur ihad wa ’ishrun*

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30- Electoral Law (No. 35) of 1962: “Concerning the Election of the National Assembly Members,” Art 1. *“Qanun raqam (35) lisin-at 1962: Fi sha`n `intikhabat `a’da` majlis al-`umm-a,” mad-a* 1. All English translations of this law are the author’s own.
31- “*Al-Sager: Al-thalamiyyun `ikhtatafu al-kuwayt.*” (“Al-Sager: Tyrants Have Hijacked Kuwait”.) *Al-Qabas.* Wednesday, March 23, 2005. 4.
32- “‘*Al-muhamin’: Yajib tidarak al-khata` al-kabir fi qanun al-`intikhab wa al-musaw-a bayn al-rajul wa al-mar`ah.*” (“‘Lawyers’: We must rectify the large mistake in the Electoral Law and the equality between men and women.”) *Al-Anbaa.* Monday, March 7, 2005. 9.

*sin-a miladiyy-a kamil-a haq al-`intikhab…*"). Both the amiri decree and this amendment to the law were rejected by parliament once it reconvened after the June 1999 elections.

These events were what recently brought the women's rights debate into the forefront of Kuwaiti politics. However, the events that took place in February 2000, the month in which all eligible Kuwaiti constituents were required to register to vote in their respective districts, were what led directly to the lawsuits that were brought against the government of Kuwait.

Both lawsuits were sparked by similar incidents that the two women, Al-Awadi and Dashti, experienced in February 2000. Each had gone to her district polling station to register to vote (Al-Awadi to District 2, and Dashti to District 10), and both were turned away by the director of the station. The women then went to their respective district police station and filed a complaint against the respective district mayor, which led to each woman filing a lawsuit against the Undersecretary of the Ministry of the Interior. The undersecretary is in charge of all voting and registration in Kuwait, and therefore the lawsuits were directed against him, rather than against the local mayors who worked under him. Al-Awadi and Dashti filed their lawsuits for the same two reasons. First, they were suing the undersecretary for refusing them the right to register their names to vote. Second, they both claimed that this refusal was stripping them of their constitutional right to vote as stipulated in the amended version of the Electoral Law (No. 35) of 1962 (the amended version being the one which had been amended by the amir in May 1999 but rejected by parliament soon after).[33]

Both cases followed similar argumentative lines. They asserted that the constitution itself did not discriminate against women, and Articles 7 and 29 were cited as stating that men and women were equal in Kuwait. Dr. Al-Awadi, a lawyer who represented herself in her case, also made reference to Article 7 of the Electoral Law (No. 35) of 1962, which states: "The name of every Kuwaiti national shall be written into the registration log of their voting district..." ("*Yashmal jadwal al-intikhab isim kil kuwaity mawtinahu fi al-da`ir-a al-intikhabiyy-a tuwafarat fihi…*"),[34] She claimed that she was a Kuwaiti national, and therefore according to this article of the law, she had a right to register to vote

33- *Al-Awadi v. Undersecretary of the Kuwait Ministry of Interior. Case 165/2000, al-mahkam-a al-kulliyy-a* (Supreme Court). May 29, 2000. 1-2; *Dashti v. Undersecretary of the Kuwait Ministry of Interior.* Case 242/2000, *al-mahkam-a al-dusturiyy-a* (Constitutinal Court). July 4, 2000. 1-2. All English translations of quotes taken from these two court cases are the author's own.
34- Electoral Law, Art 7.

and have her name listed in the registration log.[35] She, along with Dashti, argued that Article 1 of the Electoral Law was unconstitutional (in this case, they were referring to the original law, rather than the version amended by the Amir in May 1999), and that by giving the right to vote only to Kuwaiti males, the article "demonstrates a stripping away by force the rights of the articles of the constitution" ("... *yushakil `intihakan sarikhan limawad al-dustur*").[36] In both cases, the women were interpreting the constitution, and specifically Article 29, as "granting equality to men and women in their legal status" ("*`An al-dustur qad sawa bayn al-rajul wa al-mar`a fi markazehuma al-qanuny*").[37]

Because the two women were basing their arguments on the constitutionality of the Electoral Law (No. 35) of 1962, the Supreme Court decided to reject their cases. The court stated that since it was a constitutional issue, the women did not have the right to be suing the Undersecretary of the Ministry of the Interior, who was not directly responsible for the law, even though he may have been implementing it, and therefore their cases did not fall under the jurisdiction of the Supreme Court.

Al-Awadi and Dashti then asked the Supreme Court to end the legal processes associated with their cases, and took the cases to the Constitutional Court instead, as recommended by the Supreme Court. Here, again, the two cases were each denied the right to be presented before the court. Although their complaints did fall within the jurisdiction of the Constitutional Court, the process of filing a lawsuit in this court in Kuwait is more complicated, and the court made it impossible for the cases to be brought to trial. The legal procedures of the Constitutional Court are assessed in a report on Kuwait made by the Lawyers Committee for Human Rights in 1992:

> There is no direct mechanism in the Kuwaiti system as it now stands to enable individuals or groups to bring cases challenging the constitutionality of laws or governmental acts. Recourse to the Constitutional Court is at the discretion of a trial court; laws relevant to a current case may be recommended for review of their constitutionality by the Constitutional Court by a lower court if a request by counsel is approved. This procedure

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35- *Al-Awadi v. Undersecretary of the Kuwait Ministry of Interior.* 2.
36- Ibid.
37- Ibid.

appears to have been rarely used by Kuwaiti lawyers who have little faith in its efficacy.[38]

These observations on the Constitutional Court apply directly to the Al-Awadi and Dashti cases. As outlined in the Al-Awadi case, any case brought before the court must follow at least one of two main procedures in order to qualify for trial. The first possibility is that the case is brought to the court by the National Assembly or by the Council of Ministers, according to Law No. 4 of 1973. The second is that the case is brought to the Constitutional Court upon the recommendation of the Supreme Court (or trial court) as an appeal to a case rejected by the Supreme Court.[39] Both cases being examined here fell under the second condition: they had each been rejected by the Supreme Court and were brought before the Constitutional Court by the recommendation of the former since the cases fell under the jurisdiction of the latter. It should therefore follow that the two cases qualified to be presented before the court. However, as suggested by the report of the Lawyer's Committee for Human Rights, the court made it extremely difficult for the women to file their cases, stating that they did not have enough evidence to support their claims that the law in question was unconstitutional. They listened to the claims made by the women, reviewed each case, and then denied each one the chance to be presented in full before the court. No definitive or clear reasons were given as to why the lawsuits were denied.[40]

As these cases demonstrate, the main argument made by advocates of women's rights in Kuwait has been that the Electoral Law (No. 35) of 1962 was unconstitutional, as it contradicted the provisions of equality outlined in the constitution. Although it may be true that the constitution itself does not directly discriminate between men and women, it cannot, nonetheless, be ignored that the document does make direct references to the Electoral Law, and states that this law must be followed. Therefore, the constitution appears to be supporting the mandates of that law without needing to say itself what the law says. The Electoral Law (in the year 2000) discriminated against women, and such discrimination contradicts the equality and justice that the constitution seems to

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38- Lawyer's Committee for Human Rights. *Kuwait: Building the Rule of Law. Human Rights in Kuwait After Occupation*. 1992. 26.

39- *Al-Awadi v. Undersecretary of the Kuwait Ministry of Interior*. 6.

40- Parliamentary elections were held in Kuwait again in July 2003, with similar court cases being brought against the government by women's rights activists. However, official written documents of the 2002/2003 cases were unobtainable for the purposes of this paper. The new cases followed similar arguments as those brought against the government in 1999 outlined above, and although they were more recent they would not change the arguments presented in this paper.

uphold in the earlier articles, which is possibly why the specifications outlined in Article 1 of the Law were not written directly into the constitution.

## Reliance on Laws

This same trend appeared earlier in the analysis of Article 29, and the council members' discussion regarding second-level citizens. The members did not believe that first- and second-level citizens were equal in all aspects of public rights and duties, but decided to leave such differences to be outlined by citizenship laws rather than the constitution itself. Thus, as mentioned above, the constitution would guarantee equality, but an "equality [that] has certain implications that are determined in the laws of the state," ("*al-musaw-a laha madlul yuhadid fi al-qanun*").[41] In this way, the constitution was able to safeguard equality, by leaving the dirty work, so to speak, to the laws.

This same pattern of discrimination through the use of laws can be seen in two other crucial articles, Article 80 and Article 82. The former states that: "The National Assembly shall be composed of fifty members elected directly by universal suffrage and secret ballot in accordance with the provisions prescribed by the Electoral Law…"[42] ("*Yata`allaf majlis al-`umm-a min khamsin 'udwan yantakhibun bitariq al-`intikhab al-'am al-sirri al-mubashar, wafqan lil-`ahkam allati yubayanuha qanun al-`intikhab…*").[43] Here, the constitution seems to grant women the right to vote through the use of the phrase "universal suffrage," or "*al-`intikhab al-'am*." However, by adding the clause "in accordance with the provisions prescribed by the Electoral Law," the document is reversing the implications of the term "universal." Article 1 of this law puts restrictions on the elector based on sex, age, and citizenship level, and therefore, as will be seen through actual demographic percentages below, the electorate is hardly as encompassing and democratic as the term "universal" suggests.

It has been in this law that women in Kuwait, up until May 2005, were denied the right to vote and run for parliament, rather than directly in the constitution; however, the latter directly refers to the former, and thus the constitution itself indirectly denies women the right to political equality. Again, meaning is being created through exclusion, through what the constitution itself does not say. However, rather than concluding that the document grants women political equality since it does not openly discriminate against women, it can be stated

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41- See note 18 above.
42- Kuwait Const, Art 80.
43- *Dustur al-kuwayt, mad-a 80.*

equally authoritatively that the document simply left it up to the laws to discriminate against women and second-level citizens, rather than doing so directly. Here are two different interpretations of the meaning of the constitution that can be derived through exclusions: The first argument has been used more often by advocates of women's rights, who have stated that the law goes against the aims of the constitution and therefore must be amended. It is true that the law negates the notion of equality that the constitution seems to stress. However, it cannot be overlooked that the drafters of the constitution were well aware of what the laws would say, or, since the citizenship laws were written in 1959, what they already said. By referring to the law for details, the Council was able to avoid contradictions within the constitution itself. It could guarantee constitutional equality, but a very limited equality by law. This would protect the constitution from criticism and attempts at amendments, since it is the actual law that was at fault. This is what happened in the cases of the advocates of women's rights, who blamed the law rather than the constitution. In reality, however, both documents discriminated against women – one directly, and the other indirectly, yet quite clearly.

## Article 82

The same case can be made for Article 82. This article states that: "A member of the National Assembly shall: (a) be a Kuwaiti by origin in accordance with law, (b) be qualified as an elector in accordance with the Electoral Law, (c) be not less than thirty calendar years of age on the day of election, (d) be able to read and write Arabic well."[44] ("*Yashtarit fi 'uduw majlis al-`umm-a: (`a) `an yakun kuwaity al-jinsiyy-a bisif-a `asliyy-a wafqan lil-qanun, (b) `an tatawafar fihi shurut al-nakhib wafqan liqanun al-`intikhab, (j) `an la taqil sin-a yaum al-`intikhab thalathin sin-a miladiyy-a, (d) `an yajid qira-`at al-lugh-a al-'arabiyy-a wa kitabatiha.*")[45] There are two instances in this article in which the constitution refers to external laws, and it is in these laws that the discrimination that the constitution so carefully avoids is made.

It should first be mentioned that in the Arabic version of the article, the singular masculine tense is used. However, as assessed earlier, rather than assuming that the constitution is thus specifically referring to men, it can be argued that this is characteristic of the language, where the masculine tense is used when the specific sex is unknown. Therefore, the language itself does not exclude women. Another testimony to this fact is that the Arabic term for an

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44- Kuwait Const, Art 82.
45- *Dustur al-kuwayt*, *mad-a 82*.

Assembly member or representative, "'*uduw,*" is genderless. It is used as both masculine and feminine, as is the plural tense, "'`*a'da`.*" The language itself is therefore neither exclusive nor suggestive of a male preference or bias. Rather, it is through what the article does not say that women have been excluded from the right to political equality in Kuwait.

The first requirement of the article states that a member must be "a Kuwaiti by origin in accordance with law." Here is the first place in this article where the members of the Constitutional Council opted to avoid controversy and complications within the constitution, and chose to leave the more discriminatory specifications up to the law. Specifically here, they are referring to the Citizenship Law of Kuwait. On June 5, 1962, this article was discussed by the seven members of the Council. The original version of the article, as presented to the council by Dr. Othman, was different from the final draft that made it into the constitution. In Dr. Othman's original draft, the first requirement for a member of the National Assembly was that they "be a Kuwaiti by original citizenship [or by birth] or after a minimum of ten years have passed since naturalization."[46]

Although the main issue here surrounds the equality, or inequality of first- and second-level or original and naturalized Kuwaiti citizens, rather than between men and women, the pattern is the same. The members of the committee decided, as they did with Article 29, to leave the specifications to the Citizenship Law.

The first issue discussed regarding this article was whether or not the children of naturalized Kuwaitis could vote, and whether they too had to wait ten years (the actual word used is "son," and here the language *is* therefore exclusive). A discussion arose as to whether or not the son of a naturalized Kuwaiti who was born after his father's naturalization should be considered a first- or second-level citizen (meaning a citizen by birth or origin, or a citizen by naturalization). Again, women were left out of the discussion. The members decided to leave this detail to the Citizenship Law, and also declined to specify in the constitution that a naturalized Kuwaiti would have to wait ten years before being allowed to vote.[47]

In the discussions of Article 29, it was said that not allowing second-level citizens to hold the same positions of employment as first-level citizens would contradict the constitution's declaration of equality, which can be found throughout the document, and specifically in Article 29. Therefore the members

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46- *Al-majlis al-ta`sisi - Lajn-at al-dustur. Mahdar al-jals-a al-hadiy-a 'ashar-a.* Constituent Assembly – Constitutional Council. Hearing of the 11th Meeting. June 5, 1962. 4. Written transcripts of the meeting.
47- CA-CC, June 5, 1962. 4.

decided to limit the equality they seemed to be guaranteeing by making it one that is specified by law. The law would then show how the citizens of Kuwait were in fact not entirely equal, and that there were distinctions made between them, thus negating Article 29. The article says that there is no distinction based on "origin" or "*al-`asil*" (to use a term that is less problematic that "*al-jins*"), but the law that the constitution is referring to in this article says that citizens who are Kuwaiti by origin and citizens who are Kuwaiti by naturalization are in fact unequal in certain "public rights and duties."[48] Therefore, Article 29, although sounding democratic and just, is in fact indirectly negating itself by citing this law. The same case can be made with Article 82.

During the discussion of this article, Dr. Othman made the following suggestion: "I believe that it would be better to leave this issue [citizenship levels] up to the law, for it is the law that will specify the regulations as to who is Kuwaiti by birth/origin. The place for this specification is the Citizenship Law and not the Constitution." ("*A'taqid `annahu min al-`ahsan tark dhalik lil-qanun wa huwa al-ladhi sayafsil al-hukum fiman huwa al-kuwaity bil-mawlid, famakan hadha al-tafsil huwa qanun al jinsiyy-a wa lays-a al-dustur.*")[49] He then changed the wording of the first part of the article, and suggested to the other members that: "It is possible that we say that the right to vote is given to 'a Kuwaiti by origin in accordance with law' and the Citizenship Law can present the required solutions and address the details." ("*Yumkin `an nagul `anna haq al-`intikhab maqsur 'ala (al-kuwaity bisif-a `asliyy-a wafqan lil-qanun) wa qanun al-jinsiyy-a yumkin `an yadi' al-hulul al-matlub-a wa yuwajih al-tafasil.*")[50] The members all agreed with this suggestion, and the article was thus ratified without any further discussion regarding the matter. Article 1 of the Electoral Law (No. 35) of 1962 also refers to the Citizenship Law of Kuwait, which is Law No. 15 of 1959. The latter law was already written when the constitution was being discussed. However, the members recognized in their discussion of Article 82 that changes would have to be made in order to meet the specifications they chose to leave out of the constitution.

The second part of Article 82 states that a member must be "qualified as an elector in accordance with the Electoral Law." This is the same law that is cited in Article 80, the Electoral Law (No. 35) of 1962. Article 1 of this law that specified that an elector must be male. Therefore, just as naturalized Kuwaitis are regarded

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48- See note 15 above.
49- Ibid.
50- CA-CC, June 5, 1962. 7.

as unequal to original Kuwaitis in the Citizenship Law, women have been regarded as unequal to men in the Electoral Law.

Through the use of the Citizenship Law and Electoral Law in Article 82, the constitution has once again indirectly been self-negating. This time, it has negated Article 80 and the call for "universal suffrage." Universal suffrage became anything but universal once the laws the constitution referred to ended up ruling out voting rights for the majority of the population.

Throughout the history of Kuwait since the ratification of its constitution, only a minority of the population has been able to participate in elections (including both voting and running for office). The meaning of universal suffrage is thus quite different when seen in light of the discriminatory laws that the constitution has historically referred to. Universal, rather than including the entire population, as the term seems to suggest, has actually meant Kuwaiti men of first-level citizenship only, or those who have been naturalized for a minimum of ten years. In the 1992 election, only 81,440 citizens were registered to vote.[51] The total Kuwaiti population of that same year was estimated to be 602,010.[52] Therefore, approximately 14% of the total population was registered to vote that year Granted, the number of registered voters does not necessarily reflect the number of eligible voters. However, the percentage of voters is still extremely small. This number makes more sense when taking into account the fact that on average, women make up about 50% of the population, and approximately 40-45% of the population remains below the age of 14.[53] The relative strengths of first- and second-level citizens are not available here. However, it remains true that such a small constituency has made "universal suffrage" an unfulfilled constitutional myth in Kuwaiti elections.

Over the years, the citizenship laws have slowly been amended,[54] and with the enfranchisement of women in May 2005, the amendment of the Electoral Law is well underway. However, the point to be made here is that the problems of inequality in Kuwait do not only lie within the laws of the country, but also in the constitution that points to– and seemingly supports– these laws.

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51- Mary Anne Tetreault. *Stories of Democracy: Politics and Society in Contemporary Kuwait.* New York: Columbia University Press, 2000. 109.

52- Kuwait Ministry of Information: International Media, Information Public Administration. *Kuwait: Facts and Figures.* 5th ed. 39.

53- Statistics obtained from Kuwait Ministry of Planning *Annual Statistical Abstract 2001*.

54- In 1994, sons of naturalized Kuwaitis were given first-level status, and the amended citizenship law now reads: "Offspring of a naturalized Kuwaiti are treated as first-class citizens if their father was a Kuwaiti at the time of their birth." Tetreault, 164  *n*9.

## Conclusion

It took over 40 years after the ratification of the constitution for women to finally be enfranchised in Kuwait. There are several possible reasons for why this was the case, and various factors have played a part in the conflict.

Most advocates of women's rights in Kuwait have tended to turn to the constitution in order to prove that their lack of political rights has been unconstitutional. In fact, in 2003, a group of prominent Kuwaiti 'liberals,' academics, journalists, and political activists, petitioned the government to amend the constitution in several areas to make the document more democratic and in keeping with the ever-changing political and social climate of the country. However, the document is too ambiguous and problematic to be used as the final arbiter in the women's suffrage debate.

There are two overarching problems that exist within the constitution that prevent it from ever being clear as to whether or not it has in fact truly granted or denied women political equality. These problems are present in the constitution both through the malleability of the language itself, and also through what the document said and continues to say in its blank spaces, or through exclusion. The malleability of the language suggests the ability of meanings to change under different conditions, and within different contexts. It also suggests the possibility for meanings to change over time, and as an extension of this notion, from place to place. Thus, there is no way to conclude definitively today whether or not we are interpreting the language of the document in the way that it was intended to be understood upon ratification in 1962.

Furthermore, the constitution itself relies too heavily on external laws for it to be read as something that is entirely separate from those laws. The specific law that has been labeled unconstitutional within the context of the women's rights debate today, namely the Electoral Law, cannot be considered independent of the constitution, since the latter document refers directly to the former, and both were passed in the same year. Due to these two predominant problems in the document, it is impossible to ever definitively ascertain whether or not the constitution, as an independent entity, stands for or against women's political equality in Kuwait.

# Chapter Seven

## Liberalization from Above:
## Political Reforms and Sultanism in Oman

*Marc Valeri*

In 1970, Qaboos bin Sa'id Al Sa'id, who was not yet 30 and who had effectively lived under house arrest since 1964, overthrew his father and proclaimed the "beginning of a new era." Seizing power with the acquiescence of the British, Sultan Qaboos inherited a territory without a state. His room to maneuver with regard to the British was reduced to the minimum. The Dhofar military campaign, in which he was personally involved, gave him only a little time to dedicate to the country's development during the first years of his rule. Furthermore, never in the course of the 20th century had the Sultanate of Oman been effectively united under the authority of its sovereign.

Nevertheless, no political system could have the durability of Sultan Qaboos' regime if it did not enjoy the trust or support of a part of the population it was intended for. In order to have central authority – embodied by Sultan Qaboos – accepted by everyone in 1970, it was necessary to break with a model in which temporal sultanic legitimacy was seen as one of the many types of legitimacy (tribal, Ibadi, etc.), and to impose it as the legitimacy of more importance than the others, and have it acknowledged as the arbiter of all the others. Then the traditional basis of power (composed of the allies of the Sultan) had to be enlarged by weaving personal ties with the population, so that it didn't become dependent on a single social force. Sultan Qaboos had to set himself up as the only worthwhile candidate for power, a "natural" sovereign; this was achieved with a new definition of collective identity, that gathered together all the ethnolinguistic groups present on Omani territory.

To do this, Sultan Qaboos used the "homogenization power" of the central state. The exploitation of newfound oil rent made possible previously unknown economic and social development, in which the state (in an all-out expansion of

its territory) had a pivotal role. In short, the Sultan Qaboos's focus has been on making Omanis individually reliant on the state, rather than 'asabiyya (or kinship), for their day-to-day life. This trend has gone with the symbolic process of national unification, through the reinvention of the frames of identity references in the new historiography of the state around the person of the Sultan, and has subsequently spread to all of modern Oman. To sum up, Sultan Qaboos has been able to set up his own legitimacy by building both an Omani state and an Omani nation (Valeri 2003).

## First Skirmishes

This skilful synthesis of welfare state, national identity building and reinvented traditions worked without a hitch until the middle of the 1990s, which was the major turning point in modern Oman's internal history. At the end of May 1994, and with the likely help of the Egyptian intelligence services, Omani police and security forces broke into the homes of numerous individuals in order to carry out a search for weapons and documents.

This action follows the interception of a letter by so-called 'Islamic militants' denouncing the presence of Israeli officials on Omani territory. More than 430 people were arrested and questioned in order to try to bring to light a possible network whose suspected objective was to prepare a plot to overthrow the government. Though no official information emerged before the end of August 1994, when legal procedures began, these events were nevertheless known to all of Omani society. Furthermore, no details were given regarding the number and identity of the detainees; the only reliable source remained the families of the suspects. 140 to 160 individuals were summarily tried and condemned to punishments of between three and 20 years of jail. Three of them were sentenced to death, but their penalties were later commuted by royal decree to life imprisonment. Among the accused were some distinguished and high-ranking government officials, such as the ambassador to the United States, Ahmed al-Rasbi, who had just been appointed before his arrest; Khamis al-Kiyumi, undersecretary for Industry at the ministry of Commerce and Industry and chairman of the planning committee for the last two National Day celebrations; Musallam Qatn, undersecretary for Agriculture; and Sa'id al-Ma'ashani, son of the shaikh of the Ma'ashani tribe, which the mother of Sultan Qaboos belongs to. When the verdict was announced and – unusually – published in the national press, they were described as conspirers against the Omani people; they were said to use religion to create fitna (divisions) among society and to sabotage the religious and cultural heritage of the country, which is based on tolerance. A month later, the Sultan announced that he would grant royal pardons to every detainee, regardless of the penalties imposed upon them.

Although the deeper ramifications of this episode still remain blurred, it was the first public (and officially recognized) mark of dissatisfaction towards the authorities since the Dhofar war. Several months later, in September 1995, a major shift in economic policy took place after the death, in a still-unexplained car accident, of Qays al-Zawawi, who had been the finance and economy minister since 1982. Qays al-Zawawi was a prominent member of one of the leading merchant families in Oman. His ancestor Yusuf, a native of the Hijaz, had come in Oman at the end of the 19th century and become one of the unofficial advisers to Sultan Faysal. His son, 'Abd al-Mun'im, worked as the commercial agent of Sultan Sa'id in Karachi (Peterson 1978 : 73, 104). Both sons of 'Abd al-Mun'im, 'Umar and Qays, have been close to Sultan Qaboos after 1970. On December 1, 1973, Qays was appointed Minister of State for Foreign Affairs, a post which he retained until 1982. His brother 'Umar was appointed as a personal adviser to the Sultan in 1974, and is currently the special advisor to the Sultan on external relations. Moreover, the Omar Zawawi Establishment (OMZEST) group, which is the agent of many foreign companies (IBM, Microsoft, Siemens, Mc Donnell Douglas, etc.), has become one of the leading groups in Oman.

The authorities viewed these two events as serious social and economic warnings. With more than half of the total national population below the age of 15, new generations were entering the job market and were not prepared to endure sacrifices from which their parents had been exempted. By 1995, at the end of the Fourth Five-Year Plan, it seemed clear that Oman, after 25 years of Qaboos's rule, had come to a crossroads and would have to enter a new phase in development planning. Several solutions were discussed, among them a major planning conference. The conference called "Oman 2020 – Vision for Oman's economy," organized in June 1995 to define the goals for the next 25 years, set two main targets:

- The first dealt with economic diversification – the conference estimated that the crude oil sector's share of Omani GDP would fall from 40 percent in 1996 to under 10 percent in 2020, while the contribution of gas would rise from 1 percent to 10 percent, and that of the non-oil industrial sector would rise from 7,5 percent to 29 percent.

- The second main target was employment for the younger generation of Omanis. Around 40,000 secondary school graduates or drop-outs entered the job market every year. Some unofficial sources estimated unemployment at 10-15 percent for nationals in 1993. The aim was to achieve an Omanization rate of 95 percent in the public sector in 2020, as against 68 percent in 1995. However, the real challenge was in the private sector, which accounted for over four of every five jobs in the country. It was planned that the

Omanization rate there should rise from 7 percent in 1995 to 75 percent in 2020.

## A Constitutional Answer to Dissatisfaction

The Basic Law of the State (al-nizam al-assassi li-sultanat 'uman), promulgated on November 6, 1996 with Royal Decree No. 101/96 came out of this stormy political context (Sultanate of Oman 1996). Announced by the Sultan himself on the occasion of his annual tour, this event was not preceded by any public debate or communication. As with previous political moves in the Sultanate, the Basic Law, first Omani constitutional law, can be seen as the head of the royal family granting rights to his subjects, rather than a negotiated concession. The decree promulgating the Law, which begins with the words "We, Qaboos bin Sa'id, Sultan of Oman...," confirms this, and avoids any reference to other entities (like the nation, or God). Several days later, the sovereign expressed himself and presented it as a major and logical step in Omani nation-building, but also as a product of political history since 1970, and the main foundation for the future evolution of the country: "Crowning the efforts of a quarter of a century of fruitful work, we have issued the Basic Law of the State, which is the distillation of the experience gained over the past years. This historic document has provided the blueprint for the system of governance, the principles for the direction of policies, public rights and duties, and the responsibilities and authority of the Head of State, the Cabinet and the Judiciary ... [It] provides the main base for the continuance of progress and development."[1]

The first chapter deals with the system of government, described as "hereditary Sultanate... based on justice, on shura and equality" (Articles 5, 9). The principles and the procedures of succession to the throne are formalized – for the first time in Omani history – in Articles 5, 6, and 7. Only Muslim male descendants of Sayyid Turki bin Sa'id who are lawful sons of Omani Muslim parents are eligible to become sultan. In case the throne is vacant, the "Ruling Family Council" (*Majlis al-'A'ila al-Hakima*) is required to meet within three days to designate a successor. If the members of the Family Council fail to choose someone, in particular because of mutual disagreement, the "Defense Council" (*Majlis al-Difa'*) confirms the individual designated beforehand by the Sultan in a message addressed to the Ruling Family Council. In 1997, Sultan Qaboos publicly announced that he had "already written down two names, in descending order, and put them in sealed envelopes in two different regions" (Miller 1997,

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1- Speech of His Majesty Sultan Qaboos bin Said on the occasion of the 26th National Day (Sultanate of Oman 2001a : 197).

17), probably in order to avoid the possibility that a single individual could manipulate the royal "testament."

This succession procedure is original in the region. To a certain extent – as it is defined by the lineage of Sayyid Turki – the procedure leaves the succession open. Power is not necessarily transferred to the oldest son (as in Bahrain or Qatar) or to the individual chosen by the Sultan (like in Kuwait). Unlike those monarchies, no crown prince is designated in Oman. Nevertheless, several questions remain. First, however mundane this formalization of the succession seems to be, the article in question has led to discussions among the Omani population, especially among Ibadis. As a government official explained to the author, "This decision has been difficult to [accept] for many people, particularly among the old ones, because it goes against the Omani tradition and heritage. Ibadi thought relies on consensus and on the general agreement to choose the best to lead. That's why Oman's history is so complicated and for long periods there has not been an imam... The Omanis prefer no choice [to] a bad choice. Now it is out of the question that the next Sultan be of another lineage than Al Turki."[2] In short, if everybody agreed to say that the procedures were tacitly acknowledged, it had the merit of not being sealed in writing, and allowed a large room for maneuver – more theoretically than practically – and retained the heritage of Ibadi shura. However, Article 53 confirms the will of the Sultan and dispels any doubt about the actual source of power.

Finally, it is necessary to note the central role played by individuals outside the Al Sa'id family through the Defense Council, which has formalized their influence in Omani politics since 1970. The Council is created by the Basic Law, and is in charge of "considering and coordinating matters related to preserving the Sultanate's safety and defence."[3] According to Decree No.105/96, which was published on December 28, 1996, the Council is chaired by the Sultan, the Supreme Commander of Sultan's Armed Forces (SAF), and is composed of the Director of the Office of the Supreme Commander, the Minister of the Palace Office, the Inspector-General of Police and Customs, the Chief of Staff of the SAF, the respective commanders of the Land Forces, the Air Force, the Royal Guard, and the Navy, and the head of internal security.[4]

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2- Interview, August 13, 2004.
3- Article 14, paragraph 1 (Sultanate of Oman 1996).
4- On February 15, 2006, these posts are respectively occupied by the Lieutenant-General (Lt-Gen.) 'Ali bin Majid al-Ma'amari (both director of the office of the supreme commander and minister of the Palace Office), Lt-Gen. Malik bin Sulayman al-Ma'amari, Lt-Gen. Ahmed bin Harith al-Nabhani, Lt-Gen. Sa'id bin Nassir al-Salmi, vice-Air marshal Yahya bin Rachid al-Juma'a, Rear-

The second chapter of the Basic Law deals with the political, economic, social, cultural, and security principles behind state politics. Among the political principles, the preeminence of the political tradition of 'consultation' (shura) is highlighted: "the setting-up of foundations of a real shura emanating from the heritage of the nation, of its values and of its Islamic sharia, proud of its history" must be pursued, without neglecting what is necessary among the contemporary methods and its tools (Article 10, Paragraph 3).

More interestingly, national pride is stressed on several occasions, particularly with regard to education. The latter is supposed to "create a generation strong in its structure and its morality, proud of its nation (umma), of its homeland (watan) and of its heritage, and able to defend its experience" (Art. 13, Paragraph 2). Similarly, it is a duty for everyone to preserve national unity and to safeguard the nation (ta'ziz al-wahda al-wataniyya wajib, Article 12, Paragraph 2 ; amana fi 'unuq kul muwatin, Article 14, Paragraph 1 ; Article 38), while defense of the nation is a holy duty (wajib muqaddas, Art. 37). Regarding the state, it fosters the national heritage and safeguards it (Article 13, Paragraph 4).

The division of political powers is at the heart of the fourth section. The sultan is a "symbol of national unity and guardian of the preservation of this unity" as head of the state and supreme commander of the armed forces (Article 41). Article 42 enumerates – although not exhaustively – his diverse powers, especially those of promulgating and ratifying laws. More generally, he preserves national independence and territorial integrity but also citizens' rights and liberties. He takes all measures to counter any danger threatening the security of the Sultanate, its people, and its territory. For example, he has the possibility to declare a state of emergency, general mobilization, and war. Aside from his large powers of nomination and dismissal, he can grant pardons and commute sentences. Finally, Article 41 explicitly states that his person is inviolable, that respecting him is a duty, and that his orders must be obeyed.

Articles 44-55 establish that the sovereign will be helped and advised by the Council of Ministers, who are given the task to executing the general policies of the state (determined by the Sultan, Article 42); the Council of Ministers may submit recommendations and proposals to the Sultan, with the latter being able to choose whether or not to follow them (Article 44, Paragraph 1). Article 45 plans for a possible prime minister, who would chair the Council; his competencies would be defined later by royal decree (Article 48). The main oath of members of

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Admiral Salim bin 'Abd Allah al-'Alawi, Lt-Gen. Khalifa bin 'Abd Allah al-Junaybi and Lt-Gen. 'Abd Allah bin Salih al-Habsi.

the Council of Ministers is allegiance and fidelity to the ruler and the country (mukhlissan li-sultani wa biladi, Article 50). They are also collectively and personally responsible for the general policy of the state and for the actions of their respective departments (Article 52).

Furthermore, Article 53 introduces the notion of a "conflict of interest" between the governmental and economic spheres. It stipulates that members of the Council of Ministers cannot serve on the boards of directors of public companies. The departments they head cannot deal with issues in which they have direct or indirect interests. Generally, they must not use their official position in order to promote a personal interest, or the interests of people to whom they are personally linked. Never before the end of the 1990s were the leading trading families or the financial power-holders that emerged after the coup d'état forced to choose between wealth and politics. The oil rent benefited them, and they built or consolidated their economic positions in post-1970 Oman. What makes Oman different from the other Gulf countries is that Sultan Qaboos gave them the formal capacity to make decisions regarding the economic orientation of the country. A major conflict of interest is still present because political and economic powers are in the same hands. The regime's leading figures have to reconcile the public interest that they must promote as political decision-makers (like the policy of Omanization, officially presented as a 'national challenge') and the particular interests they defend, as businessmen. Thus, it is easily understandable that Article 53 of the Basic Law was welcomed in Oman. However, it didn't lead to any real change in governance. This was exemplified by the December 2001 appointment of businessman Juma'a 'Ali Juma'a, the chairman of Al Ansari group of companies, to the new post of Minister of Manpower.

When the Sultanate adopted the Basic Law in 1996, it was unanimously welcomed by the international community, which saw in it a new step towards political liberalization and even the setting up of a constitutional parliamentary monarchy. The text favored the constitutionalization of the Sultan's prerogatives, which were defined explicitly for the first time. Furthermore, it acknowledged a set of inalienable rights and individual liberties in the judicial, economic, and social spheres. As for cultural and social matters, the state granted justice, equality of opportunity, medical assistance, and the rights to work and to be educated. The Law instituted the equality of all citizens; no discrimination based on gender, origin, skin color, language, religion, sect (madhhab), residence, or social situation is permitted (Article 17), while freedom of worship is recognized (Article 28). Finally, the Basic Law provides a series of innovations allowing for improvements in political transparency, for instance the creation of the Council of Oman, succession procedures, Article 53, which concerns conflicts of interest between politics and the economy, etc.

Nevertheless, this formal progress does not hide reality. First, the Basic Law ratifies a paternalistic conception of a state whose guide is the Sultan. He is responsible for the country's development, a symbol of its unity and an embodiment of services upon which Omanis are dependent in their daily lives. This gives him the legitimacy to accord himself the right to control every political, economic, and social system. If the text bears all the attributes of a political and legal modernity commonly understood at the beginning of 21$^{st}$ century, it is in keeping with a tradition of clan patriarchs whose authority and role of arbitration must be imposed upon all tribesmen. In return, their mission consists of insuring the protection and the subsistence of the 'asabiyya members. The Sultan has all the prerogatives of executive and legislative power in the country.

The third part of the text deals with general rights and duties. Freedom of the press is guaranteed, so long as it does not generate disorder (fitna) or undermine the security of the state. In practice, these restrictions are responsible for the heavy self-censorship, which explains the poor reporting of the current Omani press. As for the freedom to create associations (Article 33), this is granted so long as these structures are based on national foundations, aim to reach legitimate targets by peaceful means (ahdaf machru'a wa bi-wasa'il salmiyya) and do not call into question the organization of society (mu'adiyyan li-nizam al-mujtama'). The multiple limitations sprinkled throughout the text, using apparently insignificant phrases like "in the limits of the law" (fi hudud al-qanun), particularly in sections relating to freedom of opinion and assembly, allow for a great freedom for interpretation – for the authorities. The best example of this can be seen in the fact that the formation of political parties and unions is still forbidden in Oman.

While Omani civil society remains embryonic, some indications reveal the will of the people to express themselves about internal and international problems. This trend seems to us to refute the official propaganda of a virgin Sultanate, free from any debate because of unanimity behind its sovereign, and protected by the latter from the world's hazards. In 1998, this tendency was brought to the fore when nursing students did not hesitate to demonstrate against poor working conditions at Sultan Qaboos University.[5]

The most important demonstrations (against the US/UK coalition) happened during the invasion of Iraq crisis in spring 2003. While it is likely that they were organized under the supervision of the Ministry of Information, they allowed

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5- Economist Intelligence Unit. *Country Report: Oman* (1998, no.3 : 11).

social tensions to be defused, and the population to publicly take a position on a sensitive topic. More oriented against the Americans and the British than against the war itself, and more aggressive and pan-Arab than truly pacifist, the slogans[6] showed a high rate of exasperation and anxiety in the population, particularly the young. Like an indirect message to the ruler, they dealt with disagreements on official priorities, as established by the government, regarding the use of oil rents, in which the proportions granted to defense and security are among the highest in the Gulf. In the last few years, there have been no shortage of protests, especially when the first measures of indirect taxation were implemented, such as the toll for crossing the UAE border and when users were asked to pay medical fees.

Another indication of Oman's participation in global debates has been the appeal of religious and conservative ideas, especially in the last ten years. Their prevalence has constantly risen among the young generations. Economic difficulties, the help given by religious charities to underprivileged classes and recent returnees from East Africa and Baluchistan, the widespread perception that the gap between those who have access to oil rents and the majority that does not is constantly growing, and the lack of means for public expression have all contributed to an Islamization of daily lifestyles. This was the case in Egypt and Iran twenty years prior to it taking place in Oman. Protests are not overt – they are silent but easily distinguishable through dressing customs (for men, a dishdash that only reaches the ankle, the reappearance of ibadi turban 'imma joined with the circle under the chin and for women the niqab taking place of the hijab), the popularity of radio and TV programs advocating the strict observance of the sharia, and even daily behavior (long beards, student protests against music in the university, etc.).

## What Stake for 2003: Free Elections?

Let us now study the first free elections organized in Oman in October 2003, on the occasion of the renewal of Majlis al-shura. They provide many indications about the current levels of political participation in Oman, as well as the trends therein.

The first institutional initiative to consult Omani "civil society" took place in April 1979, with the creation of the "Council of Agriculture, Fisheries and Industry." Dissolved in October 1981, it handed its duties over to the "State

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6-In Arabic, like a direct questioning to the ruler : "*Shame, shame on Oman ! Out, out America !* ," and in English, to the coalition : "*Down, down UK, USA !* " or "*No war through our land !*"

Consultative Council" (*al-Majlis al-Istichari li-l-Dawla*, or SCC), which, as its name implies, had no executive or legislative power.

The SCC was first composed of 45 members appointed for two years by royal decree. 17 belonged to the government and 28 represented "civil society." The latter consisted of 11 delegates stemming from the private sector (their names were proposed by the Chamber of Commerce) and 17 from the wilayas, whose names are suggested by the walis.[7] Among the government delegates, ten acting undersecretaries (wakil wizara) were appointed on behalf of their ministries,[8] while 10 out of the 11 private sector delegates were prominent traders in Muscat.

The new chamber's duty was to "formulate opinions and advice" about the economic and social development of the country. These were to be communicated to the sultan by its president. The ruler could then take them into account if he wished to. Members were allowed to question different government officials, except those from ministries linked to national sovereignty (foreign affairs, defense, finance, interior). Calling into question officials from the latter would indirectly implicate the authority of the ruler, which would be unthinkable. One of the delegates clarified the situation, when he compares the SCC to "a child just out of its womb, which soon will walk, speak, and eventually, with His Majesty's guidance, act on its own." Another one explained that the consultative process was similar to a relation "between father and small children. The Sultan is our father and tells us what to do. That is consultation" (Eickelman 1984: 69).

Nine years after its implementation, the Sultan announced, on the occasion of the 20th anniversary of his coup d'état, the replacement of the SCC by the *Majlis al-Shura* (Consultative Council, CC) from 1991. The new assembly was composed of 59 members – who individually represent each wilaya of the country – and a president, who has thus far been appointed by the Sultan. Within each constituency, 400 to 500 people whose opinions and experience were valued were gathered to elect three candidates. From these three, one was chosen by Sayyid Fahd, Deputy Prime Minister for Legal Affairs. The final decision was taken by the ruler himself.

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7- In 1983, a royal decree increases the number of members to 55, 18 of whom are issued from the government, 12 from the private sector and 25 from the wilayas.

8- The represented ministry departments are: Interior, Education and Youth, Health, Social Affairs and Labour, Land Affairs and Municipalities, Commerce and Industry, Agriculture and Fisheries, Communications, Electricity and Water, and Posts, Telegraphs and Telephones. We can note that all the sovereignty ministries are missing in this list, but also Information and above all, Oil and Minerals.

The structures and the functions of the *Majlis al-Shura*, which are astonishingly similar to those of the former assembly, have not yet undergone any major changes. The special committees can ask that a minister or any administrator come to explain himself in front of them, but they are not compelled to do so. On legislative matters, the prerogatives of the assembly have been extended; unless the Council of Ministers explicitly wishes to pass these on directly to the ruler, any bill of law in the economic and social sectors has to be presented to the CC to be discussed, and if necessary, amended. The law is then voted upon by the assembly and returned to the ministry. Afterwards, the ruler ratifies the project, choosing whether or not to take into account the recommendations introduced.[9] The so-called "service" ministers have to appear in front of the Majlis twice a year to answer the members questions.

The Omani Majlis al-Shura had evolved several times by 2003. After the first census was completed in 1993, the authorities decided that wilayas whose population exceeded 30,000 inhabitants could elect two delegates, and smaller wilayas just one. Furthermore, the selection and appointment process was for the first time open to women in the Muscat governorate; two women, chosen by the electors of Seeb and Muscat, were confirmed by the Sultan.[10] In 1997, the electoral body amounted to 51,000 people (one every 15 adults), 10 percent of whom were women. In that year, they were also given the right to vote and to run in elections all over Oman. On the occasion of the following elections, in September 2000, 175,000 electors (i.e. one adult in 4; 30 percent of them women) were called upon to choose from among 540 candidates (including 21 women) for 83 seats. The candidates with the highest number of votes were automatically elected, and the Sultan no longer intervened in a discretionary second round. In Muscat and Bawshar, two women were elected.[11]

In October 2003, the delegates' mandate increased from three to four years. The real innovation for this dealt with the introduction of universal suffrage.[12] Moreover, any citizen had the right to run for the Majlis, provided that he was a native Omani (bi-l-asl) who had reached the age of 30 on the election day, was a "son of the wilaya" (min abna' al-wilaya) in which he was a candidate or owned a

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9- Interview, April 28, 2004.
10- Chukur bint Mohammed al-Ghammari, elected in Muscat from 1994 to 2000, subsequently became member of the *Majlis al-Dawla*. Taiba bint Mohammed al-Ma'awali was delegate of Sîb, also for two mandates.
11- Rahila bint 'Amir al-Riyami (Bawshar) and Lujayna bint Mohsen Darwish al-Za'abi (Muscat).
12- Is allowed to vote any individual which is more than 21, of good morality and mental health, with virgin criminal record, who does not belong to any military or security structure and registered on the electoral lists in the time defined by the law.

residence there, and finally held a "fair level of culture and professional experience."

In practice, it was forbidden to tackle any general topic (like the role of the religion in present society, or that of the assembly in the division of powers), to organize public campaign meetings, and to campaign together with a candidate from another wilaya. These limits prevented the elaboration of political strategies. The means available to candidates for them to make themselves known vary between towns and the countryside, but the campaign remained very restricted. They took place largely in the *majlis* of the tribal shaikhs, but also through door-to-door and personal networks. For this reason, the Ministry of the Interior puts standard printed forms at the candidates' disposal for them to fill out and distribute to the population. Women have used the women's associations recognized by the government to make their ideas known.[13] A few candidates created their own websites.

In the weeks before the elections, there were no electoral posters, no advertisements on TV or in the newspapers, and no public gatherings; these were all explicitly forbidden. All candidacies must be registered at the wali's office and approved by the Sultan, after he received the agreement of the official elections committee. The electors, in particular those residing in the capital, were strongly encouraged to vote in their native wilaya by means of indirect measures: the organization of the voting on a Saturday (a working day in Oman), and the granting of an additional holiday without deduction the next day on presentation of a stamped elector's card. All these measures aimed at holding up the appearance of new social forces. Moreover, the authorities worked to depoliticize the elections and reduce them to local and personal stakes. The organization of the voting on a local basis goes in this direction. Similarly revealing was the absence of any members of the royal family, noble lineages of the al-Busa'idi tribe, or leading merchant families among the candidates. Thus, the electors' and observers' temptation would be not to interpret the results as a referendum on the authorities' general politics; that would be inconceivable for Sultan Qaboos. These elections do not, in any case, question the legitimacy of the ruler, or indeed of any other actors.

Thus, it is not very surprising that in a majority of wilayas, the criteria of choice most commonly used by electors deal with primordial solidarities. Insofar as they have no rational way of making a choice between different candidates, they will logically resort to "natural" criteria. This phenomenon is further

13- Interview, April 24, 2004.

strengthened by the fact that the candidates are asked to present their name in the following format: "first name, father's first name, grand-father's first name, great-grand-father's first name, tribe's name" (eg. Ishaq bin Salem bin Hamud bin Shamis al-Siyabi). Clientelism (al-mahsubiyya) and personal relations (al-ma'arif al-chakhsiyya), but also the shaikhs' support for this or that candidate, rank among the fundamental elements in the choice.

Two examples demonstrate the importance of the shaikhs' influence in elections in rural wilayas. At Bahla, five out of 16 candidates were tribal shaikhs themselves, or very close relatives of the shaikhs. The symbols chosen by these candidates that appeared next to their names on the ballot allowed electors to identify them immediately as having inherited a political heritage from several lineages that have historically distinguished themselves. Sometimes, the failure to reach an agreement in order to group all the 'asabiyya forces around a single name leads to the defeat of the tribe, as in the wilaya of 'Ibri. The division between several candidates (representing several clans) caused the defeat of the major tribe, the Ya'aqubi. Fortunately for them, the Sultan, appointed Shaikh Sultan al-Ya'aqubi to the new Majlis al-Dawla in 1997, to compensate for it.

Whereas the old shaikhs have grown fewer and fewer in the Majlis, their sons and nephews have occupied numerous seats in the assembly elected in October 2003, especially among the deputies from the interior (Dakhliyya, Dhahira) and from Musandam and Dhofar. Moreover, despite the readjustment of constituencies to the benefit to the most populated wilayas, the 30,000-inhabitant threshold which separates the 1- and 2-seat wilayas remains very low. Thus, different wilayas like Seeb (162,000 Omanis in December 2003), Bahla (46,000) and Izki (32,000) send the same number of delegates – 2. The Wusta (17,000) and Musandam (20,000) provinces are represented by four delegates each, twice as many as the wilaya of Seeb, which is eight to ten times more populated. Without doubt, the Majlis al-Shura, remains a chamber where rural regions are overrepresented because of the way its members are chosen. The clearest example is the Dhofar governorate (150,000 nationals), where 8 out of 10 delegates are elected outside of the capital, Salalah, which has more than two-thirds of the total population of the region.

Nevertheless, it would be misleading to reduce the opening up of universal suffrage in the Majlis to a simple political retribalization along the lines of traditional legitimacy. Clientelism is an inescapable variable of the current Omani political process and can be perceived in other forms, particularly in the capital, where old solidarities seem weaker. Considering that most individuals connected to interior tribes voted in their native regions, the Muscat election led to polarization on new grounds. These were no longer just tribal or clan-based, but also ethnic, linguistic, or based on professional or generational networks.

We can thus note the far-reaching capacity of mobilization displayed by candidates of Baluchi origin, not only in the governorate of Muscat (where they won three seats out of fifteen, two of them by very large margins – thrice the number of votes of the nearest challenger) but also in the Batinah region. Some categories at the margins of political and economic power made the most of the elections and cut out a space for themselves in the state. The two wilayas at the outskirts of the capital (Seeb and Bawshar) exemplify this tendency. Aside from the representatives of the tribes historically settled in those territories (al-'Amri in Seeb, al-Hassani in Bawshar), members of recently settled groups, which became the majority, were elected. In Seeb, to which the government started transferring the inhabitants of Jabroo, one of the poorest areas of the old city of Muttrah, ten years ago, a candidate of Baluchi origin led by a wide margin. In Bawshar, whose territory includes quarters with "Swahili" majorities, an African-Omani woman succeeded in capitalizing upon two major characteristics in order to attract votes. The first was her vernacular language and the second was her exemplarity as a woman who found her place in modern Oman and embodied the expectations of a population in an awkward social situation.

Furthermore, we can note that successive Majlis al-Shura reforms over a period of 20 years have given the institution a certain legitimacy, and turned it into a new tool for mediation between the population and the authorities. Citizens have begun to appropriate this chamber to re-create systems of allocation, with the Majlis delegate playing a role complementary to that of the tribal shaikh. A 30-year old state employee who is a native of the Dakhliyya province explains the reasons for his vote thus: "M. has been elected because he is young and popular, he is not a snob, he is always cheerful, while you 'count the steps' when you are going to see the shaikh... There are many people who come to see the shaikh and ask him for services; he is usually very busy... With M., it is not complicated, he is a mate, and you can speak frankly with him. He understands your problems, he understands what you want, he is like you and me..."[14]

These words reveal also an evolution since 2000 regarding the entrance into the Majlis of new social categories. New members are more educated, better placed to engage in the technical work of considering the files submitted to them, and more inclined to call into question a distribution of political roles that has gone unchallenged since 1970. It is still too early to measure both the political and social consequences of this evolution, a fortiori as no sociological data about Majlis members is available. Despite the ban on "parliamentary groups," we can see the constitution of lobbies based on shared interests (like justice, education,

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14- Interview, May 3, 2004.

and health matters[15]). Whereas the capacity of influence of these *lubi* on major national policy orientations remains weak, their very existence illustrates a qualitative evolution in the perception that some delegates have of their responsibilities and positions in the general balance of powers.

## The State Council

In spite of the preeminence of conservative and rural forces within the Majlis, Sultan Qaboos decided in 1996 to set up another chamber. The fifth part of the Basic Law created the Council of Oman, composed of the Consultative Council (Majlis al-Shura) and of the State Council (Majlis al-Dawla, or SC), a completely new institution.

In 2006, the SC is composed of 57 members (including 9 women) appointed by the Sultan for four years. They are recruited from among former ministers and undersecretaries, former ambassadors, retired officers and judges, businessmen, individuals who rendered services to the nation or who are acknowledged for their skill in the scientific, artistic, cultural, and academic sectors, as well as "any person the Sultan considers good to see sitting in the assembly."[16]

The extreme caution with which Sultan Qaboos started up this assembly in 1997 reflects the underlying political instrumentalization of the Majlis. Appointed ten days after the elections of the CC, the State Council allows the government to tighten its links with key figures at very little cost. They might have been disenfranchised for several reasons, ranging from retirement from public service to intellectual independence. Moreover, the SC plays the role of a remedial body for groups whose members have been beaten during the Majlis al-Shura elections (as was the case for the al-Ya'aqubi of 'Ibri) or which are simply not represented there (Duru', Lawatiyya, Bani Ruwaha, Bani Hina, Bani Ghafir, etc.). Thus, the SC formalizes the integration of infrapolitical sociopolitical forces (tribes, leading merchants, etc.) into the state apparatus. It therefore contributes to the current central power's legitimation through a redistribution of both material and symbolic powers available because of the oil rent. The de-politicization process reaches its climax here, with the co-optation of traditional elites. Their own power has been independent of that of the nation-state built around the Sultan. By integrating them into the SC, these elites will finally use the state and their own power in favor of the Sultan.

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15- Interview, September 11, 2003.
16- Royal Decree No. 86/97, in Sultanate of Oman (2001b : 22).

The set-up of the SC is the answer to the ruler's suspicion of any excessive political freedom being granted to an institution based on popular suffrage, like the Majlis al-Shura. If the quotes officially attributed to both assemblies are representative, then in practice, the job of the SC is to counterbalance the Majlis al-Shura, as the latter's legitimacy seems wider and 'independent' from the ruler's will. As Hamud al-Harthi, the former president of the State Council, explains it, the assembly he presides over goes into action after the CC to revise the work of the latter and prevent any upheaval in the balance of powers: "The Majlis al-Shura studies the needs of the population and makes recommendations on this basis. The role of the Majlis al-Dawla starts from there."[17] The way the members are designated and the social composition of the assembly both insure the unfailing loyalty of SC members to the Sultan.

Legislative liberalization started 25 years ago as a means for the ruler to neutralize emerging sociopolitical forces (among whom are religious figures and technocrats) by co-opting them into a game he controls, thereby recognizing their existence without taking any political risks. Furthermore, it allows the responsibility for unpopular decisions to be diluted. A broader spectrum of political actors is now responsible, and it no longer solely consists of the ministers of the Sultan's court. Instead, all political actors are (at least formally) included while the priorities of the community are being defined. On the other hand, this opening up allows the possibility (or the illusion of the possibility) of citizens directly choosing who will represent them and who will bring their message to the top, but also simultaneously giving them a new channel with which to defuse social conflicts.

Last but not least, this political process is the means of establishing a clear distinction between the royal family and prominent members of the state (merchant families, power allies, etc.) on one hand, and the other citizens (including local elites) on the other. The latter group has been ordered to bring its social or traditional prestige into play. If a local elite group wins an election, its power is theoretically strengthened, but to the benefit of the central state, as they become its intermediary with society. In case the group is defeated, its lot lies in the hands of the Sultan, whose paternal benevolence can grant it a seat in the Majlis al-Dawla. This allows to keep a piece of "social visibility." Then, its dependency upon royal goodwill is total.

The last point that we would like to focus on with regard to the 2003 elections concerns the lack of enthusiasm with which Omani citizens participated in this

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17- *Asharq Al-Awsat* (London), March 4, 1998.

unique consultation. Despite an intense government media campaign urging citizens to "exert their right to vote" and despite formally competitive elections (up to 16 candidates in some wilayats, no ballot box stuffing, etc.), the registration figures speak for themselves – only 32 percent of the population above 21 years of age (36 percent of whom were women) registered to vote. Some local observers estimated that only 70 to 75 percent of eligible voters registered,[18] so only 22 to 24 percent of citizens old enough to vote actually did so. The author's field observations suggest that the participation was higher in the rural regions, where solidarity and patronage networks are still strong, and among women and old people. Participation rates appear to be more disappointing in the capital and in other urban areas, among men in general, and particularly among the younger generation, state employees, and the educated.[19] In Muscat, a deep disinterest marked a vote based on kinship in which individuals without tribal affiliations did not participate. Only 30 percent of registered voters went to the poll in some areas of the capital, in particular from those sections of society characterized by rapid urbanization and lower living standards.[20]

In the discussions we have looked at, it is easy to spot a cynical attitude (especially among younger generations) towards a process whose failings people already seem to notice. Very few young people believe that the CC members have the capacity to improve their daily lives. Thus, the vote usually becomes an occasion to seek immediate profit through the ballot: "This year, I did not register to vote. Last time, I voted but it was useless. What is the interest to vote? It is only for money that they want to be elected ... In addition, I do not know the candidates. How can I choose? On the wall of wali's office, there is only the name of the candidate and his age. But what does he do in everyday life? Where does he live? What did he study? We do not know. Look at last time: the brother of S. called me to ask to vote for him and to tell it to other people I know. He told me: 'Do not worry, we will not forget you!' Finally, I did not vote for M. But he was elected. What did he do for me? Nothing, he did not pay attention to people as soon as he was elected. It is the same, at the mosque or in my quarter; Shaikh Rashid receives a call from a candidate, who says: 'Arrange it so that the people of your quarter vote for me, and we will come to an agreement.' The people, they are not mad: they need Rashid for administrative papers and all these things. They will vote as Rashid told them to. What is the result: Rashid gets a new car after the elections! And me?"[21]

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18- Interview, April 25, 2004 ; *al-Khaleej* (Dubai), October 16, 2003.
19- See also *al-Watan* (Muscat), October 7, 2003.
20- Interview, October 4, 2003.
21- Interview, May 4, 2003.

The mass abstention illustrates, more than anything else, the refusal to endorse a political institution without real power, and which citizens consider a caricature of democracy: "People do not vote because they know that it is useless. The Majlis al-Shura is only a 'discussion forum' between friends. Certainly, the ministers can be interrogated. But when they come, they know that they will spend a good afternoon because they will not be asked about the most important questions."[22] This harsh opinion, although in contrast with the actual situation, reflects the sentiment of a large fringe of Muscat youth. Thus, the weak participation rates in October 2003 were not an indication of a lack of interest in politics in Oman, but on the contrary, a request for more meaningful political participation.

## Prejudices and Social Tensions

Demands for political liberalization in Oman remain extremely rare, and usually take indirect forms; they address authorities in a roundabout way (for instance through anti-war demonstrations, growing participation in religious activities, and weak participation in free elections). But it seems that the real challenge the government currently faces lies in the question of national identity, and the calling into question of the model built by Sultan Qaboos from 1970 onwards. The Sultanate has experienced a revival of community prejudices, first between nationals and expatriates originating from the Indian subcontinent, especially because of tensions resulting from the nationalization of jobs. This tension was illustrated by the more and more frequent demonstrations of poor expatriate workers whose salary had not been paid for months, with the expectation on the part of their employers that their precarious situation (the threat of dismissal because of Omanization) would not allow them to rise up.[23] Economic difficulties for Omanis have led to a general feeling that the country is run by the 'Indians,' and that an excessive part of national wealth is diverted to India and Pakistan; very few agree without reservation to obey orders given by someone who worked in the shadows for years. One young Omani who had recently been hired relates a story about his debut in the company: "My boss is Pakistani. The other day, he told me to bring him some tea. I did not answer. I looked at him and I went away as if I had not heard. I cannot bear the Pakistanis. They come here to take the oil profits and on top of that, they want to give orders!"[24]

However, it is within Omani society above all that tensions are most revealing. The Omani state, both as a delimited territory and as a scene of

22- Interview, August 31, 2003.
23- *Gulf News*, August 17, 2004.
24- Interview, June 7, 2003.

ambitions, movements, and encounters, contributes to making an individual aware of his origin, his social class, and his language – in a word, his "identity." While until the 1970s, the tribe or the local group usually represented the only reference, the new nation led everyone to encounter fellow countrymen whose values were different. One Omani from the interior who studied at Sultan Qaboos University (SQU) between 1990 and 1994 admitted that: "until the second academic year, I did not know that in Oman there were differences between the Muslims – Ibadis, Sunnis, and Shias."[25] The religious polarizations were more and more greatly exacerbated in the discourse, especially towards the Shias of the coast, who were seen as a homogeneous group and accused of many misdeeds. In a similar way, one Sunni housewife, a 30-year-old native of Muscat, complains about the evolution of her town, regarding the Ibadis of the interior as main culprits: "Since 10 or 15 years ago, Muscat has changed. I think that it is because of these people who come from the interior to work here; they are not educated, they have no money, and they are very religious. Their way of life changed a lot but their mentality did not evolve at all; they want to implement the same rules in their village here. For example, I can no longer go out without the hijab; it bothers my husband, he feels it is foolish, but it is impossible to do otherwise."[26] Whether what this young woman said is true or not is of little importance; what is more interesting is the perception she has of the interior and its inhabitants, all the more so since there is similar mistrust on the other side.

In Salalah, the word 'Omani' refers in all cases to an Omani who is a native of the north (whether Arab or Baluch), and if often used in a disrespectful way. Many people in Salalah still refuse to define themselves as 'Omani,' preferring to call themselves 'Dhofari.' Such an attitude is not specifically a political expression. It is in fact the claim of a particularism about which it is considered legitimate to be proud of. It rests on the memory of the period prior to 1975, when the few northern Omanis settled in Dhofar were military personnel in charge of guarding the palace and the town. In 2004, when somebody involved in a car accident was wounded, the news that the individual in question was 'Omani' spread among passers-by – it was a way to reassure everyone, because nobody there could know him or be linked to him by kinship.

In this context, there is no other choice besides constantly defending one's "Omani-ness," as the words of one dignitary of Baluchi origin demonstrated. Initially he stated that "Oman is a large family," and the Baluchis of Oman are "an element of Oman"; then, he explained his pride that they have "become as

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25- Interview, June 10, 2003.
26- Interview, September 17, 2003.

Omanis," understood as real Omanis. But then he reclaimed the terms traditionally used by interior Omanis, describing his group as a "tribe, the largest tribe in Oman."[27] When he appropriates the traditional term of 'tribe,' a term that can be understood by everyone in Oman, he brings to the fore the group to which he belongs in order to find his place into the Omani social landscape, which has been recomposed within the modern state.

## Sociopolitical Repolarizations

The consequence of this withdrawal into narrow identities is a repolarization of the Omani society on the basis of two types of 'asabiyyat:

- Old groups anterior to the state (as the tribe or the clan).

- New solidarities constituted with the modern state. They extract their raison d'être from the state and paradoxically survive because of it. The 'Swahili' example is particularly enlightening.

Never in its history has this population developed an esprit de corps which could have made it a distinct community. It is a heterogeneous group with several fault lines. The first is the native tribe to which every member remains linked. This can be seen in the financial transfers to the villages in Oman and in the role played by the tribal shaikh in validating the genealogies of members back after three or four generations. Another fault line is the African colony of settlement. Here, there is a division between the 'Anglophone Swahilis' from Zanzibar or Tanganyika, on one hand and the 'Francophone Swahilis' of Central Africa on the other. Moreover, the date of return in Oman played a major role in their reinstatement. The return took place in several waves, which coincided successively with the decolonization and independence of Tanzania (in the 1960s), the call launched by Sultan Qaboos in 1970 to the Omani elite settled abroad for them to contribute to nation-building, and finally, at the beginning of the 1990s, with the political crisis in Rwanda and Burundi.

After their peaceful confrontations with other Omani populations in the new, modern state, a particular 'group conscience' emerged for those who were simply called 'Zanzibaris' or 'Swahilis' in the common discourse. The gathering process was certainly not a voluntary or spontaneous process, as one old Francophone woman explains: "We were all called 'Zanzibaris' [and could not do anything about it]... But it hurts, it is difficult to accept. We do not speak the same swahili

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27- Interview, March 22, 2003.

as the Zanzibari people, they laugh at us because of our accent! ... But the Omanis, they say that we are all black people, so..."[28] The more or less conflictual Omani reality has led to the constitution of new solidarities based on the foundations defined by the other (the 'real Omani' or the one who defines himself as such). We can witness the formation of a modern 'asabiyya based on new criteria (language) independently of genealogy, and tribal, and ethnic groups. This new 'asabiyya will adopt survival strategies comparable to the other Omani groups, such as endogamy and nepotism in employment. It is usually very difficult for parents who did not live in Africa, to marry their son to a young girl who is supposed to be 'independent.' With their more 'open' living standards, acquired in Africa, they can meet in places dedicated to African music, dance, and food.

Similarly, the administrative division of the country into eight geographical entities in 1990 led to the appearance of new regional solidarities. Until the mid-1990s, the main illustration of the wasta (social influence) phenomenon could be seen in the administration and the public sector of the Sultanate, in much the same way as in neighboring countries.[29] Department heads favored the hiring of members of the same ethnic or tribal group. This led to an informal division of the state apparatus by means of 'asabiyyat according to the identity of its higher officials – Baluchis predominated the semi-public phone company, Omantel, and the security and defense services; 'Swahilis' had hegemonic positions in the oil company, PDO, and also in the intelligence services; the Shanfari tribe (native to Dhofar) was overrepresented in the Ministry of Oil and Gas; interior Ibadi tribes were present in large numbers in the ministries of heritage, culture, justice and interior; the Lawatiyya dominated the health sector (the ministry as well as hospitals), and so on. This universally acknowledged phenomenon was explained by the necessity of everyone needing to find an identity to survive. For a decade now, the formation of new social trends has been spurred because of the restructuring of the country's territory around regional capitals that are destined to develop (such as Nizwa, Sur, and Sohar) and become links between their region and the country's political center. These towns, which were only tribal strongholds until 1970, went through a huge process of development. This was a consequence of the settlement of local branches of the administration, and of new educational structures (universities, training centers for teachers and nurses, etc.). The rural exodus disrupted the social structures of these towns. Such demographic mixing, unknown until this time, brought about a dilution of former local identities in a wider regional community. This new trend is particularly strong when it comes in

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28- Interview, June 9, 2003.
29- In Saudi Arabia for example, see Chaudhry (1989 : 126).

touch with the outside (i.e. with other regional solidarities). In the eyes of these new generations, the tribe or the village is no longer as important as before in locating the member of another group, as the regional center in which the latter studied or trained. New regional identities emerged all over the country (as dakhli, from the interior; sharqi, from the east, etc.), based on social networks developed in the regional center. These solidarities gave rise to a new trend of nepotism, which is no longer based solely on family relations, but also on professional and educational networks. This explains for instance why so many natives of the interior were hired at Sultan Qaboos University.

Since 1970, Oman's social and political stability has been intimately linked to the creation of a national identity. This process lies at the heart of Sultan Qaboos power's legitimacy. His historiography and official discourse constantly mix economic and social development with the modernizing state, and consequently, the person of the ruler, who literally embodies the state through a paternalistic regime. The question is pointedly summed up by a member of the State Council: "The intellectuals in Oman work at the university. At 2.30 PM, they come back home and sleep. The government forbids them from meeting people and conducting surveys... On the other hand, they earn their salary without a problem! They are afraid because they are told that if they start working (sic), all what they do can be used by foreigners against Oman. But the problem is this – what is Oman? If I put the Sultan aside, what remains as national 'cement'? ... The problem is that the country looks like an archipelago – the Baluchis are one island, the Dhofaris are completely isolated from the north, the people from the interior are themselves are divided between Sharqiyya and Dakhliyya ... Nobody raises the question of the future of the country. Asking how will the country fare after Sultan Qaboos and how we will do without him is forbidden. Even the authorities, it seems, do not wonder. But the people want to know, I think!"[30]

These words reveal a growing feeling of anxiety affecting all sectors of society. People have become aware of the symbolic centrality of the person of Qaboos, who has been a reassuring paternal figure for thirty years. At the same time, they are aware of the fact that he is not eternal, and that sooner or later, the Sultanate will have to find its own way without its protector. In his words, the State Council member quoted above seems very harsh – perhaps overly so – towards the Omani authorities, who have perfectly weighed up the challenges to come. The effort made in the area of Omanization, albeit with mixed results, bears witness to this.

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30- Interview, May 4, 2004.

Nevertheless, helped by its numerous youth, the Sultanate has evolved profoundly. The gap between the elites of the country and the young population, which is responsible for new dynamics across society, has grown. The Sultan's refusal to explicitly name a successor has not only kept up a general 'dependency' on him, but also led to social groups that only defend their particular interests, as if it were necessary to insure strongholds. The reconsideration of the social pact created by the Sultan, which has worked remarkably well for more than 20 years, is the price to pay in coming years in order to insure everyone a place in the nation-state.

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# Chapter Eight

## The Institutionalization of the Saudi Political System and the Birth of 'Political Personnel'

*Camille Ammoun*

## Introduction

This chapter deals with the three major reforms that the Saudi political system went through since the beginning of the 1990s: the creation of a consultative council (the *Majlis al-Shura*), the setting up of a National Dialogue, and the organization of municipal elections. Beyond their success or failure in engaging Saudi Arabia in the way of some sort of political opening, what we focus on here are the processes in which these reforms are inscribed and their real effects on the Saudi political system.

Thus, the *Majlis al-Shura* is often presented as being a proto-parliament, the National Dialogue would be a democratic forum where sensitive subjects are freely discussed by representatives of the Saudi society, and finally, the municipal elections appear to be a new experience allowing Saudi citizens input in the decision making process. If these functions can be considered to be partially fulfilled by the new institutions that were created since the beginning of the 1990s, they have indeed introduced "novelties" that do alter the Saudi political system without, nevertheless, reforming it in depth. Thus, the instauration of a *Majlis al-Shura* introduces an institution endowed with legislative powers distinct from the executive; the *Majlis*, moreover, is the first Saudi institution that can lay claim to a sort of holism, given the diversity in the geographic origins of its members. The National Dialogue – in its first two sessions – introduced a debate between the different religious, political and ideological currents that exist in the Kingdom, and this constituted a break with the monist discourse of Wahhabism. The municipal elections introduced the notion of popular legitimacy, as well as a new mode of designation of the elites.

We shall study, in the first part, the process of accelerated institutionalization in which the Saudi political system has been involved since the beginning of the 1990s. We shall try to understand not just the causes of its acceleration, but also the consequences that it might have on the relationship between the political system and society, especially through the formation of a political class, the size and composition of which lead us to think that it is endowed with a certain representation. In the second part, we will study the three reforms mentioned above, analyzing the manner in which they participate in the process of institutionalizing the system. Finally, we will try to conclude with an analysis of the nature of the representation that the Saudi political system is beginning to acquire.

## I. The "New Middle Classes" and the Institutionalization of the System

From the beginning of the 1990s until 2005, the reform of the Saudi political system has been continuous. One naturally wonders about the coherence of these reforms, which have occurred for over a decade. Are we dealing with a juxtaposition of reforms and institutions that remain independent from one another, and present neither political coherence, nor general tendency?

We shall try to demonstrate that a certain continuity does emerge from these three reforms, first, obviously, through the institutionalization of the Saudi political system, and then in the co-optation or increasing integration of the elites, resulting in an inflation of the "political personnel," or of what Binder describes as being the "second stratum."[1]

## State-building and the Opening of Institutions

*The Nature of the Institutionalization Process in the Saudi Political System*

Saudi Arabia is at a phase in its history where informal behavior is made explicit through its institutionalization or codification. We shall keep in mind Kostiner's description of Saudi history: "The history of Saudi Arabia, is, in fact, a sequence of state-building – or rebuilding – stages."[2]

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1 Leonard Binder. *In a Moment of Enthusiasm, Political Power and the Second Stratum in Egypt* (Chicago: University of Chicago Press, 1978)

2- Joseph Kostiner. *Middle East Monarchies, The Challenge of Modernity* (London: Lynne Rienner Publishers, 2000) p.132

In this sense, the institution of a *Majlis al-Shura* and the setting up of municipal councils are supplementary stages in the Saudi *state-building* process. The 1992 Basic Law was a step forward in the institutionalization and the codification of customs that were previously implicit. In fact, it formalizes the informal and thus earns a quasi-constitutional value.

### Table 1: A few landmarks in the process of Saudi state-building

| | |
|---|---|
| Under the reign of King Abdulaziz | 1925 *Majlis al-Shura* – Hijaz |
| | 1932 *Majlis al Wukala'* |
| | 1953 Council of Ministers |
| Under the reign of King Faisal | 1970 Ministry of Justice |
| | 1971 Council of the Great Ulama |
| | Diverse fields of modernization |
| Under the reign of King Fahd | 1992 Basic Law |
| | 1993 *Majlis al-Shura* |
| | 1994 High Council for Islamic Affairs |
| Under the regency of the then Crown Prince Abdullah between 1995 and 2005 | National Dialogue |
| | 2005 Municipal council elections |

In the Kingdom's history, the acceleration of the institutionalization process of the political system has always constituted responses to conjunctures about needs, thus leading to structural changes. Historically, it is possible to note three accelerations in the institutionalization of the Saudi political system.

The first one is a consequence of the territorial conquests led by King Abdulaziz (Ibn Saud), then the amir of Najd. As he expanded his territory, the number and diversity of his subjects subsequently increased until they included northern tribes, Hijazi city dwellers, merchants, etc. This created an institutional need to administer the vast territory, which extended from the Red Sea to the Gulf. This period saw the creation, in 1925, of a *Majlis al-Shura* in the Hijaz, and then, in 1953, of the first truly national institution, the Council of Ministers.

The second acceleration of the institutionalization process occurred during the reign of King Faisal, who had to face the threat of Arab nationalism, the intensification of American-Soviet rivalry in the Near East, and the management of petrodollars from the 1973 oil boom. During this period, the Kingdom also experienced a fast urbanization of its nomadic and rural populations. In response to these challenges, Faisal developed communication and telecommunication networks, as well as the Saudi educational system. He developed the Council of Ministers, increased its budgetary allowance, and institutionalized the role of the crown prince. He introduced all sorts of measures and rules concerning the job market, health services, and welfare state. He institutionalized the functions of religious leaders by creating the Ministry of Justice in 1970, and the Great Ulama Council in 1971.

The third acceleration of the process corresponds to the present period, which started in 1992 with the promulgation of the Basic Law. During this troubled period, the challenges that the regime faced were numerous.

The Saudi regime is based on three sources of legitimacy. The first one is religious, and stems from the founding alliance between the Saudi state and the Wahhabi ulama, as well as from its role as the guardian of Islam's most holy places. The second is military, since the Saudi state was created on the basis of territorial conquests. The third is economic and financial, and stems from oil reserves, the state's income, and its function as a distributor of wealth. The second Gulf War, whose effects have already been described and analyzed widely, is the principal cause of the birth of a structured political opposition in Saudi Arabia at the beginning of the 1990s. After the invasion of Kuwait by Iraq in August 1990, the three sources of legitimacy of the Saudi regime were shaken.

The religious legitimacy was eroded when King Fahd called for non-Muslim armies to defend Saudi territory. The military legitimacy suffered from the very same fact, since the kingdom showed its inability to defend its national territory. Lastly, the regime's economic legitimacy suffered from low oil prices, which coincided with its financing of Kuwait's war of liberation.

Apart from this prevailing situation at the beginning of the 1990s, at the beginning of the new millennium, the Kingdom had to face the consequences of the September 11 attacks, and the subsequent American war on terror. Indeed, 15 out of 19 of the people carrying out the attacks against the United States carried Saudi passports, ruining the international image of Saudi Arabia, and making it appear to be the cradle of Islamic fundamentalism and international terrorism. These events threatened the special relationship the Kingdom had with the United States ever since the famous encounter between King Abdulaziz and President Roosevelt in 1945.

This allowed the rise of an internal opposition whose principal request was increased political participation. A series of petitions were addressed to King Fahd and then to Crown Prince Abdullah. There were even popular demonstrations, like the one in Bureyda, and women challenging interdictions by driving cars. On the international scene, pressures – especially American – calling for a political reform of the regime and of the educational system increased considerably. These pressures, both internal and external, led the Saudi regime to subscribe officially to a process of reforms.

Reforms were conducted in a way that responded to demands for change, even while the regime tried to disturb the system as little as possible. This

arbitrage was indeed delicate. The regime thus managed the impact of announcements to create an illusion of change, and true reforms by introducing "novelties" in the system.

Thus, the first phase of the institutionalization of the system can be called the "unification phase," and was led by King Abdulaziz. The second phase, or "modernization phase," was led by King Faisal. We will name the third one the "opening phase."

## Institutional Opening Versus Democratic Opening

What kind of opening is there? Is it realistic to speak of a democratic opening in Saudi Arabia? Does the 1992 Basic Law constitute a true break in the Saudi system's evolution?

The process subscribed to by the 1992 Basic Law, including the creation of the *Majlis al-Shura* and the election of municipal councils in 2005, can hardly be considered to be a process of democratization. It doesn't affect the established order and doesn't even imply the possibility of a political alternation. On the contrary, these reforms are instruments that the regime uses to strengthen its bases.

Nevertheless, the instruments do present a dimension of renewal. The regime is opening itself up to its society by trying to integrate the latter into its administration, thus creating the illusion of participation. This is the reason why we prefer to speak of "institutional opening," rather than of a process of democratization or of democratic opening. Through the expression "institutional opening," it is understood that the Saudi institutions are opening up, or rather getting closer to society.

Thus, the *Majlis al-Shura* is the first institution that presents such diversity in a strongly sectarian society which has been dominated by Wahhabi ideology, an ideology which has always had a tendency to deny this diversity. The territorial organization formalized by the Basic Law projects the central system by duplicating it in each region, and now, in each municipality. By doing so, Saudi institutions get closer to society.

These arrangements correspond to what we have defined as being an institutional opening and differ from any democratic opening. This process of

institutional opening in which we inscribe the actual reform of the Saudi political system is similar to what Leca calls the incorporation of societies in their states.[3]

Incorporation is a mode of construction of the political arena which excludes violent repression … It can be defined as institutionalization of conflicts that concern the distribution of valued possessions.[4]

Leca denounces the deficit of incorporation of Arab societies in their states as being an obstacle to the establishment of a political pact in the sense of O'Donnell, Schmitter, and Whitehead.[5] He describes political pacts as being "an 'authoritarian' technique … destined to give a chance to democratic rules to be established and fortified."[6]

Thus, the incorporation of Saudi society into its state through the process of institutional openings, initiated by the regime creates favorable conditions for the establishment of a political pact. This, in turn, encourages the emergence of a process of democratic opening. One must also note that if the process of institutional opening has begun in the Kingdom, nothing shows that any sort of process of democratic opening has started to take place to this day.

*The "new middle classes," the "second stratum," and the royal family*

The institutional opening has thus resulted first in the projection of the Saudi administration as being closer to the populations, tending to augment the contacts between the administration and society. It has also resulted in an increase in the incorporation of society in the state and, lastly, in a swelling of the 'political personnel.' The nature and the functions of this new political staff have played an increasing role since the beginning of the 1990s. We will try and study this in the next two paragraphs.

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3- Jean Leca. *La démocratisation dans le monde arabe: incertitude, vulnérabilité et légitimité*, in Ghassan Salamé. *Démocraties sans démocrates, Politiques d'ouverture dans le monde arabe et islamique*  (Paris: Fayard, 1994) pp.38-41

4- Leca. *La démocratisation dans le monde arabe*, ibid., p.38

5- The political pact is  "an explicit, but not always publicly explicated or justified agreement among a selected set of actors which seeks to define (or better, to redefine) rules governing the exercise of power on the basis of mutual guarantees for the 'vital interests' of those entering into it."  Guillermo O'Donnell and Philippe C. Schmitter. *Transition from Authoritarian Rule*, 1986, quoted by Leca. *La démocratisation dans le monde arabe*, ibid., p.36

6- Leca, *La démocratisation dans le monde arabe*, ibid., pp.36-37

## The "New Middle Class" and the Modernizing Reign of King Faisal

It is under the modernizing reign of King Faisal that a new middle class appeared in Saudi Arabia. It is indeed because of the expansion of the bureaucracy, the development of the security forces, and the modernization of the educational system during the 1960s and the 1970s that a class was constituted whose statute and technical qualifications evoke that of a "new middle class."[7] Apart from these bodies, which were always growing, we can add the employees of the private sector and liberal professions, two sectors that expanded considerably during the 1980s and the 1990s.

Let us briefly come back to the definition and the characteristics of the "new middle classes" as explained by Heller and Safran.[8] They describe the emergence of a "*new middle class*" as being the consequence, either of politics of "defensive modernization" led by traditional regimes, or of the colonial power's "civilizing missions." In either case, Heller and Safran consider that these new middle classes are turning against their creator, either with the intention of pushing further yet the modernization of the system, or with the nationalistic impetus of sovereignty.

It is possible to argue that both phenomena coexist in Saudi Arabia as a result of King Faisal's modernizing policy on the one hand, and American oil installations, in addition to the contacts established by the Hijazis with the Ottoman Empire and Great Britain on the other. However, we shall focus, for the purpose of this study, on the dimension of the new middle classes as product of modernization.

Heller and Safran describe the new middle classes as:

Being a creation of the policies of "defensive modernization";

Presenting no real social, economic or ideological cohesion, but able to be galvanized by a crisis situation;

Maintaining a complex relationship with the modernizing regimes that brought them to life: supporting their policies at the beginning, exerting pressures for supplementary modernizing measures further on, then transforming into an opposition to the regime when the latter stops taking measures that threaten its

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7- Mark Heller and Nadav Safran. "The New Middle Class and Regime Stability in Saudi Arabia" Harvard Middle East Papers, 3 (1985)
8 -Heller and Safran. *The New Middle Class*, ibid.

perennial power, and finally calling for an open contestation of the established order in case of serious crisis.

Saudi Arabia has gone through times where the new middle classes' opposition manifested itself violently. But because of its specificities – the considerable income from oil, and the large royal family – the Saudi regime has succeeded in countering any attempts to overthrow the regime, whether of the free officers-type like in Egypt, or of the Islamic revolution-type like in Iran.

At the beginning of the 1990s, with the drastic diminution of oil income and the loss of legitimacy, the regime's perennial system was disturbed. It was thus natural that the new middle class intensified its opposition. Deprived of its traditional instruments of defense, the regime had to innovate. This is how King Fahd ended up fulfilling the very old promise of conferring a Basic Law of governance. Indeed, the promulgation of a Basic Law had been talked about whenever the regime faced a crisis. It had been the case:

in 1958 and 1960, during rivalries between Saud and Faisal,

in 1962, while Saudi Arabia was at war with Yemen,

in 1970, in the aftermath of the aborted 1969 coup,

in 1975, after Faisal's assassination,

in 1979, after the capture of the Great Mosque in Mecca,

in 1982, after Khaled's death,

in 1992, after the Gulf war, when it was finally realized.

Because it foresees the creation of a consultative council at the national level – the *Majlis al-Shura* – and of provincial councils and municipal councils, the 1992 Basic Law has led to considerable inflation in the number of political personnel. The new figures are drawn mostly from the new middle class. It is notable that it is no longer a matter of the classical co-optation of dissidents, but a true integration of whole portions of the new middle class in the political system.

## The "Second Stratum" and the Policy of Institutional Opening

Thus, if King Faisal's reign has seen a new middle class develop in Saudi Arabia, it is during King Fahd's reign that a real "second stratum" developed in the Kingdom. Indeed, the second stratum, as defined by Binder,[9] corresponds to the political personnel whose number considerably increased in number in Saudi Arabia immediately after the promulgation of the 1992 Basic Law, and when the policy of institutional opening led by Fahd was continued by Abdullah.

Binder's work on Egypt, "*In a Moment of Enthusiasm*," was inspired by the work of Mosca on the second stratum and based on Meisel's interpretation of this concept. Here, we will briefly pick up the conceptual framework established by Binder and try to define the categories he has introduced. He evokes a triangular relation between the ruling oligarchy, the second stratum and the new middle class – it turns out that these three categories are distinct, though possibly engendered by one another. Before pursuing this line of argument, one should note that none of these categories displays a Marxian class consciousness.

Thus, like Mosca, Binder describes the second stratum as being the "necessary mediating instrument without which the ruling class or the ruling oligarchy cannot rule."[10] The second stratum, along with the ruling oligarchy, is part of what Mosca calls the "political class." In this sense, it has an auxiliary function in the exertion of power. This function is described by Binder as "extend[ing] from representation through expressive identification to the exercise of authority."[11] For Binder, the social origin of the second stratum's members is much more significant than it is for the ruling oligarchy since the former plays a central role in national and cultural integration. Finally, the second stratum maintains close intellectual and moral links with the ruling oligarchy, but maintains even more certain and less variable links with the masses. It therefore constitutes a unique mediation between the regime and society.

The elasticity of the term, as described by Mosca, makes it difficult to extract an exact definition of the second stratum. We shall retain here the idea that the second stratum is composed of "political personnel" holding key functions within the system and able to lay claim, formally or informally, to some representation of the population with which they are in contact in the course of exercising their functions. The ruling oligarchy is composed of the real holders of power – the members of the royal family – situated at the top of the pyramid. Most of them are

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9- Binder. *In a Moment of Enthusiasm*, op.cit.
10- Binder. *In a Moment of Enthusiasm*, ibid., p.12
11- Binder. *In a Moment of Enthusiasm*, ibid., p.12

the sons and other male descendants of King Abdulaziz. The new middle class, as defined above, is the product of the modernization policies led by King Faisal.

The policy of institutional opening led by the Saudi regime starting in the 1990s has led to considerable swelling in the second stratum in Saudi Arabia. Saudi political personnel have never before weighed in the system, as they have increasingly done since the 1990s. This second stratum being a mediator between the oligarchy and the population, it has come to replace or complete the traditional systems of mediation as these have begun to appear more and more inadequate.

Furthermore, it was the modernization phase led by Faisal that allowed Fahd and then Abdullah to lead the opening phase. Indeed, the new middle class, which originated during the Kingdom's modernization, constituted the major source for the second stratum. Additionally, in order to justify its reticence towards organizing elections, the regime has constantly evoked the risk of "illiterates" acquiring key posts. In other words, the regime insists on a second stratum that is exclusively composed of members of the new middle class. Finally, the 2005 partial municipal elections have been organized in such a way that individuals who do not belong to the new middle class do not have much of a chance to become a part of the second stratum.

Considering the definition that we have decided on, the members of the *Majlis al-Shura,* as well as those of the provincial and municipal councils, belong to the second stratum. We can add to them the official political personnel that belong to certain organizations and diverse cultural or other associations. The latter also include bodies like the association for the protection of human rights, which only exist by virtue of the regime's will.

## II. Saudi Institutions and the Inflation of the Political Personnel

### *The Majlis al-Shura[12]*

King Fahd promulgated the 1992 Basic Law in the context of the Saudi regime's loss of legitimacy at the beginning of the 1990s, and the subsequent pressing demands from various parts of society for greater political participation, especially through the instauration of a *Majlis al-Shura*. This law institutionalized

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12- Parts of this chapter are taken from researches done by the author in the context of a DEA (Masters) thesis which he defended at the Institut d'Etudes Politiques of Paris in 2004, *Le Majlis al-Shura en Arabie Saoudite, de l'illusion participative à l'invention d'un watan.*

and codified certain practices of power, including the instauration of the *Majlis al-Shura*. It also organized the structure of regional and local administration through the instauration of provincial and municipal councils.

The first *Majlis al-Shura* was nominated by the king in 1993, and was followed by provincial councils presided over by regional governors (the post of regional governor is now reserved for the royal family's princes). The municipal councils were only established in 2005. The *Majlis al-Shura*'s members were nominated for a renewable period of four years. There were 60 members nominated to the first *Majlis* in 1993, and there are 150 members today. It is significant that the operating mode of the *Majlis* within the system remains consultative, that its members are, *in fine*, nominated by the king, that its legislative powers remain limited, and that it lacks the major characteristics of a parliament, since it is not empowered to pass a confidence vote in the government and cannot supervise the national budget. Nevertheless, the novelties introduced by the *Majlis al-Shura* in the Saudi political system are important: first, it organizes legislative power, which is *de jure* distinct from the executive power; second it is a *de facto* representation of Saudi society, and; lastly, it was the first sign of the formation of a real second stratum in Saudi Arabia.

## The Functions of the Majlis al-Shura: De Jure and De Facto

The two innovations introduced in the Saudi political system through the instauration of a *Majlis al-Shura* in 1993 are: (1) the creation of an organization that has the merit of introducing the idea of a legislative power distinct from the executive power, even if it does not lead to the independence of the former, and (2) the formation of an assembly with a geographic and institutional diversity that gives it a certain potential to represent Saudi society.

### (1) A Distinct Legislative Power *De Jure*

We can identify three stages in the emergence of the legislative power in Saudi Arabia. The first one begins with the creation of the Kingdom of Najd and the Hijaz, and its dependencies, and the creation of a *Majlis al-Shura* by King Abdulaziz. The budding state was then very lightly institutionalized. This *Majlis al-Shura* was its very first officially created institution. It was composed of a dozen members, all natives of the Hijaz. It had certain legislative powers, while the king was the sole holder of executive power. The second step was the creation of a Council of Ministers by King Abdulaziz in 1953, the year of his death. Executive power thus passed from the hands of the king to that of the Council of Ministers, which he presided over. Besides, this Council would gradually position itself as a legislative body, thereby taking over the duties of the *Majlis al-Shura*, The latter rapidly became inactive, and all executive and legislative powers would

end up being concentrated in the Council of Ministers until the beginning of the 1990s. It was then that King Fahd reintroduced a *Majlis al-Shura* that would gradually take over a part of legislative powers.

Indeed, following a royal order (No. Alef/13 of 3/3/1414 H.), a few legislative prerogatives of the Council of Ministers were transferred to the new *Majlis al-Shura*. Furthermore, a recent royal order (No. Alef/198 of 2/10/1424 H. – November 29, 2003) amended Article 27 of the Basic Law concerning the *Majlis al-Shura*, and confirmed the legislative power of the *Majlis* by giving it the right to correct texts rejected by the Council of Ministers:

The decisions of the *Majlis al-Shura* are shown again to the king, who decides on those that will be presented to the Council of Ministers. If they gain the approval of the Council of Ministers, the text is given back to the *Majlis al-Shura*, which reexamines it, and then shows it again to the king[13] who has then the last word.

Before this amendment, a decision of the *Majlis al-Shura* that was not approved by the Council of Ministers was abandoned, thereby leaving the last word with the Council. The royal order of November 29, 2002 confirms and reinforces the legislative powers of the *Majlis al-Shura*. But the text does not specify if the king is tied to the *Majlis al-Shura*'s second decision, if he has a choice between the versions of the *Majlis* and the Council, or if he may opt for a third solution. The fact remains that before the apposition of the royal seal, and in the case of dispute between the Council of Ministers and the *Majlis al-Shura*, the last word goes to the *Majlis*. This evolution, which has gradually transferred legislative powers from the Council of Ministers to the *Majlis al-Shura*, is fundamental, as it confirms the regime's will to turn the *Majlis* into a body possessing real legislative power.

## (2) A Representative Institution *De Facto*

The nomination of the members of the *Majlis* is made through a non-official process and under secrecy, making it all the more difficult to identify and analyze the process. Nevertheless, it would seem that the process generally develops in two steps. The first step consists of identifying the candidates for nomination to membership of the *Majlis al-Shura*, while the second step consists of selecting the

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13- Muhammad Al Marzouqi. *Al sulta al tanzîmyya fil mamlaka al ʿarabyya al suʿûdyya* (Riyadh: Obëikan Bookshop and Publishing, 2004) p. 345 (Our translation)

effective members of the *Majlis* from among the previously identified candidates.[14] As King Fahd said (on 15/7/1414 H.):

During an assembly or a reunion with citizens, one of them asked me how I had selected the number of citizens [the members of the *Majlis al-Shura*]. I said: ask me rather how I selected those who have selected.[15]

**Step One – Candidacies**: Diverse Saudi organizations submit a certain number of names to the Royal Cabinet (*al diwan al malaki*). These candidates, approximately ten or twenty per organization, are selected among the members by the concerned organization's board. According to those interviewed on the subject, the organizations who sent the largest lists of candidates to the Royal Cabinet in this manner are universities, companies, syndicates, tribes, regions, and ministries. The members of these organizations constitute thus the pool from which the members of the *Majlis al-Shura* are selected.

This first step introduces to the nomination process a group of actors whose role is kept secret. The group is composed of people on the boards of institutions that send a certain number of their members to the *Majlis al-Shura*. These people, who are in some ways "great electors," are the heads of universities, the heads of companies, the presidents of syndicates, the heads of tribes, the governors of the regions, and ministers or people with a rank of minister. *In fine*, the great electors suggest between 1000 and 2000 names to the Royal Cabinet.

**Table 2**

| Great electors | Position in society | Type of suggested candidate |
|---|---|---|
| Heads of Universities | Academics | Professors |
| Heads of companies | Businessmen and princes | Employees |
| Presidents of syndicates | Liberal professions | Liberal professionals |
| Governors of regions | Princes | Clientelism – regional diversity |
| Ministers | Princes and technocrats | Patronage and technocrats |
| Heads of tribes | Traditional personalities | Members of tribes with little tribal recognition |

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14- This information results from different interviews made by the author in Riyadh and Jeddah in April 2004; the interviewees are members of the *Majlis al-Shura* and Saudi academics.
15- Opening speech of the first session of the *Majlis al-Shura* given by King Fahd, *Qirâ'a tahlîlyya syâsyya wa iqtisâdyya wa ijtimâ'yya limadâmîn al khitâb al malaki fi Majlis al-Shura*, Head of media and public relations, *Majlis al-Shura*, Riyadh, 2001 (Our translation)

The great electors are relatively easy to identify. Indeed, a list of ministers and regional governors is easily available. It is also simple to identify the heads of the different Saudi universities. To draw a list of Saudi heads of companies is a less obvious but still workable task. It is appropriate to wonder whether all Saudi companies are entitled to suggest candidates, or only those of some importance, or those operating in specific sectors. The chambers of commerce and industry, which cover the whole country, probably have some role in the process. The syndicates are professional associations which organize some liberal professions. Although the notion of the syndicate remains unclear, the *Arab Decision*[16] association has enumerated a number of them. We can distinguish professional associations of healthcare, engineers, journalists, different clubs, etc. Finally, the heads of tribes are the most difficult to identify, given the explosion of traditional structures. It is thus possible to draw a nonexhaustive – but still significant – list of great electors.

**Step Two – Nominations**: The second step of the process is even harder to determine than the first one because it is the Royal Cabinet that nominates *Majlis al-Shura* members with the help of the list of candidates suggested by the great electors. The Royal Cabinet has no obligation to the great electors, and is not obliged to choose from the list of names suggested to it. Nevertheless, all evidence suggests that the Royal Cabinet respects the list. The king has a share of members to nominate, just like every other prince or member of the Council of Ministers, as the king presides over the Council of Ministers.

There are two reasons for the Royal Cabinet to respect the list. The first is the obvious will of the authorities to nominate a *Majlis* that reflects Saudi society and acknowledges, for the first time in the Kingdom's history, its diversity. In his speeches, King Fahd acknowledged the importance of the diversity that the *Majlis al-Shura* presented in terms of the regional origin of its members. The second reason is the oligarchic and familial structure of Saudi power.

## The Structure of Power

The uniqueness of Saudi power lies in its multipolarity. Indeed, the royal family, far from being monolithic, is constituted by clans with divergent interests, different powers and, with varying ideological and social bases. This diversity within the royal family is balanced by religious institutions, which always impose a consensus, *in fine*, tacitly or explicitly.

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16- http://www.arabdecision.com (accessed july 2004)

The great electors belong just as much to Saudi society as to the secret venues of power as well as the royal family. To restrict the choice of candidates to the list presented to the Royal Cabinet is a way to find a consensus and to avoid open conflict between the different clans and interests that constitute the Saudi state. Furthermore, because this list allows the government to confirm its basis for power in Saudi society, it assures the stability of the regime. Thus, although the king has no constraints with regard to members' nominations, he limits his choice to the list presented to him. The result is that the *Majlis al-Shura* offers surprising diversity with regard to the different segments of the Saudi society.

Besides multipolarity, another characteristic of the government is its ability to patronize large sections of society. This characteristic is a consequence of the rentier nature of the Saudi state. Clientelism pushed to an extreme translates into a strong participation in society. Thus, the structures of power extend through society into institutional, governmental, or administrative organizations, companies, associations supervised by princes, and so on. These organizations bind or clientelize large parts of Saudi society.

## Representation

The diversity that results from the nomination process on the one hand, and from the structure of multipolar and clientelist power on the other, leads to a certain *de facto* representative quality of the *Majlis al-Shura*.

Rather than extending from society to the state, as is generally the case in classical studies of representation, representation in institutions discussed here will follow an inverted road, one which is more appropriate for a state in which clientelism and co-optation are well-developed. To examine this, we shall start with the following question: why does co-optation take place? The answer is easy: power. But given the structure of Saudi power, the royal family's princes or clans are those doing the co-opting. The *Majlis al-Shura*, rather than representing Saudi society, thus represents the royal family's different clans, their political and economic interests, their ideological and political tendencies, and also, more importantly (and through them), their social bases, meaning their clientele. Given the mode and the degree of penetration of its power in Saudi society, the *Majlis al-Shura* represents an important part of Saudi society.

To take one easily identifiable example, we can say, with a relatively small margin of error, that members of the *Majlis al-Shura* who have served in the National Guard have been part of the clientele of its head, Crown Prince

Abdullah.[17] These members therefore represent the Crown Prince, but also, through him, all of his Bedouin and tribal clientele. Seven members of the *Majlis al-Shura* have served in the National Guard.[18]

### Table 3: Members of the Majlis al-Shura who have served in the National Guard

M. Abdul Rahman Bin Ibrahim ABOU HAIMID
Dr. Bandar Bin Muhammad AL AIBAN
Dr. Badr Bin Hamoud AL AMAJ
Dr. Hazam Bin Hazaa AL GHAMISI
Dr. Yazid Bin Abdel Rahman Bin Nasser AL OUHALI
Dr. Mohsen Bin Muhammad Bin Mubarak AL TAMEEM
Dr. Tarif Bin Hashim Bin Youssef ZAWAWA

The reasoning with use we say that the princes' clienteles are represented in the *Majlis* allows us to reflect further about groups not represented in the *Majlis*. Indeed, the parts of Saudi society that do not constitute the clientele of any prince are not represented in the *Majlis al-Shura*. The group – one can speak here of class – that is least clientelized and, is hence not represented, is the recently urbanized and debedouinized population, which has been hit strongly by unemployment. It has seen high rates of demographic growth over the last 30 years, and its difficult economic situation has been due to the decrease in oil revenues in the 1990s. This period has thus seen the emergence, for the first time in Saudi Arabia, of poor urban youth, decades after the emergence of such groups in other countries in the region (Egypt, Syria, Iran).[19] Additionally, and for other reasons, popular Salafist preachers are not all part of a clientele. Salman al Awda and Safar al Hawali were only co-opted efficiently at the end of the 1990s, and through other ways than the *Majlis al-Shura*. They were probably co-opted collegially by the government, and not by a prince or a clan, as were the State Ulama. Still, the collusion of these two groups, poor urban youth and Islamist

17- The Crown Prince Abdallah bin Abdulaziz was born from a Shammar mother (a great tribe from the North of the peninsula). His tribal identity makes him the prince with most affinities with the tribes, and an ideal head of the National Guard, which consists mostly in members of the kingdom's great tribes.

18- Statistics were made by the author on the basis of the *curriculum vitaes* of the *Majlis al-Shura*'s members, available on the following website: http://www.arabdecision.com (consulted between April and August 2004)

19- Gilles Kepel. *Jihad, Expansion et déclin de l'islamisme* (Paris: Gallimard, 2000)

intellectuals,[20] with neither represented on account of not being clientelized, is linked to the violent Islamist militancy of 1995 to 2005.

*The Evolution of the Majlis al-Shura*

Since its creation in 1993, the *Majlis al-Shura* has known three evolutions that confirm its centrality in the Saudi political system as well as the regime's will to make this institution as much a symbol of opening up as an instrument of government. These three evolutions concern the number of its members, in which has constantly increased, the transparency of its debates, and the inflation of its legislative powers.

Indeed, the *Majlis* has gone, within a decade, from being a small assembly of 60 people deliberating behind closed doors and communicating its decisions to the Royal Cabinet under a seal of secrecy, to becoming an assembly of 150 members whose weekly deliberations are transmitted on national television, described on the Internet on the *Majlis al-Shura*'s official website,[21] and commented upon in diverse daily Saudi newspapers.[22] The increase in number of the *Majlis* members makes it all the more inclusive, helps it embrace new interests, and opens it up to royal family clans who weren't previously important enough to have their clienteles represented. This constant increase in the number of *Majlis* members also confirms a general tendency observed since the beginning of the 1990s – an expansion in the number of political personnel, and the formation of a second stratum. Finally, the extension of the legislative powers of the *Majlis al-Shura* subsequent to the royal decree of November 29, 2003 constitutes an important step forward in the institutionalization of the Saudi political system, and the constitution of a legislative branch that is distinct from the executive.

These three evolutions permitted and indeed instigated by the government indicate that the institution is in a phase where its legitimacy is being increased, its prerogatives widened, and its centrality in the Saudi state apparatus confirmed. It is also significant that whereas these evolutions have been allowed and encouraged by those in power, the members of the *Majlis* themselves demand them and praise them. Furthermore, some members are now discussing conferring upon the *Majlis al-Shura* the right to supervise the national budget, as well as partial elections for members of the *Majlis* itself.[23] Such an evolution is

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20- Kepel. *Jihad*, ibid.
21- Official website of the *Majlis al-Shura*. http://www.shura.gov.sa (accessed April 2005)
22- Especially the daily newspaper Okaz.
23- Interviews made by the author in April 2004 of the *Majlis al-Shura*'s members in Riyadh.

fundamental to the *Majlis* itself and to the whole political system. The debate around these two evolutions is already unofficially open. The partial election of the *Majlis al-Shura*'s members will be at the center of the debates after the experiment involving partial elections at the municipal council level is concluded.

## The Municipal Elections

First scheduled in October 2003 and then postponed repeatedly, the first general elections at the municipal level took place from February 2005 onwards. The multiple delays could have been due to the security situation, which considerably deteriorated during the year 2004. However, they could also have been due to the negotiations and struggles that we can reasonably expect to have taken place within the royal family.

## The Modalities of the 2005 Saudi Municipal Elections[24]

The elections took place in three phases. The first phase concerned the Central Region, the second the Eastern and Southern Regions, and the third, finally, the Western and Northern Regions. We shall focus here on the first phase in the Central Region, and especially on the capital Riyadh.

**Table 4: Electoral Calendar for the Central Region**

| | |
|---|---|
| Electors' registration on the lists: | November 23 - December 22, 2004 |
| Publication of the electoral lists: | December 23, 2004 |
| Registration of candidates: | December 26-30, December 2004 |
| Publication of a first list of candidates: | January 2, 2005 |
| Publication of the final list of candidates: | January 29, 2005 |
| Electoral campaign: | January 29 - February 9, 2005 |
| Voting: | February 10, 2005 |

The two other phases followed identical timetables; the electoral campaign of the second phase was conducted from February 19 until March 2, while for the third phase, it took place from April 9 - 21, 2005.

The electoral law confers the right to vote to all Saudi citizens over the age of 21, except serving military personnel. The exclusion of the latter is officially explained by their role in maintaining security on the one hand, something that is

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24- The official information is available on the website http://www.elections.gov.sa (accessed January 2005)

not compatible with their participation in elections, and by the geographic mobility that is implied by their function on the other, which means they cannot be attached to any municipality. Electors vote in the municipality in which they reside (with proofs like titles of ownership or location, phone or electricity bills, etc.), and not where they were born. The law confers the right to be a candidate to all literate Saudi citizens over the age of 25 registered on an electoral list. Furthermore, to be eligible to join a municipal council, the candidate must have resided for a period of at least 12 months in the area in question.

The electoral campaign, as defined by the timetable above, extends over a period of ten days, and is closely supervised. Candidates had access to written press while campaigning, but not to the audiovisual media. They had the right to organize electoral meetings in showrooms and in tents dedicated to great receptions, but the use of mosques, public places, governmental buildings, charity associations, and sports or cultural centers for electoral purposes was forbidden.

The candidates' programs were also restricted in certain ways. Thus, candidates had to lead a campaign in a strictly individual manner. They were not allowed to get together and form groups that would lead a campaign for common programs. To support another candidate or even endorse his program was forbidden. Finally, the campaign had to be tied strictly to the job of a member of the municipal council, and could not contain any reference or promise related to issues beyond the prerogatives of such a member.

Campaign finances were an important issue controlled by regulations. No state organization, no public company, and no company in which the state had a sort of equity participation was permitted to intervene in a candidate's campaign in any way. But the candidate could call for the participation of any person, organization, or private company while campaigning. Any help from foreign countries was also forbidden. Finally, ten days after the publication of the election results, candidates had to give local authorities a list of resources they used to help finance their campaigns.

## The Specificities of the 2005 Saudi Municipal Elections

This supplementary step in the reform of the political system was presented by the regime as a way to make Saudi citizens participate in decision making through universal suffrage. Although such an experience has been unprecedented in Saudi Arabia, it should be noted that these elections present certain specificities that have limited their political impact:

**Partial Elections:** The first specificity of these municipal elections limits their participative value, as they are only partial. Indeed, only half of the seats on

the municipal councils were filled through elections. The other half of the members were chosen through traditional means of consultation and nomination, as are members of other councils in the Kingdom, like the Majlis al-Shura and the regional councils. Thus, in each of these municipal councils, elections do not replace designation by consultation and nomination, but simply add to it.

Whereas the diverse assemblies in the Kingdom with nominated members (*Majlis al-Shura*, regional councils) are endowed with traditional legitimacies (patronage, religious, and tribal), the fundamental innovation brought about by the municipal elections is the introduction in the Saudi political system of a new kind of legitimacy – popular legitimacy. Nevertheless, the fact that only half of the members of the municipal councils are elected has an important bearing on the legitimacy of these councils. Thus, popular legitimacy does not replace traditional legitimacies, but adds to it in such a way that the Saudi system of checks and balances is not put into question, even as a new actor is allowed to enter the stage – the Saudi people.

On the other hand, there are ongoing debates in the Kingdom about the idea of holding elections for members of the *Majlis al-Shura* and regional councils. In that sense, the partial elections of the municipal councils are a test. However, it should be noted that the debate on holding elections always implies the partial election of the concerned assemblies' members. Thus, when Prince Sultan announced the eventual election of the *Majlis al-Shura*'s members within three years in 2003, he only meant the election of one-third of its members. At any rate, Prince Sultan withdrew his declaration in April 2004, declaring that the Kingdom was not ready yet for such elections, because "illiterate and underqualified" people might be elected to the *Majlis al-Shura*. Despite discussions in the Kingdom about elections for other assemblies, the introduction in the Saudi political system of any assembly of entirely elected members has yet to be considered.

**Local Elections:** The second specificity is the local character of these elections, which don't permit any debates concerning wider matters and, a fortiori, political and national themes. The campaign was thus limited to local government and management issues. This confinement of the debate is stressed by a recently promulgated law forbidding any civil servant – in other words, a great part of the Saudi society, and especially members of the new middle class producing the majority of electoral candidates – from criticizing the government.

**Universal Suffrage for Men:** The third specificity was the exclusion of women from the electoral experience. They were granted neither the right to vote nor the right to be candidates. There has been confusion for a while about

women's participation in the elections. Some even declared that they would be candidates and started campaigning, notably Fatine Bundaqji who holds a key position at the Jeddah Chamber of Commerce and Industry. It was the Minister of Interior, Prince Nayef, who closed the debate by announcing on October 11, 2004, in an interview that, for "logistical and administrative" reasons, women could not participate in these elections. It is possible to read behind the phrase "logistical and administrative" to judge the negotiations and compromises that took place amidst the Saudi royal family's different clans. Indeed, the reasons for the exclusion of women were "logistical" and not "religious," which makes their participation in future elections worthy of consideration, and even possible.

Saudi women show considerable political dynamism. They used the elections from which they were excluded to make their voices heard, whereas men showed far less enthusiasm, given the limits imposed upon them. Thus, a certain number of activists for women's rights wrote a letter to the president of the general committee for the municipal elections, Prince Mansour ibn Mout'ib, in which they asked for women be nominated to nonelected seats on the municipal councils. Hatoune Al-Fassi, a history professor at King Saud University, went so far as to ask for all nonelected council members – meaning half of them – to be women.[25]

The main novelty that the 2005 municipal elections introduced to the Saudi political system was the juxtaposition of traditional and popular modes of regime legitimacy. Moreover, apart from what we have defined as the second stratum in the sense of Binder now tending to grow continuously in terms of both numbers and importance, the creation of municipal councils also reaffirms the increasing incorporation of Saudi society into the state in the sense of Leca. Finally, these elections mark a new method of selecting Saudi political personnel. Subsequently, the notion of representation itself takes on a new meaning in the Kingdom, as elected members of the municipal councils will be the only Saudi personalities endowed with a certain direct potential to represent the population, or certain portions of the population. Even if these innovations do not modify the foundations of the Saudi political system, they will certainly have effects on it in the medium and long terms.

*The National Dialogue*

The National Dialogue, or National Conference, consists of an assembly that meets for two or three days to discuss a specific subject and issue

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25- *Al Nahar*, Beirut, January 5, 2005

recommendations. Depending on the subject, interested parties or competent personalities are invited to participate in the sessions. So far, four sessions of the National Dialogue have been held at a frequency of one per semester. The first one was held in Riyadh in June 2003, and brought together religious personalities of diverse currents and rites present in the Kingdom – ulama who are linked to the religious establishment, popular Salafi preachers, sheikhs from different *Shiite* sects, Sufis, etc. The second session was held in Mecca in December 2003. While the first session established a dialogue between different religious currents, the second established a dialogue between the kingdom's different ideological currents. Liberal intellectuals, businessmen, *Shiite* religious leaders, the ulama, Salafist preachers, signers of petitions, as well as ten women were present. The third session was held in Medina, in June 2004, and dealt with the situation of women in the Kingdom, along with their "rights" and "duties." Finally, the fourth was held in December 2004, and dealt with the youth of Saudi Arabia.

## National Dialogue: An Aborted Institution

Crown Prince Abdullah tried to confer institutional credibility on the National Dialogue. To do so, he provided it with a center in the Kingdom's capital: "The King Abdul Aziz Center for National Dialogue." He maintained the biannual frequency of the National Dialogue sessions, with each session having to submit its recommendations at the end of its debate. Thus, it seemed as though this political entity, which strongly resembled an institution, would become an instrument that would eventually lead to a reform of the system.

Nonetheless, despite the crown prince's efforts to dress it in institutional clothes, the National Dialogue remains at the margin of the system and its importance was only due to the personage of the Crown Prince, now King Abdullah. There are many reasons for this:

The National Dialogue has neither power nor a precise institutional function, making it unable to interact with the rest of the Saudi political system. It can be contrasted with the *Majlis al-Shura*, which has a function and is endowed with institutional powers, and has thus succeeded in occupying a central role in the system.

The recommendations issued at the end of the debates at each session of the National Dialogue have not been supported by any institution which could impose their implementation and application; they have, in fact, all remained unheeded so far.

Finally, the fact that the participants in the National Dialogue have been nominated strictly for the duration of a single session deprives the assembly of any institutional dynamic. Indeed, the statute of members tied to an assembly by a particular mandate generally leads these members to exert pressures for an augmentation of their prerogatives, and by extension, of the assembly's prerogatives. We can observe this phenomenon in the case of the *Majlis al-Shura*, a large number of whose members hope for an increase in the body's legislative prerogatives, and in its legitimacy through elections.

It should be noted that reservations about the National Dialogue's institutional characteristics proceeded directly from the responsibilities assigned to it by Crown Prince Abdullah. These related to the treatment of central questions concerning Saudi society as much as they did to the Kingdom's political system.

## The Evolution of the Responsibilities of the National Dialogue

The National Dialogue was founded by Crown Prince Abdullah in June 2003 in response to a request made by a group of Saudi intellectuals. In January 2003, a petition called "Vision for the Present and the Future of the Nation" was presented to the Crown Prince. Its claims were political (separation of powers, equality of citizens before the law, election of the members of the *Majlis al-Shura*, freedom of speech, assembly, and association, etc.), economic (fair distribution of wealth, measures against corruption and squandering, diversification of national revenues, etc.), and social (human rights, women's rights, the fights against unemployment and discrimination, the amelioration of public services, the liberation of political prisoners, etc.). One claim concerned the organization of a "National Dialogue" that would bring together all religious and social groups in the Kingdom.

What distinguished this petition from previous ones was the petitioners' social backgrounds. While petitions received by King Fahd at the beginning of the 1990s emanated from specific parts of society, the January 2003 petitioners showed a surprising intellectual and social diversity. The "Vision for the Present and the Future of the Nation" brought together Islamists and liberals, and *Sunni*s and *Shiites*, all of whom asked in a single voice for true reforms within the Saudi political system while respecting the Kingdom's Islamic values and reiterating their allegiance to the royal family.

The reaction of the regime – especially Crown Prince Abdullah – to this petition was positive. A meeting took place between 40 petitioners and the Crown Prince, directly followed by an open debate in the newspapers columns of Saudi dailies, giving the impression that a "Riyadh Spring" was about to occur. Six

months after the petition, on June 23, 2003, the first session of the National Dialogue was organized.

## *The First Two Sessions and Post-Wahhabism[26]*

The first two sessions, which took place in June and December 2003, constituted major religious and intellectual events in the Kingdom, as dialogue was initiated between different religious and ideological strains for the first time in the history of Saudi Arabia. Observers have seen in this the possibility of escape from the monist discourse imposed by Wahhabism since the creation of the Kingdom. These first sessions of National Dialogue fitted perfectly in the atmosphere of intellectual buoyancy that animated the Kingdom in 2002-2003. Thus, a number of those who signed the January 2003 petition participated in the National Dialogue, and their recommendations were faithful to the liberal and constitutionalist spirit of the January 2003 petition's demands.

Thus, the two innovations that were introduced by these sessions were: The acknowledgment of the Kingdom's religious and intellectual diversity, which had hitherto been denied on account of Wahhabi dogma, and the inducement of a legitimate debate between diverse components of the Saudi society, and the clear positioning of a high-ranking leader, Crown Prince Abdullah, in favor of a profound reform of the political system.

## *The Third Session, or the Denial of Women's Rights*

During the third session, held in June 2004, debates were limited to a specific subject – "women's rights and duties." Since they concerned a delicate social issue, they did not produce any true liberal recommendations, as had been the case in the first two sessions. On the contrary, they confirmed the social conservatism prevailing in Saudi Arabia with regard to women's statutes. Additionally, they unveiled the difficulties hindering a loosening of the extreme sexual segregation on which Saudi society is based. If this third session's recommendations brought no innovation to the Saudi system, initiating a debate on women's statutes was a first in the Kingdom. It is, however, hard to speak of novelty at all in this case.

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26- Stéphane Lacroix. "Between Islamists and Liberals: Saudi Arabia's New 'Islamo-Liberal' Reformists" *Middle East Journal* 58 (2004)

*The Fourth Session, or the Trivialization of the National Dialogue.*

Whereas the three first sessions touched on sensitive subjects that were never previously brought up in Saudi Arabia, and induced reforms that would shake the ideological and social bases of the Kingdom, the fourth session tackled the subject of the Saudi youth. This was obviously not a minor issue in a country where people under age 20 made up 60 percent of the population, but didn't involve real innovation in the mode of governance. Thus, the fourth session's recommendations concerned the modernization of the education system without touching upon sensitive issues of the nature of taught courses, or on the preeminence of religion in education. It also dealt with regulating and dynamizing the job market, the creation of a "fund for the future generations," the creation of infrastructure adapted to the needs of the youth, etc.

The fourth session thus saw a trivialization of the National Dialogue. It certainly dealt with important social subjects, but didn't bring any fundamental innovation to the Saudi system, as earlier sessions did. Added to this trivialization was the disappointment of not seeing application of the recommendations issued.

One explanation for the causes of the marginalization of the National Dialogue is the competition occurring within the royal family. After the September 11, 2001 terrorist attacks, and the emergence of an Islamic-liberal intellectual current whose principal supporters were the January 2003 petitioners, Crown Prince Abdullah gave the impression of supporting this current with the purpose of leading successful reforms and confirming his power and legitimacy. As a result, some of his brothers started encouraging the regime to harden up again.[27] After his accession to the throne, Abdallah has confirmed his reformist inclinations.

Indeed, starting from the end of 2003, the pressure on Saudi reformists grew stronger. They were asked not to publish their claims, but to communicate them directly and secretly to members of the royal family. While a petition was being prepared calling for the instauration of a constitutional monarchy in Saudi Arabia, some reformists were convoked by the Minister of Interior, Prince Nayef, and threatened with jail if they were to pursue their petition project. In March 2004, 12 reformists who declared their intention to found an independent association to defend human rights were arrested.[28]

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27- Lacroix. *Between Islamists and Liberals*, ibid.
28- ICG. "Can Saudi Arabia Reform Itself?" *Middle East Report* 28 (2004)

Thus, the National Dialogue remains at the margin of the Saudi political system, as Crown Prince Abdullah has not succeeded in making it fit the process of institutionalization that is occurring in Saudi Arabia. Consequently, it could be said that the participants in the different sessions of the National Dialogue have been excluded from the second stratum. Indeed, they have not been integrated in the system, and their positions are not "positions of responsibility," as they only last for the duration of a session. Still, their social or political positions confer them with a certain potential for representation.

The participants' representation was the first of its kind in the Kingdom. Indeed, it is for their potential to represent that the participants were chosen for the experience. Their representativeness therefore precedes their participation. They are thus in the reverse situation of the second stratum members who owe their representativeness to their nomination. Thus, religious personalities like Salman al Awda or Hasan al Saffar "represent" their worshippers, Salafist Sahaouist and Shiites respectively. A personality like Mohammad Sa'id Tayyeb represents a part of the militants, others might simply be liberal intellectuals, and so on. This is why these personalities, and many others, were invited to participate in the first two sessions of the National Dialogue. The third session, which dealt with women's conditions in the Kingdom, again possessed a certain representational quality because the women invited represented conservative or more liberal currents. But the fourth session, which dealt with Saudi youth, lost all ideological, political or religious representativeness when it came to the composition of its participants.

## Conclusion: Representation in the Saudi Political System

As observed above, the representation of the members of the *Majlis al-Shura* depends upon their patronage or co-optation by the regime. The same could be said of the members of the regional councils, and of the nominated members of the municipal councils. But to this representation resulting from co-optation, another type of representation is added – representation legitimized by expertise. Indeed, 83 percent of the 120 members of the *Majlis al-Shura* have diplomas equivalent to a master's degree and 63 percent have a diploma equivalent to a PhD.[29] Hence, the *Majlis al-Shura* can be seen as an assembly of experts. Expertise generates legitimacy in representation. However, it creates, a distance between the expert representatives and the represented. The latter have no power

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29- Statistics were done by the author on the basis of the *curriculums vitae* of the members of the *Majlis al-Shura* available on the website http://www.arabdecision.com (accessed between April and July 2004)

over the former, who will always have the excuse of knowledge with which to justify their actions and decisions. The result is that the representatives act using scientific knowledge, and not taking into account the will of the citizens being represented.

To counter this point, Burke introduces the concept of a "natural aristocracy," which he defines as being an elite having the intellectual ability to identify and to implement activities that are in the best interests of the nation. This position, which Burke calls "representativity," must be filled by men who are superior in talent and wisdom, and whose superiority is due to their morality, virtue, and experience.[30]

Representing has nothing to do with obeying popular wishes, but means the enactment of the national good by a select elite.[31] For Burke, every representative's duty is to pursue the national interest. Then, if a representative is truly a member of the "natural aristocracy," he will have the ability to identify and pursue the national interest. Moreover, Burke says that the natural aristocracy has no other interest than the national interest. Finally, the selection of representatives by election is one way to make a natural aristocracy stand out, but other means could be as efficient, if not more so.

It is therefore easy to see how representation, according to Burke, is close to the official vision of the *Majlis al-Shura* – an intellectual elite that pursues national interest. Additionally, one must admit that if representation is the exclusive prerogative of a "natural aristocracy" as defined by Burke, the means of nominating *Majlis al-Shura* members is an excellent way to select this elite, one that is far better than any sort of election.

For Pitkin, political representation is situated at an intermediary level between two extreme interpretations of the representation concept. On the one hand, there is the elitist interpretation of Burke, which considers that representation is reserved for experts, and thus, representatives never need to consult the represented. On the other hand, there is the egalitarian interpretation of representation that implies that the representative should consult the represented before taking any decision. These are the contrasting visions of what "political questions" are. If a political question, like a mathematical problem, had only one solution, the expert representative would not need to consult anyone before making a move. But if the political question is arbitrary, or simply a matter of

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30- Hanna Fenichel Pitkin. *The Concept of Representation* (Berkeley: University of California Press, 1967) p.169
31- Pitkin. *The Concept of Representation*, ibid., p.170

taste, the representative has to consult the represented. Here, again, the political question lies between these two extreme interpretations.

It follows that representation can be neither a matter of "natural aristocracy" in the sense of Burke, nor that of the "illiterates" feared by the Saudi regime in the case of selection through an electoral process. A second stratum chosen from amongst a new middle class constitutes an ideal compromise.

But Pitkin pushes the analysis a bit further by saying that political representation is not necessarily a matter of relations between a representative and the person or the people he represents. Thus, for Pitkin:

> Political representation is primarily a public, institutionalised arrangement involving many people and groups, and operating in the complex ways of large-scale social arrangements. What makes it representation is not any single action by any one participant, but the overall structure and functioning of the system, the patterns emerging from the multiple activities of many people.[32]

Pitkin adds that for a government to be representative, it has to be responsible to the people governed for its actions, and that the only way to ensure the existence of such responsiveness in a system is to establish an institutional arrangement that guarantees it.[33] Consequently, for Darth:

> Without institutionalization … the ideal of representation would remain an empty dream, or at most would occasionally recur as a fitful, inexplicable blessing, with no power of produce or prolong.[34]

The question is thus placed at the level of institutionalization, and hence, about the Saudi political system's representation.

What we have tried to demonstrate in this chapter is that a process of institutionalization is being undertaken in Saudi Arabia, and that it has gone along with a rise in the number of political staff that can be qualified as being part of a second stratum in the sense of Binder. This process, which we have defined as a process of institutional opening, is ultimately meant to routinize representation. Hence, although representation in Saudi Arabia is real, it is still, to use Darth's expression, an "inexplicable blessing."

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32- Pitkin. *The Concept of Representation*, ibid., p.221
33- Pitkin. *The Concept of Representation*, ibid., p.234
34 Quoted by Pitkin. *The Concept of Representation*, ibid., p.239

# Chapter Nine

## The New Corporatism in Saudi Arabia:
## Limits of Formal Politics

*Steffen Hertog*

## Introduction

In the last three years, Saudi watchers have been torn between arguing that either a lot or nothing at all has changed about Saudi politics. In a sense, both are true: on the one hand, not only has the language of permitted political contestation changed, but a number of political institutions have been reshaped quite substantially, or even created from scratch, with certain negotiations taking place in a format that would have been unthinkable only a few years ago.

The Majlis al-Shura has increasingly proved its mettle and has substantially expanded the gamut of legislation. The private sector plays an increasing role in policy deliberations, National Dialogues have been called to debate the societal and political problems of the Kingdom, and a number of political interest groups have been formed. On the other hand, although new mechanisms of political contestation have emerged, this has not fundamentally changed the power structures or the strong top-down nature of most of the public politics in the Kingdom.

What does this amount to? This essay will argue that the regime has essentially embarked upon a modernization of Saudi authoritarianism by attempting to institutionalize important aspects of the political debate. This can best be explained using the time-honored concept of corporatism. Corporatist categories are not only highly relevant in analyzing recent Saudi developments, but their use also makes for interesting comparisons with other authoritarian regimes. It helps to bring the Kingdom back into the framework of comparative politics, testing and giving new nuances to familiar concepts.

Saudi Arabia has been developing a very specific type of corporatism. In its channeling and controlling of debates, the Saudi regime is reacting to a number of internal and external crises, thereby attempting to organize an increasingly complex society. This is similar to the emergence of corporatist structures in many other countries. Overall, however, the exercise has so far proved remarkably sterile, not only due to its top-down nature, but also due to the low degree of formal organization of Saudi political interests on the societal side. Among all the modern sectors of society, only business appears to be a serious negotiating partner for the regime. This points to how different trajectories of political development shape and limit corporatist options for authoritarian regimes: the al-Saud have very few formal structures to co-opt and find it hard to impose new formal structures onto a society mostly organized along informal lines.

## Definition of Terms: Corporatism

Corporatism has been around for a long time in comparative politics. It is not currently considered a cutting edge research concept. One reason for its waning attraction has been that the authoritarian corporatisms of Latin America have largely given way to more pluralist regimes. Conversely, in an age of globalization, many scholars see the democratic corporatisms of European states – state-led "concertation" of labor and industry and all – as relics of the past. Independent of the merit of these perceptions, it is hard to dispute that corporatism, though changing, is in many cases alive and well in the authoritarian Middle East, and no more recent alternative paradigm has emerged which can explain regional autocracies in a systemic fashion.

More generally, even if its applicability to specific regions and eras may be under dispute, corporatism as such has never been completely discarded, but rather "normalized" as part of the comparative politics toolbox.[1]

So what is corporatism? Two dimensions are frequently distinguished: corporatism as an organizational pattern and corporatism as a type of decision-making.[2] For the different Saudi institutions we will look at, the first is often – but not always – more relevant. There have been many disputes over the definitions

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1- Adams, Corporatism and Comparative Politics: Is There a New Century of Corporatism, in Howard J. Wiarda, *New Directions in Comparative Politic*, 3rd edition (Westview Press 2002) 17-44; p. 18f.
2- Philippe Schmitter / Jürgen Grote, *The Corporatist Sysiphsus: Past, Present and Future* (EUI Working Papers SPS No. 97/4), p. 4.

and breadth of the concept, but most authors feel obliged to cite Philippe Schmitter's seminal 1974 organizational definition:

> Corporatism can be defined as a system of interest representation in which the constituent units are organized into a limited number of singular, compulsory, noncompetitive, hierarchically ordered and functionally differentiated categories, recognized or licensed (if not created) by the state and granted a deliberate representational monopoly within their respective categories in exchange for observing certain controls on their selection of leaders and articulation of demands and supports.[3]

In most studies, corporatism is used to describe the relationship of the state, labor, and employers, but there is no obvious reason to limit it to these groups. Schmitter further breaks down the concept into "state corporatism" and "societal corporatism." The latter is the more "democratic" version, and has grown out of the relatively open contention of societal interests. The former is state-imposed, and, as we will see, far more relevant to the Saudi case. Collier and Collier, concerned about conceptual stretching which might make corporatism a vacuous "one size fits all" model, offer further dimensions of differentiation: state structuring (how much does the state aid specific institutions in their representational monopoly through licensing, compulsory membership etc.), subsidies (how does the state pay for an institution or help it to finance itself), and constraints (how does the state control the selection of leaders, the scope of collective action, group policies, etc.). They contend that the first two categories are "inducements," and that they are balanced against the constraints to different degrees according to the type of political regime. This is another way to differentiate between more and less authoritarian corporatism.[4]

These are mostly organizational variables. When it comes to decisionmaking, suffice it to say that corporatism is usually characterized by exclusive access, consultation with corporatist institutions prior to lawmaking, regular interaction in functionally specialized domains, an emphasis on consensus, and the potential delegation of specific policy tasks to corporatist bodies.[5]

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3- Philippe Schmitter, „Still the Century of Corporatism?", *Review of Politics*, Vol. 36, No. 1, January 1974, p. 93f.
4- Ruth Berins Collier/David Collier, Inducements versus Constraints: Disaggregating "Corporatism", *American Political Science Review*, Vol. 73, No. 4, December 1979, p. 968.
5- Schmitter/Grote, p. 4.

Corporatism is not a one-dimensional concept which can be described easily along a "more or less" continuum, but rather a cluster of characteristics.[6] There are different subtypes, arrived at not only through specific variables being articulated differently, but also through the absence of specific characteristics: few political set-ups perfectly match Schmitter's definition, but many can still be usefully categorized as corporatist.[7]

Why is the concept useful for the study of Saudi Arabia, a country which in many areas of politics conspicuously lacks a history of formal interest group representation? It is because in formal terms, recent political reforms have very closely adhered to the corporatist formula. At the same time, I argue that it is exactly the absence of a formal "interest group" tradition which explains the specific shape of Saudi corporatism and its curious lack of societal resonance. Generally speaking, state corporatism offers the best framework to capture the top-down nature of politics in the Kingdom, the limiting and orchestrating role of state actors, the exclusivity of politics, and the segmentation of the representation of various groups through state actors. On an ideational level too, corporatist concepts correspond to the consensual ideology of paternally controlled deliberation in Saudi Arabia ("shura"). Beyond these general parameters, the comparative framework which corporatism and its sub-categories offer highlights some crucial Saudi specifics caused by the rentier nature and specific institutional history of the Saudi polity.

## Delimitation: Pre-existing Corporatism(s)

This essay looks at specifically "modern," openly institutionalized articulations of corporatism in the Kingdom engaging with the status and interest groups that typically emerge in a modern society. It should be noted that Khaldun Al-Naqib has developed a broader concept of Gulf corporatism. In his model, ruling families exert quasi-traditional control over large, segmented societal "corporations," including the clergy, the merchant class, tribes, the state-created new middle class, and expatriate workers.[8] This original approach is useful for broader structural analysis of GCC societies, but less useful for the analysis of

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6- Roland Czada, „Konjunkturen des Korporatismus", in: Wolfgang Streeck, *Staat und Verbände*, PVS-Sonderheft 25 (Opladen: Westdeutscher Verlag 1995), pp. 37-64.

7- Collier calls this "radial extension" of a concept; David Collier/James A. Mahon, "Conceptual 'Stretching' Revisited: Adapting Categories in Comparative Analysis", *American Political Science Review*, Vol 87, No. 3, December 1993, pp. 845-855.

8- Khaldun Naqib, *Society and State in the Gulf and Arab Peninsula: a Different Perspective* (London; New York: Routledge and the Centre for Arab Unity Studies, 1990); it somewhat reminds of the historical array of status groups and estates in past autocratic corporatisms on the Iberian Peninsula and elsewhere (church, military, aristocracy etc.).

specific institutional processes and organizational changes. As he looks at macrostructures, questions of institutionalization, whether formal or informal, are not pursued – for example, are there collective negotiations of some kind with the new middle class?[9] What are the channels of interest articulation? This essay focuses on the recent formalization of politics in Saudi Arabia, and Naqib's framework, highly useful in other regards, is only relevant as a very broad background.

Similarly, this essay does not seek to uncover deep historical traditions along the lines of the "Islamic state" or other culturalist models. There may be interesting continuities of segmentary and paternalistic rule, but these cannot be discussed here. More to the point, a lot of the institutional features in modern Saudi corporatism are sui generis: they are emerging in the specific historical context of a large, bureaucratized rentier state moving towards partial modernization of its rule over an increasingly complex society.

## The Record: Corporatism in Recent Years

The following section will look at the empirical recent record of political-institutional reform in Saudi Arabia. It will become apparent that a lot of what has happened broadly fits Schmitter's corporatist formula. A number of institutions have been either created along corporatist lines or endowed with new corporatist functions. These include the Saudi journalists' and lawyers' associations, the National Dialogue, the Saudi Human Rights Association, the Majlis Al-Shura, and the Chambers of Commerce and Industry. However, while there has been a remarkable degree of institutionalization in politically important sectors, the actual record of both meaningful corporatist negotiations and the corporatist grasp over wider functional segments of society is very patchy and uneven, a phenomenon that the subsequent section will try to explain.

### Journalists and Other Professional Associations

Journalists' societies have traditionally played important political roles in many MENA states, where professional associations have generally tended to become politicized in the absence of other mechanisms of political interest formation. Saudi Arabia has 13 newspapers, more than many other countries of its size, and many non-religious political activists have a journalistic background.

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9- Moreover, tribes have been much overrated as coherent political actors in current Saudi Arabia.

The foundation of some kind of association had been debated in Saudi Arabia for several years.[10] The official go-ahead was given in 2002,[11] in the climate of broader debate and reform which followed 9/11 and which was subsequently deepened after the May 2003 Riyadh bomb attacks.

In early 2004, the "Saudi Journalists Association" seemed to take definite shape, and a vote for the board was scheduled.[12] 530 full-time journalists were to vote for nine members among 24 candidates. Local editors announced that the association was to regulate the media profession, acquire union-like functions, and contribute to the defense of journalists' rights and freedom of expression in the Kingdom. It was advertised as a token of political modernization.

Turki Al-Sudairy, editor-in-chief of Al-Riyadh, and chairman of the constituent committee, claimed that the Ministry of Culture and Information would not interfere in the association's activities.[13] The ministry had, however, previously approved the candidate list, and one of the candidates was a ministry advisor. An eight-member panel including officials from the ministry and the Riyadh Chamber of Commerce and Industry was to oversee the election.[14]

The formation of the society was accompanied by criticism of the "too little too late" kind in the more liberal papers. Among other things, commentators attacked the official designation of the "association," which was not put into a stronger category like "society" or "union." As part-time journalists were not eligible to vote or run for elections, it was argued that many leading columnists were excluded.[15] When the elections approached, criticism was voiced about the preponderance of editors-in-chief among the candidates (a technique of control also used in Egypt during WWII[16]). Dawood Al-Shiryan, a Saudi writer, reportedly said: "This is a semi-official organization with its laws set out by the ministry. This is not what we expected." He and others announced they would abstain from voting in the poll.[17] Female journalist Abeer Mishkas refused to vote as there were no female candidates.

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10- *Saudi Gazette* 5 January 2004.
11- *Arab News* 4 June 2003.
12- *Saudi Gazette* 5 January 2004.
13- *Arab News* 6 January 2004.
14- Ibid.
15- *Arab News* citing Okaz 25 May 03.
16- Robert Bianchi, *Unruly Corporatism: Associational Life in Twentieth-Century Egypt* (New York, Oxford: Oxford University Press 1989), p. 75.
17- *Arab News* 6 January 2004

Eventually, the general assembly was not convened. 7 candidates withdrew among criticism of the over-representation of editors-in-chief.[18] There was criticism that none of them had a coherent program, and that the whole process was disorganized and suffered from lack of information for participants. Ongoing disputes were only resolved by the ministry's eventual decision in April that it would appoint four board members and eight would be elected. This was after many of the nominees had opted out, "citing time constraints."[19] The official press organizations regulations, which set out the conditions for membership and organization in detail, was amended accordingly.

When the election took place in early June, it was decided after all that all 9 members should be elected, making the SJA the first Saudi association with a fully elected board. 300 journalists participated in the vote, two female members were elected to the board, and Turki Al-Sudairy became the chairman. Almost all the board members were editors-in-chief, while several candidates had apparently been disqualified despite meeting all the necessary criteria. Crown Prince (now King) Abdullah subsequently met the association's representatives.[20]

At the time of writing, the association appeared to have performed few of the more political functions it had laid claim to, and was hardly featured in the media. The one thing it publicly condemned was hostage-taking in Iraq, an issue safely outside Saudi boundaries.[21] When a female writer at Al-Madinah newspaper was suspended as a consequence of a muckraking story criticizing a large Saudi business, the association took no action on her behalf, with one of its representatives stating that there were official bodies for labor disputes, and that the association could at best consult her in the latter.[22]

Even if there was initially a bottom-up dimension of self-organization among journalists, state agencies increasingly seem to have stepped in to mold the shape and set the boundaries of the new institution. Corresponding to Schmitter's description of segmentary technocratic negotiation and control, the association has been controlled by one specific functional agency, the Ministry of Culture and Information.

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18- *Arab News* 8 January 2003; it was also said that the vote was postponed because certain names were not on the panel.
19- *Saudi Gazette* 17 April 2004; Arab News citing Watan 11 May 2004.
20- *Arab News* 7 June 2004, 15 September 2004.
21- *Arab News* 4 September 2004.
22- *Arab News* 28 November 2004.

The occasional rhetoric of liberal princes notwithstanding, there appears little regime interest in an independent civil society in this politically sensitive area. Interestingly, the association was formed after a limited media clampdown in mid-2003, when the brief "Riyadh spring" after the May 12 bomb attacks had led to increasingly open criticism of the Saudi system, especially of the official Wahhabi orthodoxy. This may indicate that the intention behind the association's licensing is the modernization of control over a sensitive functional sector. Through the formation of the association, the regime has driven a wedge into the journalists' community. It does not represent the interests of Saudi journalists as a whole, but it has attracted a substantial number of moderate players (including e.g. Qinan Al-Ghamdi, former editor-in-chief of Al-Watan), preventing, if nothing else, the formation of any alternative organization.

The other two professional associations that have been formed in recent years exhibit a similar pattern of state control and lackluster public performance. After several years of discussions, in the summer of 2003, the Ministry of Justice gave the go-ahead for a Saudi association of lawyers in the form of committees within the chambers of commerce.[23] This may also have been a response to the visit of the UN Special Rapporteur on the Independence of Judges and Lawyers to the Kingdom in October 2002. He had criticized the absence of an organization representing lawyers' interests, and the Kingdom had been sensitized to international human rights criticism since an Amnesty International campaign aimed at it in 2000. Whatever the immediate cause, rather little has been heard of the committees since their formation, and they have been criticized for their inactivity and failure to communicate sufficiently with their constituency.[24] In 2005 there were announcements that a full-fledged independent lawyers' association would be formed. It seems that this has not yet been implemented.

The civil engineering society, established in Jeddah in 2000, also appears to be strongly dependent on the state.[25] An op-ed in the summer of 2004 commented on professional associations: "Whenever I attend a conference or any gathering of engineers, the question that is always asked is whether the Saudi Engineering Association is a civil society or a government agency. The same question could be asked of other professional organizations. What is fairly sure is that none of

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23- *Arab News* 4 June 2003.
24- *Saudi Gazette* 6 November 2004.
25- Although it also has present and former bureaucrats in its ranks, it is distinct from the Saudi Engineers' Association, whose chairman is the current minister of commerce and industry, Hashim Yamani; cf. <http://www.arabdecision.org/inst_brows_3_11_8_1_3_11.htm> (accessed February 2005).

them have been able to give a logical answer."[26] The author then goes on to call for them to be made independent. In September 2003, Prince Sultan, the defense minister, donated SR 2 million to the Civil Engineering Society for a new building, and was duly made its honorary president.[27] The calm, co-opted nature of the organization contrasts with the Egyptian or Jordanian cases, where the associations tend to be highly politicized and elections hotly contested.

With journalism, the legal profession, and engineering, the Saudi regime has officially organized three important functional strata which have been actively involved in the politics of many other larger MENA countries.[28] What is remarkable is the rather calm and unspectacular way in which this has happened. Despite the monopolistic character of the new organizations, their creation has not caused great resistance. Conversely, they do not seem to exert particularly tight control over their members or their professions as a whole, or play the salient role in policy-making that corporatist bodies do in other systems.

## National Dialogue

Professional organizations are rather typical candidates for corporatist arrangements, and the emerging Saudi set-up, doubts over substance notwithstanding, closely fits the classical corporatist paradigm. It may not immediately be clear why the "National Dialogue," consisting of a series of grandiosely announced conferences over societal problems in the Kingdom, should also be a corporatist venture. Looking at each of the individual conferences, however, one sees that representatives of specific functional segments of society had been handpicked by the state under the crown prince's tutelage, and a quite specific predefined range of problems was to be discussed each time. In the absence of other forums for dialogue, the National Dialogue acquired a kind of officially sanctioned monopoly on state-society debates over a variety of big issues. Taking into account semi-institutionalization through repeated meetings and the creation of the "National Dialogue Center", the venture looks quite corporatist.

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26- *Arab News* citing *Al-Riyadh* 6 June 2004; it is not clear which engineering association the article refers to, but the verdict is likely to be similar about both.
27- *Saudi Gazette*, 25 Sep 2003.
28- A number of doctors' associations have been around in Saudi Arabia for a while, but never appear to have played any political role, one reason probably being the high share of expatriates in the medical profession.

## *Clerics and Intellectuals*

To date, there have been five sessions. In the first two, clerics and intellectuals were the main actors, for the third one the organizers specifically invited women. For the fourth one select representatives of the Saudi youth joined the discussions, and the fifth one again involved intellectuals, with rather little publicity.

The first session in the summer of 2003 included 50 clerics and intellectuals, and probably had the broadest remit, perhaps as it also had the function of a trial round. It discussed issues of extremism, social order and morals, freedom of expression and all of their repercussions on national unity.[29] The underlying issue was the moral basis of Saudi society, and clerics and intellectuals were considered to be the functional stratum responsible for moral guidance in this society. In their final statements, the participants called for the recognition of doctrinal diversity among Muslims – a first in the modern history of the Wahhabi kingdom – and for more participation in government. Former dissidents participated in the event, which made it an attempt to bring a number of figures into the grasp of the state who had previously moved on the margin of what regime agencies considered permissible.[30] Proceedings and final documents were kept secret, however. The "National Dialogue Center" was called into being after the first session. It was widely perceived to be under the direct patronage of Crown Prince Abdallah.[31]

The next session took place in December 2003, with 60 "intellectuals" participating, including 10 women.[32] It was mainly concerned with issues of extremism, which had become important because of the persistent domestic terror problem. Its recommendations were rather wide-reaching. Aside from elections for the Majlis Al-Shura and budgetary transparency, they included "encouraging the formation of trade unions, voluntary societies, and civil society institutions; developing lines of communication between rulers and the ruled, and making a clear distinction between the three branches of government."[33] In the spirit of the age, the participants called for greater institutionalization of politics – although based on less of a top-down vision than the regime so far has allowed, with national elections and independent interest groups. The recommendations were not published. The crown prince subsequently called for a moderate path towards

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29- *Saudi Gazette*, 19 June 2003.
30- Corporatist institutionalization has also been a historical means of bringing groups into official politics which may otherwise get radicalized; cf. Collier/Collier on the intention behind labour laws in 1930s Latin America; Collier/Collier, p. 974.
31- *Saudi Gazette*, 7 August 2003.
32- *Arab News*, 28 December 2003.
33- *MEES,* January 12 2004.

reform, denouncing both ultraconservative and unduly liberal demands as inappropriate.[34]

*Women's Session*

The women's session took place in June 2004, with half of the 70 participants being female. The four broad topics were "women's rights and duties, women and work, women and education and women and society."[35] In the official view, it appears that women had quite a distinct functional role in society, and under Saudi conditions of strict segregation and legal discrimination, women are arguably more of a distinct corporatist entity than in other societies.

This time, there was more public reporting of discussions, and also increased criticism of participants over the conduct and substance of the debate.[36] All discussions were run by males, and conservatives from the religious establishment were overrepresented.[37] For liberal participants, the event appeared somewhat stage-managed, and sensitive issues such as women driving or legal status questions were not even touched upon. Some participants tried to walk out. Little input, one participant thought, came from "society itself," and the event was to a considerable degree held for external and media consumption.[38]

19 very general recommendations were produced. These had to be discussed with the crown prince before their publication.[39] One of them was a national organization for women. Some steps have indeed been taken in recent years to create organizations representing women's interests, including special committees and branches in chambers of commerce. A national women's society seems to have been agreed upon in principle even before the National Dialogue session (although nothing has been heard of it).[40] Frequently, these organizations are patronized or run by princesses, of which there is a very large pool.

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34- *Middle East Online,* 15 January 2004, <www.middle-east-online.com> (accessed January 2004).
35- *Saudi Gazette*, 13 June 2004.
36- *Arab News,* 22 June 2004.
37- *Arab News*, 15 June 2004.
38- Discussion with liberal (male) participant, Riyadh, July 2004; for press criticism cf. e.g. Arab News 25 June 04.
39- *Arab News*, 16 June 2004.
40- *Arab News*, 5 June 2004; Arab News 24 June 04; Arab News 16 July 2004.

*Youth Session*

Despite doubts over the format and conduct of the National Dialogue, the exercise was conducted for a fourth time in December 2004. The youth session of the National Dialogue may have been the most thoroughly prepared one. Pre-meetings with young Saudis were held in various communities, and youth issues were debated in the press.[41] Again, a case can be made for youth occupying a very special segment in the highly patriarchal Saudi society, although their functional role is not as clear. Still, the fourth session was part of a general pattern of specific groups and issues being singled out and "organized" by the regime one at a time.

This time, probably more than during any of the previous instances, doubts were raised about the representative character of the exercise. The selection of invitees was criticized as random. There was general skepticism about reform prospects among Saudi youth. This was tied to complaints that they had no avenue through which to reach leaders and were not informed about national developments – and did not have time to remedy this.[42] Even some of the participants were highly skeptical about the outcome of the National Dialogue process.[43] The establishment of student unions was one of the proposals emerging from the meeting, although it appears unclear how and when these would be organized.[44]

*Evaluation*

By the time the fourth session took place, the whole undertaking had been criticized quite openly in the media as being secretive and sterile.[45] More benevolent critics at least asked for the process to be opened up to the public (which has not yet happened).[46] After all, an official aim of the process was "to involve citizens in the decision-making process."[47] Papers produced in the National Dialogue Center, one editorial said, were produced by academics for academics, with the public shut out of the process.[48] Moreover, critics said that

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41- *Arab News*, 16 October 2004.
42- *Saudi Gazette*, 6 December 2004.
43- *Arab News*, 10 December 2004
44- *Middle East Online*, 10 December 2004 <www.middle-east-online.com> (accessed December 2004)
45- *Arab News*,  9 December 2004; Arab News citing Watan 10 July 2003.
46- *Saudi Gazette*, 28 December 2003.
47- *Saudi Gazette*, 14 March 2004.
48- *Arab News*, citing Al-Riyadh, 1 December 2004.

there was a lack of implementation mechanisms for resolutions.[49] The fifth National Dialogue session, which had intellectuals discuss dialogue with "other cultures," passed by without great news coverage, and with seemingly deflated expectations.

The reasons for the somewhat virtual nature of the National Dialogue will be examined in a subsequent section. Conceptually, the National Dialogue appears like an attempt at "instant corporatism" of different segments of Saudi society. They are not quite "functional" groups in a narrow technocratic sense, but are seen to occupy distinct roles in society. The National Dialogue process put people in different categories, selected individuals perceived as representatives, and licensed limited debates in a predetermined organizational framework. Schmitter speaks of the "deliberate narrowing and encapsulation of 'relevant publics'" through corporatism.[50] The *whole* of Saudi society was never supposed to be represented.

### National Human Rights Association and the Saudi Pool of Corporatist Personnel

A similar narrowing and encapsulation seems to have been the motivation behind creating the "National Human Rights Association" (NHRA) in early 2004. Although a human rights interest group does not represent a specific functional segment of society (beyond human rights advocates and perhaps specific excluded groups), it performs a specific, limited supervisory function and, in the Saudi case, has been set up in classical "state corporatist" fashion.

The setting up of two human rights bodies, one private and one governmental, was announced by the government after Amnesty International conducted its vigorous Saudi Arabia campaign in 2000. In the run-up to the official formation of the private body, criticism was voiced over its composition, with a government figure at its head, and with its whole membership selected by the government.[51] Nonetheless, the NHRA was founded in March 2004, with 41 male and female members, and with Dr. Abdullah ibn Saleh Al-Obaid, a former secretary-general of the Muslim World League and a member of the Majlis al-Shura, as its chairman.[52] Dr. Bandar Al-Hajjar, a professor of economics and also Majlis member, was selected as vice-chairman. Four committees were created, dealing

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49- *Arab News*, citing  Okaz 1 January 2004.
50- Schmitter, p. 101.
51- *Arab News*, citing Al-Madinah 16 July 2003.
52- *Arab News*, 3 March 2004.

with culture and publication, research and studies, observation and follow-up, and family issues.

Foreign minister Saud Al-Faisal affirmed that the NHRA would be completely independent, and announced the impending creation of an official body charged with implementing the government's human rights policy and revising its laws. Two weeks after the creation, the Council of Ministers again emphasized the independence of the new body.[53] Its head, Dr. Al-Obaid, stated that the outfit was autonomous despite its governmental funding.[54] King Fahd apparently made a donation of SR 100 million to the organization.[55]

Although many of the 41 NHRA members have a reputation of integrity, they had all in effect been appointed by the king. The NHRA founding ceremony took place in the Majlis al-Shura building.[56] The organization's charter prohibited the publication of its reports.[57]

The performance of the body thus far appears to be mixed. What is clear is that it has avoided openly touching upon political issues. When 12 dissidents were locked up shortly after the NHRA formation, the first thing Al-Obaid clarified was that arrests are an internal issue of the Kingdom, and that the government has the right to arrest people, although the NHRA would check whether proper procedures were followed.[58] Interestingly, the dissidents apparently had planned the formation of an independent human rights organization. When Human Rights Watch issued a scathing report on the treatment of expatriate laborers in Gulf countries in the summer of 2004, the NHRA tried to calm the waters, stating that it would investigate abuses, but that it was not aware of actions perpetrated on the alleged scale.[59] Soon thereafter, it was reported that the NHRA had established a hotline for expatriate labor complaints, and had received hundreds of complaints in a short time.[60]

In August 2004, a public spat broke out when the families of three dissidents who were still locked up criticized the NHRA for claiming successes it did not deserve, as lawyers had been appointed for the three and the trial was conducted

53- *Arab News*, 16 March 2004.
54- *Saudi Gazette*, 27 March 2004.
55- *Saudi Gazette*, 3 November 2004.
56- *Saudi Gazette*, 3 March 2004.
57- International Crisis Group, *Can Saudi Arabia Reform Itself*, Middle East Report No. 28, July 2004, p. 20; cf. <www.icg.org>
58- *Saudi Gazette*, 21 March 2004.
59- *Middle East Online*, 15 July 2004; *Gulf News* 25 October 2004
60- *Arab News*, 21 July 2004.

openly (temporarily, as it would turn out). The NHRA reply appeared somewhat incoherent. Dr. Al-Obaid stated that the association could do nothing for them as they were officially in court, and refused to say what the NHRA had done for the three. However, another representative of the NHRA claimed the body had worked with the Ministry of the Interior to protect the defendants' rights.[61]

At the time of writing, the last reported action of the NHRA had been officially sanctioned inspections of Saudi men's and women's prisons, resulting in some rather concrete criticism of prison conditions.[62] In early 2006, the governmental counterpart to the body was finally created under the patronage of the Council of Ministers. However, it has not yet started operations.

All the cases of corporatism (and quasi-corporatism) discussed so far have been attempts to fill a previously unstructured political space. Co-optation and the employment of moderate actors have been among the regime aims, which have been achieved to a certain extent.[63] The regime had ample financial and personnel resources to shape the new institutions. Moreover, there appears to be a pool of rather docile functionaries with government or clerical backgrounds, often of advanced age, whose members are made heads of "civil society" organizations or events. It has been speculated that many of these persons are "managed" by the Minister of the Interior, Prince Nayef, although the crown prince also selects personnel for events and organizations he patronizes.[64] Some of them are from the Majlis al-Shura, which is a ready source of intellectual manpower affiliated with the government.

The Majlis, although it has serious parliamentary functions, itself has a distinct corporatist bent, at least if compared to elected bodies in most other countries. Its 120 members are selected by the king according to implicit criteria of functional representation (academics, some clergy and military personnel, and most of all, former bureaucrats). It is a technocratic elite body with its functions granted to it and its competences delimited by the regime.[65]

Its sessions were held behind closed doors until 2003, and topics for discussion were mostly chosen by the government. Its biggest role has probably been in technocratic issues of economic and social legislation. Although elections

61- *Saudi Gazette,* 22 August 2004.
62- *Arab News*, 10 November 2004; Gulf News 18 October 2004.
63- Schmitter mentions co-optation as one function of corporatist institutions; Schmitter, p. 101.
64- Discussion with Saudi intellectual, Riyadh, July 2004.
65- As representing technocratic interests, it might to some extent be an institution representing the "new middle class" Naqib refers to.

to the Majlis are still a few years away at best, it has arguably become more of a parliament in that it now covers a broader gamut of issues, it has made modifications to numerous laws, and it has recently acquired enhanced rights to initiate debates. However, it remains a hybrid institution in which popular representation is only a subordinate function, if present at all. Due to its technocratic and appointed nature, it is far less inclined to populist distributional moves and more amenable to liberalizing and privatizing economic reform projects than are elected parliaments in Kuwait and Bahrain.

## Chambers of Commerce and the Saudi Private Sector

There is one cluster of corporatist bodies which long antedates the institutional reform initiatives of the early 1990s – the chambers of commerce and industry, some of which have been in existence for more than half a century.[66] The most important chambers are those of the Central, Western, and Eastern Provinces. All chambers are organized under the umbrella of the Council of Saudi Chambers of Commerce and Industry (CSCCI).

Like chambers in many other countries, they have essentially been organized by the state, with the Ministry of Commerce and Industry appointing one-third of the board members. Membership in chambers is obligatory for all businesses.[67]

### New consultation patterns

For decades, the chambers have been powerful veto players on economic policy. Much of the influence they have wielded, however, has been exerted through informal channels, i.e. personal contact between leading business figures and princes and ministers. It is only recently that the chambers have been included in economic policy-making in a more regularized fashion, and that their policy input has extended beyond vetoes against specific measures (for example austerity programs in the 1980s). Most drafts of economic legislation nowadays are officially circulated to the chambers and debated in its committees.

Although the research and policy-making capacity of the chambers is still limited, they have gradually been proposing more drafts, commissioning more

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66- The Jeddah chamber was formed almost 60 years ago, at a time when the Western province was economically dominant; cf. <http://jcci.org.sa/main_eng.html>.

67- Most of what follows is based on interviews and discussions with Saudi businessmen, bureaucrats and chamber representatives in Riyadh between April 2003 and July 2004.

reports, and organizing more symposia on questions of economic policy.[68] With the increasing maturity of the private sector and its managerial structures, policy demands are becoming more complex and now go beyond old school lobbying for protection and subsidies.

Consultation before legislation is a typical feature of corporatist policy-making.[69] The inclusion of the chambers is part of a more formalized approach to lawmaking in which drafts are circulated among the cabinet, the Supreme Economic Council (SEC), and the Majlis al-Shura. The chambers and the private sector in general have several access points in this system in order that they might be consulted: The Supreme Economic Council, essentially a mini-cabinet for economic policy under the crown prince's leadership, has an advisory body which includes private sector actors and regularly invites business representatives for hearings.[70] The Majlis, in addition to having a few businessmen as members, also conducts hearings in its specialized committees. In the 1980s, by contrast, laws were often "made up by a bureaucrat and a consultant in the backdoor of a ministry."[71]

Although the government has the last word on legislation and can choose which policy inputs to accept and reject, the representation granted to business in these compartmentalized institutions exceeds that of any other societal interest group.[72] The business sector has had considerable influence on a number of laws, including the Foreign Investment Act, recent tax laws, and trademark and anti-

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68- Professionalization and internal institutionalization may have to do with the gradual generational change within chambers, as old business leaders are dying and new actors are emerging from the upper middle stratum of business.

69- Cf. the example of Switzerland in Schmitter/Grote, p. 10.

70- The negotiation of economic policy in Saudi Arabia neatly fits Schmitter's account of authoritarian-technocratic policy-making which includes "[…]pre-emption of issues; co-optation of leaders; vertical or sectoral policy compartmentalization…state technocratic planning and resource allocation; extensive development of functionally specialized, para-state agencies; political culture stressing formalism, consensus and continuous bargaining; symbiotic relations with clientelist and patrimonial practices in certain issues areas and regime levels[…]"(Schmitter 1974, p. 101). The Saudi set-up, although quite statist, also reminds one of "concertations" and "high councils" in European corporatism.

71- Interview with former deputy minister, Riyadh, May 2003.

72- One might object that the clergy is even more powerful, as they play a very prominent role e.g. on matters of education and justice. More than the private sector, however, they are part of the state apparatus, and their influence has rather been curtailed in recent years. Some of the more independent popular preachers are powerful in society, but have less direct (and no institutionalized) access to decision-making.

dumping laws. It is also being granted increasing representation in specialized functional bodies like the board of the General Investment Authority.[73]

## Further Attempts at Interest Group Organization

Before assessing the Saudi corporatist experience and trying to explain its heterogeneous record, let us briefly go over a number of further initiatives which, as far as can be seen, have not yet resulted in fully operational institutions. The flurry of initiatives shows how concerned the regime has been recently with creating a "civil society" and "interest groups," or semblances thereof.

In October 2003, Minister of Information Fu'ad Al-Farsi gave his consent to the formation of a "Saudi Publishers' Society."[74] Nothing has been heard of it since, however. Associations for teachers, doctors, and children were announced in 2004, but again nothing further has been reported thus far.[75] In March 2004, a Majlis member stated that a Saudi writers' association was being pondered, not least so that Saudi writers could interact with the Arab Writers' Union.[76] In early 2006, the formation of a pensioners' association was announced.

### Organization of Labor

The most interesting development from a comparative perspective may be the – very timid – attempts to organize labor in the kingdom. Unions are outlawed and since a number of strikes in the 1950s, labor unrest has largely been prevented through the large-scale importation of foreign workers from Asian countries, often held under wretched conditions.

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73- Schmitter mentions permanent membership in special advisory councils, positions in joint public-private corporations, and national economic and social councils as typical corporatist arrangements; Schmitter 1974 p. 111; cf. also Schmitter/Grote, p. 5 on functional councils.

74- Another attempt had reportedly been made 20 years before, but went nowhere; Saudi Gazette, 17 October 2003.

75- Saudi Gazette March 14 2004; Arab News 22 March 2004; it is unclear how the doctors' society would relate to the already existing societies for a variety of medial specializations.

76- Saudi Gazette 4 March 2004. Literary clubs have existed in the kingdom for many years, but largely in isolation and contributing little to public debate. An editorial called for the members of their boards to be elected, as the clubs were often run by the same people for 20 years; Arab News citing Al-Watan 8 March 2004.

In May 2001, the Council of Ministers sanctioned the formation of labor committees on an enterprise level.[77] In all companies with more than 100 employees, the latter have the right to form a committee, although there is no obligation to do so. A labor committee can only be headed by a Saudi. So far, only British Aerospace and some large public companies seem to have formed such committees.[78]

In February 2004, Deputy Minister of Labour Ahmad Al-Mansour stated that the initiative for a committee had to come from the workers, and that his ministry would not force committees onto companies unless the workers explicitly approached it. He also clarified that strikes and demonstrations were still outlawed.[79] Committees are apparently supposed to concern themselves with working conditions and workers' welfare, and are not a tool of collective bargaining. They have not featured in recent drafts of the new labor law.[80]

In February 2004, it was also announced that Saudi Arabia would soon form a national labor committee in order to represent Saudi workers in the International Labour Organization and other international bodies.[81] It is not clear how this committee will relate to the "Saudi Labour Welfare Society," which was reportedly formed in December 2003. Membership in the latter is open to all Saudis (!) older than 18, and it "aims at the social and cultural upliftment of Saudi workers. This includes improvement of working conditions and environment. The society conducts research aimed at developing the labor regulations applicable in the private sector."[82] In May, a CSCCI figure called for the formation of a national body for laborers, the relationship to other initiatives again being unclear. He also demanded that company labor committees be independent of management, which they are patently not, and complained about the lack of concrete movement regarding labor organization. Yet another attempt three years earlier to create a national body was apparently abandoned.[83]

Whatever the future fate of labor representation in Saudi Arabia, it is currently clear that the level of organization in this area is even lower than for virtually all other interest groups. The political and humanitarian challenges are certainly

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77- *Saudi Gazette*, 18 January 2004, 19 January 2004.
78- In March 2004, then Minister of Labour and Social Affairs, Ali Al-Namlah, approved the members of the Saudi Aramco labor committee; Arab News 23 March 04. Saudi Telecom also seems to have formed one.
79- *Saudi Gazette*, 29 Feb 2004.
80- *Saudi Gazette*, 14 December 2004.
81- *Saudi Gazette,* 29 February 2004.
82- *Saudi Gazette,* 1 January 2004.
83- *Saudi Gazette*, 23 May 2004

formidable. Institutionally, the Kingdom is still very far from including labor (Saudi or foreign) into its emerging corporatist arrangements. Still, even if on a very basic level, the state has tried to provide a semblance of formal interest representation.

*Summary*

It may make sense for the reader to have a second look at Schmitter's definition of corporatism cited above – several of the initiatives outlined here match his formal definition almost perfectly. Admittedly, National Dialogue, the Majlis al-Shura and the NHRA only exhibit certain corporatist elements, but even then, a corporatist vision of politics seems to underlie their deployment in the political field, especially if one compares them with "functional equivalents" in less authoritarian societies (public debates and conferences, parliaments, the plurality of human rights organizations etc.).[84]

Formally, Saudi Arabia seems to be converging with other Middle Eastern authoritarian regimes. The very strong top-down nature of Saudi corporatism is striking even by Middle Eastern standards. The regime is not co-opting existing initiatives and groups, but trying to create them from scratch.[85] The top-heavy nature of Saudi corporatism is reflected in the state of Saudi law, which does not provide for independent organizations – whatever legalization of groups takes

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84- This essay has deliberately eschewed the discussion of cultural and ideological models of corporatism in order not to overload the comparative discussion. Suffice it to say that the persistent rhetoric of national unity and the implicit assumption that public good can be orchestrated by the regime can be considered typically corporatist. "Corporatists, basing their faith either on the superior wisdom of an authoritarian leader or the enlightened foresight of technocratic planners, believe that…public unity can be found and kept." (Schmitter 96f.). Harmony between classes and overarching national community as alternatives to Western liberalism are recurring ideas in authoritarian corporatist thought which are current in various ways in the kingdom (Adams, p. 23). Traditional aristocratic corporatism emphasized status-based hierarchy instead of equality and a fusion of the moral and political base of the state, again as an alternative to amoral liberalism. This certainly fits the self-conceptions of royalty and clergy in Saudi society (Peter Williamson, *Corporatism in Perspective: An Introductory Guide to Corporatist Theory* (London: Sage 1989) , p. 20).

85- This has historically happened in other Middle Eastern societies, but rarely to the degree witnessed in the kingdom. Associational life in most other places has been relatively more formalized and vibrant before the state attempted to organize it in accordance with its political or developmental outlook.

place does so by executive fiat.[86] A law on NGOs has been deliberated in the Majlis Al-Shura only recently.

This overly dominant role of the state and the very limited societal uptake of its initiatives are the unique features of Saudi corporatism. Before this chapter explains this uniqueness and the specific problems it entails, some comments are in order about the antecedent reasons for recent institutionalizations.

## Causes: Recent Crises

Corporatism allows for many different motivations, directions of causation, and outcomes. Although the immediate causes of formalization are not the main focus of this essay, a few comments should be made. Somewhat more will be said on what I think are the broader structural reasons for formally organizing political interests in the kingdom.

In terms of political leadership, the whole trend of institutionalization and, in several areas, extended consultation, has been part of King Abdullah's attempt to gently modernize the Saudi polity. He is credited with a greater willingness to discuss policy questions with stakeholders and to have proposals emerge from formal institutions.[87]

Much less would probably have come off his modest liberal inclinations, however, if there had been no political and diplomatic crisis following 9/11. The marked acceleration of Abdullah's reform drive was a result of two factors. The first was increased international attention and the second was the domestic debate over the ideological foundation of Al Saud rule which followed 9/11, and a forteriori, the May 2003 bombings in Riyadh.

### External Consumption

The intention to cater to an international audience probably played a role in the formation of NHRA and bar association, and in the embryonic attempts at labor

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86- International Crisis Group, p. 20. A number of organizations have pre-existed the recent wave of institutionalization, including associations of accountants, various medical specialties, and literary clubs. These have never been perceived as political, however and are often chaired by princes or bureaucrats (cf. <http://www.arabdecision.org/inst_brows_3_11_8_1_3_11.htm>). This is true a forteriori about charitable societies. Recently, areas generally seen as politically sensitive have become organized.

87- Personal discussions in Riyadh, spring 2004.

organization.[88] They all followed specific phases of international criticism. Also, although regime representatives were careful to stress the domestic nature of decisions, international norms were regularly referred to – something that is not traditionally a prominent feature of Saudi politics. At the same time, all the aforementioned initiatives also reacted to – unorganized – domestic debates, although to various degrees.

## *Placating, Incorporating and Controlling Groups*

In one way or another, all of the corporatist strategies are meant to incorporate, placate and shape specific groups during a turbulent time. Because other groups are relatively underdeveloped, and because the domestic crisis was an ideological one, Saudi "intellectuals" have taken special pride of place. Through the National Dialogue, and also to varying degrees the journalists' association, the Majlis al-Shura and the NHRA, the regime provides a variety of political roles for intellectuals willing to work with it. Saudi intellectual corporatism can involve substantial funds and employment opportunities, although the political economy of such patronage has yet to be researched.[89]

As societal debates stirred in the Kingdom, the regime attempted to channel them into the newly organized political space, which has been filled and shaped according to rules mostly laid out by the state. In some cases, the creation of new institutions seemed to aim at preempting groups from emerging without state control while at the same time claiming modernizing credentials for the regime. The new institutions are both a token of liberalization meant to placate specific societal groups, and a means to modernize political control.

## Background Cause: Negotiation and Societal Complexity

More broadly, one may argue that Saudi society has reached such a level of complexity that, it cannot be controlled exclusively through the old combination of informal patronage and bureaucracy anymore, especially in times of crisis. Regime actors seems to have reached the conclusion that more articulate functional groups like journalists and lawyers need to be formally organized in order to be incorporated into the system, More generally, (controlled) fora for public debate, and in some cases serious policy consultations need to be provided. The old paternalism is insufficient to lead Saudi society into the 21st century, as

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88- The women's session of the National Dialogue might also to a considerable extent have been for external consumption; discussion with Saudi intellectual, Riyadh, summer 2004.

89- This is of course in addition to more traditional advisory positions and employment in think tanks or newspapers associated with princes.

demands in society – although underarticulated – become increasingly complex. "Consultation" and "debate" are the new watchwords.[90]

What is meant by "complexity"? At the risk of sounding like a crude modernization theorist, I suggest that this encompasses the increased educational attainments of Saudis, the differentiation and polarization of ideological views within society, and the increase and differentiation of demands on the government (not least because people have become used to receiving certain services).[91] Concurrently, the ossified state bureaucracy has reached its capacity limits, and ever-increasing numbers of Saudis are in danger of being excluded from networks of distribution and patronage.

The Saudi state, though still basically distributional, has more complex and demanding tasks than 20 years ago: education has to be adapted to modern needs, labor markets must be reformed, and unprecedented numbers of Saudi youth and highly educated women have to be given a role in a changing society. The local media needs to be given a role in the context of transnational information exchange, increased demands for cultural opening should be squared with existing religious interests, and demands for political liberalization from various intellectual elites must be accommodated. Most of these issues are hard to resolve by royal fiat. With increasing social complexity on the one hand and limited resources on the other, it is becoming harder to calm whole social strata merely through employment or subsidies.

In such a situation of heightened demands and tensions, internal security problems can trigger a deeper crisis than, say, the events in 1979 in Makkah did. In the course of the internal unrest in 2003, it soon became apparent that the broader unease in Saudi society would be difficult to handle in traditional patrimonial ways, for instance through increased salaries for security personnel and a few calls for national unity from senior princes. Certain conflictual issues would have to be debated somehow, if only to shed some political responsibility to the quarrelling parties.

At the same time, however, the unease in the Kingdom was very diffused in nature, and only actors from specific, limited strata articulated anything

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90- Societal complexity is mentioned by Schmitter 1974 (pp. 96f.) as condition of any modern interest politics.

91- The Saudi press of recent years has been allowed to voice more of these grievances, and newspapers are rife with editorials railing against corruption, inefficiency, failing services in various areas, bureaucratic rigidity and lack of communication between state agencies and between agencies and the citizenry.

resembling political demands. This, I would contend, explains the somewhat elitist nature of most of the corporatist ventures. The only attempt to reach out to society at large, the National Dialogue, was riddled with contradictions, and failed to arouse great attention.

Nonetheless, the institutionalization of recent years represents an unprecedented attempt at political modernization and handling a complex society. Apart from the other functions alluded to, the new corporatist institutions are quite probably also designed as means of gathering information on societal developments. For instance, the professional associations are to gauge sentiments among their members, the National Dialogue – however dysfunctional – is meant to reveal intellectual and social trends, and the NHRA is to check certain aspects of police behavior (after all, who else could do it?). The Al Saud have traditionally been quite good at measuring sentiments among different social groups (and within the state), but their means for this have always been local and informal, and may have reached their limits.[92]

The increased inclusion of the chambers of commerce into economic policy-making is the most clear-cut example of regularized information-gathering through state agencies. The complexity of policy demands from business has increased significantly since the 1970s oil boom. The regulations debated today would have been much less important in the boom era, when Saudi business thrived off import licenses and state contracts in a comparatively primitive way. Saudi businesses and markets are more complex today, and interest in the details of economic regulation – intellectual property, product standards, capital market and foreign investment rules, insurance, labor regulations etc. – has increased accordingly. Industries and services have been growing, retail and wholesale markets have grown complex and competitive, and state contractors, though still important, nowadays do far more than just skim commissions. The more complex production structures of Saudi businesses in principle require more predictability, responsiveness, and solid legal and infrastructural services from the state.

An ideal rentier state does not need economic policy in a strict sense, but only distributional policies.[93] The Saudi system, though still distributional at its roots, has developed far beyond the mere direct dishing out of oil money. The more open and complex pattern of economic policy-making seems to be a reaction to this, an attempt to make the system "ready for economic policy" so that it can

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92- Princes can have "informants" on their payrolls; interview with senior banker in Riyadh, May 2003.

93- Giacomo Luciani, ´Allocation vs. Production States: A Theoretical Framework´, in Giacomo Luciani (ed.), *The Arab State* (London: Routledge 1990), pp. 65-84.

digest more complex information and sectoral demands. In the past, Saudi regulations in economic and other areas have often turned out to be impossible to implement. This was partly due to administrative weakness, but also because measures had been based on unrealistic presumptions made by state agencies that lacked any idea of what the conditions and demands of society were.[94] The more enlightened regime leaders and technocrats have increasingly come to realize this. On the state side, the economic and employment crisis – linked by many analysts to the terror problem – amplifies the regime's need to find a partnership with Saudi business.

In addition to direct consultations with ministries and cabinet committees, the Majlis al-Shura is one conduit through which various potential interest groups can in principle be engaged. This requires the functioning of interest groups, however. Of the modern sectors of Saudi society, only business (and large businesses, at that) seem to be capable of meaningful interest aggregation. In principle, the new professional associations and even the National Dialogue have a similar potential to feed into policy-making in their respective fields, but as of yet have been too anemic to function as effective conduits for information. This is where Saudi corporatism seems to meet its limits in organizing a complex society, and where it seems to be different from more conventional corporatisms. We will now turn to the reasons for the uneven performance of the different institutions introduced above.

## Problems

It should be clear by now that one main problems faced by the new institutions[95] has been their lack of outreach – they do not seem to organize and communicate with their respective segments of society in an effective way, and their representational claim appears questionable. On top of that, it is not clear that the state consults with them as systematically as their role as monopolist interest groups should imply.

Despite all claims to the contrary, the new institutions have not only been licensed, but mostly created by the state, and their range of action is defined by

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94- Examples include regulations setting national labour quotas, attempts at taxation, rules on the use of Arabic on public signs, the prohibition of satellite dishes and ineffectual vocational training efforts.

95- "New institutions" here means the recently created bodies, excluding the older Chambers of Commerce. The Majlis Al-Shura is an important actor, but does, if anything, represent various groups of state employees rather than broader groups in society.

the regime. They tend to mirror government structures and rhetoric.[96] Their leaders are in danger of relying more on the government than on those they claim to represent.[97]

## *Low Political Mobilization*

Saudi Arabia has long been a "parental state,"[98] with the regime trying to shape and guide society. One problem for the new institutions is that the government is loath to give up any control and yield sufficient autonomy to these new bodies. Conversely, the new bodies are faced with a society (or societal segments) whose level of political mobilization is very low.

Ample anecdotal evidence from the Kingdom indicates that despite the increasing complexity of Saudi society, the level of political awareness and interest in politics among non-elite Saudis remains rather low. The government is often looked at critically, but this seldom leads to any interest in specific political goings-on or any kind of political activity. A political vision beyond general uneasiness and specific views on social mores is often lacking. More importantly, perhaps, non-religious political interests have hardly ever been formally organized in modern Saudi history, and hence there is little experience in society at large with formal political bodies or processes. Despite strong tensions within society, interests are seldom politically articulated in any organized way. The initiatives outlined above usually are discussed only in limited, highly educated circles.

The recent preparations for municipal elections in the spring of 2005 illustrate this phenomenon. Despite governmental awareness campaigns,[99] knowledge about the event among Saudis appears to be very limited. Fewer than one-third of

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96- "Our experience with some private bodies designated as civil institutions is not encouraging at all, especially when considering their relationship with various government agencies. Soon after their establishment these organizations became a carbon copy of the state-run establishments, imitating them in every respect and talking and acting just like them."; Arab News 16 July 2003 citing Al-Madinah.

97- It is a general danger that the leadership of corporatist institutions can become dependent on the state through positive inducements like government recognition, granting of monopoly status, subsidies etc. (Collier/Collier, p. 970). With the new array of state-created bodies, the phenomenon is carried to its extreme in the kingdom; cf. also Guillermo O'Donnell, "Corporatism and the Question of the State", in: James A. Malloy (ed.), *Authoritarianism and Corporatism in Latin America* (Pittsburgh: University of Pittsburgh Press 1979), pp. 47-88, p. 71.

98- In recent years, the press has dared to report and criticize that most societies are effectively run and paid for by the state; calls for civil society have become more frequent; *Arab News* 13 May 2004, citing *Al-Watan*; *Arab News* citing *Al-Jazirah*, 23 June 2003.

99- *Saudi Gazette*, 13 August 2004.

eligible voters in Riyadh registered. This is similar to the limited awareness of and interest in the National Dialogue.

One problem the regime's new corporatism is contending with seems to be that there are few institutional structures and organizational traditions which it could co-opt and reshape in the first place. Even among the modern functional sectors – which are rather isolated in society as liberal views are dominant there – there is little organizational tradition. The Saudi attempt to centrally control politics appears, in parts at least, to be undermined by a lack of societal infrastructure, as people prefer to pursue their interests through informal channels. Even if the new institutions were allowed to voice their interests more forcefully, it would not be clear at the current stage of institutional development whose interests these are.

One reason for this "infrastructural deficit" of Saudi corporatism is of course that independent organizations have traditionally been repressed. In addition, however, there has historically been less pressure for organized politics, and in recent decades, arguably less political conflict between the state and broader groups than in other MENA states. There probably are fewer political prisoners than in most other MENA states, demonstrations are rare and small, and opposition attempts to create parties have been very small-scale and ramshackle.[100] Political repression appears more limited than in states like Syria or (more liberal!) Egypt. The absence of a police presence on Saudi streets is striking compared to the latter two, even during times of terror.[101] This is not to say that there are no political demands, just these are not usually made through formal channels or in representation of broader groups.

Even if a good deal of the muted response to recent institutional moves might be due to cynicism about their perceived stage-managed nature, it is remarkable that there have been no broader attempts to create alternatives of (formal) political organization, whether illegally, through parties or political societies, or legally, in less political areas. By most standards, political mobilization in the Kingdom is low. The only societal actors able to mobilize considerable sections of society appear to be popular dissident preachers. The latter, however, fall beyond the

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100- The recent emergence of jihadists organizations does not contradict this finding, as it seems to involve smaller groups – which arguably do not engage in politics in a strict sense. It is often said that terror symptomizes the weakness of other channels of political exchange.

101- Many of these points seem to limit the convergence of Saudi Arabia to Middle Eastern regimes with a more populist tradition of state corporatism. However, in states like Egypt and Syria, certain channels of populist corporatism have been atrophying and becoming more form than substance in recent years as the regimes have become relatively more austere and pro-business. Comparative work on different dimensions of convergence may shed more light on this.

scope of this paper, and tap social networks which are not accessible to the "modern" interest groups discussed here.

## Historical Reasons for a Fragmented Society

The reasons for the Saudi record of low mobilization cannot be fully engaged here. I believe, however, that one main cause for this is that the Kingdom never went through a phase involving the populist activation of society, as other MENA states did, but has always been ruled by elite which has put a premium on political quiescence. Carefully managed rentierism has played a very important part in immobilizing society, as it contributed to the creation of clientele groups in society and tended to induce a general dependency on state services. More specifically, it has led to the increased fragmentation of society based on formal and informal structures of patronage.[102]

Vertical, personal links, often tied up with kinship structures, guarantee access to the modern Saudi system, to employment, education, public services, and protection from discrimination and maltreatment by the state. Interests are seldom channeled through formal institutions, and are usually pursued on an individual, or at most local, scale. Access to the resources of the system, does not happen through formal channels which aggregate interests of larger groups, but rather through numerous individual and parallel channels. Such patronage structures are important even for "modern," functional elites.[103]

Interestingly, clientelism was the main mode of politics in Latin American societies before they entered an era of higher mobilization and corporatist attempts to control the more dynamic, mobilized, and more clearly class-based politics of the 20th century.[104] Clientelism and low mobilization were also visible among MENA states ruled by coteries of notables after independence; in several

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102- Dirk Vandewalle has made similar arguments about Libya; cf. Dirk Vandewalle, *Libya Since Independence: Oil and State-Building* (London: I.B. Tauris 1998)

103- I have tried to analyze economic policies in such a system in "Segmented clientelism: the political economy of Saudi economic reform efforts" (paper presented at ISIM Saudi Arabia workshop in Leiden, Netherlands, April 2004; about to be published in volume edited by Paul Aarts and Gerd Nonneman).

104- According to O'Donnell, the early developing society is clientelist, "political activation" is low, links of authority are multifunctional, and articulated on a low level of society for most people. Politics passes over society, and the state acts as "patron of patrons". Much of this appears to be conserved and reproduced in the Saudi rentier state; O'Donnell, p. 66; Malloy speaks of the "columnar social structure" in pre-populist Latin American systems; James A. Malloy, "Authoritarianism and Corporatism in Latin America: The Modal Pattern", in: Malloy, pp. 3-20, p. 7.

cases, these gave way to mobilizational regimes with corporatist elements (as in Egypt, Iraq, Syria, and Tunisia).

In Saudi Arabia, however, most of the inchoate civic structures present in cities in the pre-oil era were smashed or emasculated by the emerging central state, which was buffeted by unprecedented oil income. No labor or peasant classes – popular playgrounds for "political entrepreneurs" in modernizing countries – have emerged in the Kingdom.

The lack of an associational tradition has meant a lack of organizations and organizational skills to co-opt. The clientelist structure of Saudi society, otherwise a stabilizing force, might now be offering passive resistance to attempts at formal organization or tight institutional control.[105] Saudi society is complex – and fragmented.

The one exception is the upper stratum of the Saudi private sector. Saudi business is relatively fragmented too, but had much more freedom and space for development than most other segments of society. Although still tied up in cronyism, it has gone through processes of managerial maturation and international integration, and has been provided with relatively independent institutions to represent its interests. Its inclusion into policy-making appears much less artificial than all other attempts to formalize the Saudi political debate.

Now that the regime needs the private sector for employment and growth generation, it actually has a negotiation partner. The balance of needs and capacities on both sides seems more equal than for other groups. Although the government still has the last say on all economic laws, Saudi business is listened to more seriously than any other modern group.[106]

Saudi corporatism hence is "segmental" in O'Donnell's sense, as the regime has different approaches and incentives for different groups.[107] Business corporatism also seems to contribute to the depoliticization of the Saudi

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105- This may have a parallel in the experience of the 1970s Indian government in the countryside, where Indira Gandhi's corporatist organization attempts floundered due to the resilience of traditional social structures (cf. Bianchi 219f.). Similar to the Saudi experience, communication structures in the "neo-traditional" corporatism engineered by the military leadership of Niger proved to be ineffective in a traditional setting; Robinson, "Niger: Anatomy of a Neotraditional Corporatist State", *Comparative Politics*, Vo. 24, No. 1, October 1991, pp. 1-20, p. 13.

106- It is a different question whether the state is capable of delivering the regulatory framework which would be required for accelerated economic diversification. I am very sceptical on this account.

107- O'Donnell, p. 77.

bourgeoisie, as the latter is granted specific access through specific institutions in clearly delimited policy areas, which is of course a typical corporatist strategy. Saudi business tends to – carefully – voice political opinion only on business-related issues of corruption and inefficiency.

The formal incorporation of the chambers of commerce and of the Saudi business sector into politics has been less of an ad hoc reaction to a specific crisis than other instances of institutionalization. Although the sector also benefited from the greater openness of policy debates after 9/11, its institutional structures had grown more organically.

Perhaps some of the newer corporatist institutions can gain credibility and plant firmer roots in the social segments they are meant to represent. This will require the state to leave them considerably more leeway, however. In the absence of preexisting structures it can utilize, the regime will be forced into a liberalizing experiment for which the political will still seems lacking.

The National Dialogue, which has tried to reach out to broader swaths of the Saudi public, is particularly likely to require the building of significant institutional infrastructure – and the latter will need to be sufficiently open if the skeptical and reluctant Saudi public is to participate. Currently, the new rhetoric of "citizenship" and consultation around the National Dialogue sounds rather contorted and factitious.[108] In the absence of coerced participation, the licensing of autonomous groups may become necessary.

## Attempts to Build Communication/Mobilization Infrastructure

Parts of the leadership may have realized how infrastructural deficits limit broader political communication with society in either direction. A number of – still desultory – regime attempts at grassroots organization and the mobilization of Saudi society appear to be in the making. The municipal vote itself, with all the related quasi-public meetings in big tents and official campaigns for participation, is a careful experiment in increasing popular identification with the government and acquainting Saudis with the limited channels for formal interest articulation. Moreover, new mechanisms are reportedly under development to enable citizens to communicate with regional councils.[109] According to Defense Minister Prince Sultan, the latter are to be bestowed with more power and budgets of their own (although not much has been heard about this recently).[110] A neighborhood

108- *Riyadh Daily*, 2 May 2003.
109- *Arab News*, 25 October 2003.
110- *Arab News*, 28 November 2003.

councils initiative has been conducted in the Makkah region under the patronage of the governor, Prince Abdalmajeed.[111] Functions of the new councils are to include conflict resolution and assistance to local youth. Future councils are to be elected.

Following the corporatist ventures described above, various ministries have reportedly begun to study the establishment of further associations for broader interest groups, like teachers or doctors, with their own elected officials in order "to encourage popular participation in society."[112] Moreover, supposedly as a reaction to the second National Dialogue, the Ministry of Higher Education has announced plans to have university rectors, heads of departments, college deans, and leaders of (yet to be created) students unions elected.[113] As is typical of Saudi gradualism, seen during the three-stage municipal elections, the project is to be tried first in three universities.

Abdullah in particular has repeatedly spoken of the "participation" of "citizens."[114] In the near future, however, not much is likely to come of all these attempts of the "overdeveloped state" in Saudi Arabia to develop extensions into society, whether due to a lack of implementation or due to their heavy-handed management through state agencies. The initiatives seem to indicate some awareness among the leadership that without formal channels of interest aggregation, control over society in times of crisis will be hard to establish. But it is not clear whether the regime will leave enough breathing space for associational life to develop.

All attempts at autonomous organization in politically sensitive areas have been suppressed. Calls to allow a civil society – as in the January 2003 petition from a variety of Saudi intellectuals to the crown prince – have been effectively disregarded.[115] Appeals for the implementation of these or similar National Dialogue demands are ignored or angrily dismissed. The 12 political activists locked up in March 2004 had in the preceding month asked for a timetable for the implementation of a variety of reforms, and were reportedly involved in the establishment of an autonomous human rights society.[116] Independent political and

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111- *Saudi Gazette,* 20 May 2004.
112- *Arab News*, 22 March 2004.
113- *Arab News*, 28 February 2004.
114- Khalid Al-Dakhil, 2003 was a defining year for Saudi reform, *Daily Star*, 8 April 2004.
115- The petition advocated the establishment of "civil society institutions" like clubs, committees, professional associations and syndicates; International Crisis Group, p. 14.
116- Altogether 53 intellectuals and academics were reportedly involved in the attempt to set up a human rights society; *Middle East Times*, 23 December 2003.

organizational claims, as it turned out, were not accepted.[117] Security agencies have exerted pressure for the calling off of even small-scale private meetings of independent acitivists.[118]

For the Saudi regime, there appears to be no concept for an independent political public as of yet. This is illustrated by the private nature of the National Dialogue and by the repeated attempts to coerce activists into addressing their grievances exclusively through private meetings with regime figures. Even Abdullah has said that the state will not allow political activities that will destroy national unity (a ubiquitous term) and has denounced "opportunists" and their "arbitrary demands," probably referring to calls for a written constitution.[119]

The Saudi state cannot coerce its people into political organization – this would contradict all the political traditions of the quietist Saudi system. Conversely, it does not allow much organic growth on the part of independent interests either. Independent groups, although they may be insular in the beginning, would stand a better chance of developing representational claims, communicating demands, and mobilizing interests, as the records of Saudi Arabia's neighbors Kuwait and Bahrain demonstrate.

## Conclusion

This chapter has analyzed a number of recent political-institutional developments in Saudi Arabia, arguing that they amount to the emergence of a specific Saudi brand of corporatism. Some of the developments were triggered by 9/11 and the crisis following the May 12 bombings, others are more clearly related to overall economic and social challenges. The common intervening variable, however, is a leadership which wants to carefully modernize its polity. In the concluding section, some further remarks will be made on Saudi corporatism in relation to broader theoretical debates.

The Saudi phenomenon has clearly proven to be "state corporatism." To further capture its specificity, one may perhaps call it "rentier corporatism." If a state receives the amount of rents that Saudi Arabia does, it almost inevitably plays a central role in many areas of society – albeit in a very particular, skewed

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117- Schmitter mentions "periodic but systematic use of physical repression and anticipatory intimidation…" as a feature of state corporatism. Although Saudi Arabia is not highly repressive towards its dissidents, the arrests and the repeated threats by Minister of Interior Prince Nayef towards political activists fit the template; Schmitter, p. 101.
118- ICG, p. 18.
119- Ibid.

way. It commands great resources of patronage. At the same time, it is not forced during its growth to develop the kinds of administrative instruments which "production states" need to tax their citizens and regulate life in society. Moreover, if rents enter a system at an early stage of political development under conditions of cohesive leadership, the system in question also does not need to develop "modern" political instruments of interest aggregation and negotiation, as it is able to rely on various forms of patronage to organize society. At a later point of time, when the bureaucracy has reached its limits of growth and patronage networks have been established, this kind of heritage can limit the maneuverability of the state and its adaptability to new social challenges. Although it has the resources to create new formal institutions, these have an insular character and cannot easily establish roots in a (formally) underorganized society.

Comparing Saudi Arabia to the rest of the Gulf, Oman, Qatar, and the UAE may be most similar to this kind of ideal rentier state, whereas Bahrain and Kuwait have stronger traditions of formally organized interest politics (predating oil in the Kuwaiti case, and being related to low rents, earlier political development, and stronger social cleavages in Bahrain).

The "rentier corporatism" idea may appear to be tautological and post hoc. But it should also be noted that according to the general criteria of rentier state theory, the UAE, Qatar, and Oman are the more typical rentiers – the relationship between material patronage and political quiescence appears the most clear-cut there. If rentier corporatism is tautological, then so is rentier state theory. Instead, I posit that there is an ideal rentier state, with cases like Saudi Arabia being among the best approximations, whereas others, where the influence of oil was felt at a later point of development or was less pervasive, are further removed from the ideal type of patronage and political immobilization through their political histories. A historicized rentier state concept – sensitive to pre-oil institutional heritage and issues of historical sequencing – appears to me to be highly useful.

In typically patriarchal rentier corporatism, "constraints" on corporatist entities – to return to the categories of Collier and Collier – appear to be strong, but so are inducements for docile actors through patronage. The state can call into being by fiat whole clusters of organization, and is unlikely to meet immediate organized resistance. The flip side of the coin, however, is a lack of structures for communication with and mobilization of society beyond immediate institutional structures. A society can be complex without being highly mobilized or formally structured. Corporatism, one might say, can only reduce complexity if society can be organized along specific lines. Political development is a prerequisite for functioning corporatism. Conventional state corporatism is already in danger of

overloading the state in terms of coordination and multiple demands.[120] Top-heavy rentier corporatism may be dysfunctional almost by definition.[121]

I do not want to paint a picture of Saudi society as totally atomized and passive. It is, of course, a highly structured society, and individuals and smaller groups are very adroit at using informal structures to further their interests vis-à-vis the state. However, these structures – kinship, friendship, patron-client relations, etc. – are not equivalent to formal structures of political interest mediation. The latter are oriented towards broader functional or socioeconomic groups that emerge through processes of modernization. Informal structures are not usually oriented towards the public realm and national political processes.

Latin American case studies have shown that informal structures of authority and communication can make formal-legal corporatism more flexible and actually buttress it.[122] In Mexico, for example, clientelism coexists with and limits corporatism, softening the class structure of the latter.[123] For informal structures to become an important prop for corporatism, however, the corporatist bodies have to gather some political weight in the first place. In the Kingdom, this seems to be the case only with the chambers of commerce, where formal and informal politics are intertwined and arguably tend to boost the institutions' influence.

There moreover seems to be a larger-scale weakness of Saudi corporatism that is related to patronage structures writ large: The regime itself is nowadays far less coherent than a neatly orchestrated array of interest groups would demand. Different state institutions have overlapping jurisdictions, and different senior players pursue parallel projects.[124] There seems to be little coordination between different corporatist initiatives, and the segmentation of administrative and patronage structures further contributes to the relative isolation of new bodies. The National Dialogue for example, driven by Abdullah, is unlikely to have much

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120- Schmitter, p. 126.

121- Perhaps rentier corporatism is an extreme form of state corporatism, where "…the established pattern is one of asymmetric dependence, unauthentic and fragmented representation, weak associational loyalties, suppressed or manipulated conflict, little mutual respect among groups, no effective means of appealing to wider publics and pervasive state bureaucratic control."; Schmitter, p. 127.

122- Robert R. Kaufman, "Corporatism, Clientelism, and Partisan Conflict", in: Malloy, pp. 108-148, p. 111

123- Susan Kaufman Purcell, "Mexico: Clientelism, Corporatism and Political Stability", in: S.N. Eisenstadt/René Lemarchand, *Political Clientelism, Patronage and Development* (Beverly Hills, London: SAGE Publications 1981), pp. 191-216; cf. also Henry A. Dietz, "Bureaucratic Demand-Making and Clientelistic Participation in Peru", in: Malloy; pp. 413-458, p. 445.

124- Cf. my paper referred to in note 437.

of an impact over bodies run by other senior princes. The confusion over initiatives for a national labor association bespeaks the lack of central coordination. It remains to be seen whether Abdullah's ascension to the throne will improve the coherence of political institutionalization.

The low political mobilization of Saudi society means that formally organizing Saudi politics is a formidable challenge for the regime. It also indicates, however, that reform pressures are not yet an existential problem for the Al Saud. "In the modernizing world, he controls the future who organizes its politics," Samuel Huntington wrote almost 40 years ago.[125] In our case, the conclusion must be that either Saudi Arabia is not really modernizing, or the princes are not quite in control of its future. On balance, and for the time being, I would side with the former conclusion.

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125- Samuel Huntington, *Political Order in Changing Societies* (New Haven, London: Yale University Press 1968), p. 461.

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# Chapter Ten


# Democracy vs. Shura in the age of the Internet


## *Giacomo Luciani*


## Introduction

The question of democracy has been at the center stage of the academic debate on the Arab region for the best part of the past 15 years,[1] and has acquired much greater prominence on political agendas since 9/11. We speak of "Arab exceptionalism" because no Arab country can be said to be democratic, while a movement towards democracy is believed to exist in all other regions of the planet; we discuss the prospects for democracy and democratization; governments in Europe and the US are convinced that they can export or promote democracy.

The standard line from within the region – at least from those who proudly subscribe to the idea that the region is different from others – is that the accepted concept in the local political culture is not "Western-style" democracy, but *shura*, consultation. Democracy's universal value is denied; it is viewed as a purely "Western" product. They claim that the indigenous, authentic product is *shura*, and that people do not see a need to trade local tradition for imported models and institutions.

This chapter is an attempt to explore whether or not *shura* is a good enough transitional concept that democrats can use in the expectation that it will eventually evolve into something that will be recognizable as democracy. Lest I be misunderstood, let me clarify at the outset that I do not believe that *shura* is democracy, and I do believe that democracy is a universal value. I also always

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1- We can consider that the debate started in 1994, with the publication of "Democracy without Democrats", edited by Ghassan Salame' (Salame'1994). But it was there even earlier.

rejected the exceptionalist view of the Arab region, rather seeking to explain the region's lack of democracy with causes that are rooted in objective social or economic conditions.

It should be underlined that the more one believes that there are objective, structural causes to the lack of democratic development in the region, the more necessary it is to address those obstacles, or to accept that the political development path of the region must be different because of them.

Purely voluntaristic approaches will not translate into effective policy. The latter requires a recognition of the circumstances on the ground and the elaboration of an original strategy to deal with them.

In fact, we should recognize that the goal of promoting democracy in the region is not new for either the United States or Europe. International actors' lack of consistency in pursuing this goal is itself a phenomenon that requires an explanation. Although concerns for the security of Israel and the continuity of oil supplies may have played a role in convincing Western governments of the wisdom of maintaining good relations with authoritarian and corrupt governments, neither are fully convincing explanations. Certainly, with respect to oil supplies, we should recognize that it is the major industrial importing countries that have imposed sanctions on Iran, Iraq, and Libya; while this, in a sense, has made Saudi Arabia even more indispensable, it can hardly be concluded that their condoning of authoritarianism in the region is attributable to their dependence on oil imports.

We should instead accept that the path to democracy in the region is not free of traps and dangers, and that these have justified the prevailing hesitation to take that direction.

In other words, democratization processes may lead to short-term outcomes that are not at all what we would welcome or hope for. This presents the promoters of democracy with contradictions that are not easy to overcome.

The case of Algeria has been especially important in this respect because the democratization process came close to devolving power to Islamist political forces whose program included limitations – e.g. on the status of women – which European or American public opinion would have condemned, and which a significant portion of domestic public opinion in Algeria found unacceptable. As a consequence, Europe and the US empirically accepted the violent repression and civil war in Algeria (behind the screen of a variety of rhetorical statements), and are now keen to buttress the legitimacy of an elected civilian government – which, however, is not quite a model of democracy.

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The key dilemma to be faced by democratization of Iraq at the time of writing is exactly the same: the Shiite Alliance which won the elections of December 2005 may very well impose laws and constraints which democratic public opinion would find in violation of human rights, and unacceptable. The unexpected triumph of Hamas in the Palestinian elections of January 2006, the strong showing of the Muslim Brotherhood in the Egyptian parliamentary elections of 2005, and the systematic support received by religious-backed candidates in all electoral exercises in the GCC member states confirm the dilemma.

To the extent that "democracy" is the outcome – in some measure – of the actions, pressure, and encouragement of democratic industrial countries, we cannot dodge the question: is this what they want? In the case of Iraq, is this the outcome that the United States and other coalition countries fought and sacrificed lives for?

## The Concept of Shura

*Shura* is not a very well defined concept. In its essence, it is deceptively simple – it means consultation, i.e. the ruler, who has absolute power and is responsible to no-one, should consult his people before making a decision. Are there clear specifications as to who is to be consulted? How should the consultation take place? How should the ruler take the opinion of his people into account?[2] The romantic version of the concept is "bedouin democracy," evoking images of the tribal shaikh holding his *majlis* around the encampment fire. The reality has long been remote from such romantic images.

The experience of *shura* appears to be similar, in many ways, to democratic centralism in the old communist parties, or to corporate management today (where power is centralized in the hands of the CEO). Issues are discussed for a while. Then the leader takes a position and everybody rallies behind him. After the leader has taken a position, dissent ("factionalism") is not allowed. If the leader expresses his position early in the debate or as soon as the issue is posed, the debate never takes place. If the leader is in the habit of punishing people he has disagreed with – even if they duly rallied to his side after he took a stance –

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2- There are two passages in the Quran that speak of shura: one appears to indicate that it is obligatory for the ruler to consult, but he is not bound by the advice of the majority; the other rather depicts shura as a process of mutual consultation of the people which then present their decision to the sovereign who is bound to follow it. Interpreters differ on which of the two should be given priority. A point of view very much tilted towards *shura* as being obligatory and binding for the ruler is proposed by Sulaiman, 1999.

then debate is unlikely to flourish, and guessing the leader's mind becomes the only game in town.

Hence *shura* is a concept whose actual meaning is entirely dependent on its actual practice. In the democratic centralism version, it can turn into Stalinism (or "Saddamism") – conditions in which consultation is minimal, and finding yourself on the wrong side can mean death. But this is just one extreme: *shura* can also mean the practice of consensualism, i.e. a situation whereby the ruler, who is absolute and responsible to no one, nevertheless never in practice takes a decision if he is not satisfied that all those who matter are in agreement.

The practice of the monarchies and emirates in the Gulf is very much consensual. Very few decisions are made without extensive consultation. It is also very much inclined to forgiving and reintegrating dissenters. Opponents are frequently pardoned and offered positions in the government, even if they do not always publicly repent and ask for forgiveness.

In the past, the discussion or "consultation" was predominantly behind closed doors, and the public was aware of it only indirectly – it saw that decisions were not made, even about issues that clearly awaited resolution; or policies were announced and then not implemented. It was obvious to all that this indicated the existence of some kind of resistance, and the necessary consensus had not yet been reached. If the required degree of consensus is not present, matters are left pending, so that the issue can ripen. This normally happens either because key people become convinced and change their minds, or, more frequently, because tradeoffs are arranged and compromises shaped.

The details regarding the workings of the system differ in each country. The essential task of the ruler is to set up the system of consultation, i.e. define the circle of people whose opinion matters. In a sense, this is then the relevant polity of the state. For example, in the case of Saudi Arabia we may distinguish five main components to the relevant polity: a) the royal family; b) the *ulama*; c) the "experts" i.e. bureaucrats and intellectuals; d) social pillars i.e. tribal leaders; and d) the business community.[3] These five groups largely overlap: the royal family has institutions connecting it to the social fabric – i.e. the National Guard and

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3- None of these groups is tightly organised or very clearly defined – including the royal family, which is probably the best defined of them all. As S. Hertog argues in another chapter in this volume, an attempt is underway to institutionalise these groups in a corporatist project – but the business sector is the only one that has given birth to proper corporate institutions.

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governorates,[4] it has members that are active businesspeople and/or are allied to business interests, and it has a historical link with the al-Shaikh and the religious elite.[5] However, the distinction between the various components is fairly clear. Each of these components holds informal veto power, in the sense that no major decision will be taken if it is opposed by a large number of influential members of one group.

In the past, the process of consultation was very difficult to observe because it took place almost entirely behind closed doors. However, in the last 25 years, we can probably count only one major policy decision (decisions on appointing or sacking officials aside[6]) which the Saudi king has taken without extensive prior consultation, and that was to call for a direct US military presence in the immediate aftermath of the Iraqi invasion of Kuwait. As is well known, even in that case the king felt the need to have a *fatwa* legitimizing his decision issued by the Council of Senior Ulama; that the *fatwa* was not enough to contain Islamic opposition has become abundantly clear ever since.[7]

The process of consultation has progressively become more public with the establishment of the *Majlis al-Shura.*[8] The *Majlis* is an attempt at institutionalizing the process of consultation, although not all consultation takes place within the *Majlis*. A lot of consultation still takes place either in other institutions,[9] or (predominantly) informally – but the importance and role of the *Majlis* have been growing. The debates in the *Majlis* were initially behind closed doors, but are now public. The publicity of the *Majlis* debates has signaled a

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4- The National Guard, of which Abdullah bin Abdalaziz continues to be the Commander even after his accession to the Saudi throne, recruits from the bedouin tribes and is the key institution to link the latter to the Saudi state. All positions of Governor are allocated to Princes, and are the essential link between the royal family and the territory.

5- In general, the royal family strives to be represented in – and therefore accessible from – all key component of society. The image that it wishes to project is one of being itself representative of Saudi society as a whole…

6- Decisions on appointments are also subject to consultation, and the royal diwan has procedures to collect and scrutinise the names of candidates to various positions – e.g. for appointments at the Majlis ash-Shura see Camille Ammoun's chapter in this volume. However, in the end the King (or the Crown Prince, albeit less so) has a free hand in selecting the person(s) of his confidence.

7- On the significance of this fatwa in the context of the history of wahhabism see the seminal article by Abdalaziz al Fahad (al Fahad 2004). It is as a direct consequence of the decision to call on the United States for help that Usama bin Laden broke off with the Saudi regime and established al Qa'ida.

8- On the role of the Majlis and the selection process of its members see the chapter by C. Ammoun in this volume.

9- Such as the supreme Council of the Ulama, the al-Saud family council, or, lately, the National Dialogue.

fundamental opening of the public space - and a lot of issues that previously were taboo are today openly and very lively debated in the media and the net.

The *Majlis* deliberates and votes, and although in theory the King might disregard its opinion, in practice, no important decision has been taken against the *Majlis*'s advice. Presently, it appears that the *Majlis*'s concurrence is a necessary but not sufficient condition for a decision to be taken – in the sense that some of the less institutionalized circles, such as the family or the *ulama*, still hold a veto power.

However, the *Majlis* is becoming more important, and to stop something it has approved will require its opponents to spend a lot of political capital. In fact, the opponents of a given measure are more likely to concentrate on preventing the *Majlis* from taking it up and deliberating on it. The *Majlis* is also a way to accommodate the growing importance of the "experts" and business community, which find this forum quite congenial to their respective agendas and approaches.

One could, for example, consider the case of the debate on the right of women to vote or be candidates in municipal elections of 2005, or the possibility that they might be appointed as members of the *Majlis*. That some circles in the regime considered that women should be allowed to vote and stand as candidates is very clear, as nothing to the contrary was initially said, and expectations were allowed to form that this would be the case. The issue was extensively and publicly discussed in the press, with very explicit statements on the part of politically active women. When the decision was taken not to allow women to vote, this was clearly due to a veto on the part of the conservative religious establishment, and it was said that women might vote in future occasions. Public debates and protestations on the part of women have continued unabated.

Nevertheless, the matter was not discussed in the *Majlis*, partly to preserve the institution from an excessively divisive debate, and probably partly because the religious establishment succeeded in preventing its discussion in the expectation that the vote might have been close or even in favor of women's suffrage. Quite interestingly, the next issue for public debate was whether women could be appointed to membership of the *Majlis*: the chair of the *Majlis* initially welcomed and then ruled out this possibility.[10] When new members were finally appointed in April 2005, no women were included.

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10- On January 30, 2005 Arab News reported: "Muhammad Al-Zulfa, a senior Shoura Council member, has called upon the Saudi leadership to take a quick political decision on the appointment of women on the consultative body. He felt there was no justification for the women to kept out."

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In May 2005, one of the most vocal members of the Council, Dr. Muhammad al-Zulfa, requested a debate on the issue of whether women should be allowed to drive – a step certain to raise the ire of conservatives. The request sparked a frenzied debate in the press[11] but a debate on the floor of the Council was denied.[12]

The *Majlis* in Saudi Arabia is entirely appointed for the time being.[13] In Oman, the transition from appointment to election is now almost complete.[14] It started with appointments out of a list of candidates elected on the basis of limited suffrage, and has ended with automatic confirmation of the candidate receiving the most votes on the basis of universal suffrage. Clearly, Saudi Arabia has a long way to go before the *Majlis* is elected, but the issue is not taboo,[15] indeed it is to

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On 8 Februray, the Saudi Gazette reported that the Chairman of the Council, Salah al Humaid, "expressed the hope that women, who are already clamoring for more participation in the country s affairs, will be appointed to the council in the next term." On February 9 Osama Kurdi, a member of the Shoura, declared to Al Youm newspaper that the council had benefited enormously from the views and opinions expressed by women during discussions on women's issues. "The appointment of women as members would strengthen the Shoura and would be beneficial to everybody". However on February 10 Arab News reported: "Women to Be Kept Out of Shoura During Reshuffle - Shoura Council President Dr. Saleh Bin-Humaid has ruled out appointment of women on the consultative body during the upcoming Shoura reshuffle, when the number of its members will be increased from 120 to 150. "The issue of women's participation in the Shoura as a member has not yet been mooted officially, although some writers and social forums have raised the issue," the Saudi Press Agency quoted him as telling reporters."

11- For example, see "Should Women Be Allowed to Drive? An Ideological Battle" by Raid Qusti, (rqusti@arabnews.com) *Arab News* May 25, 2005. The UAE's Gulf News (no similar item in Saudi papers) on 27/5/2005 published the following: "No moves to punish me, says Al Zulfa" By Mariam Al Hakeem, Correspondent Riyadh: "A member of the Shura Council denied being pressured to withdraw his proposal on the right of women to drive vehicles. Dr Mohammad Al Zulfa, who sparked a debate by asking the council to discuss the proposal, said demands for punishing him came from the mob and that all council members were above such trivial suggestions. Al Zulfa said he plans to take the debate on women driving vehicles from the council floor to open public forums. He stopped short of calling the council refusal to discuss his proposal as a setback. Following consultations with the council vice-chairman and the chairman, the council last week declined to put the proposal to vote. Al Zulfa said he was convinced that the majority of the members support his proposal. "The test is who would have the guts to express their views loud and clear," he said.

12- The next episode of the "women behind wheel" serial occurred in February 2006 at the Jeddah Economic Forum, when Minister of Culture and Information, Eyad Madani, declared that "There is nothing in the written laws of the country that prohibits women from applying for a driver's licence" and urged would-be Saudi women drivers to try to overturn the ban (AP 02/12/2006). It is very unlikely that a minister would have said anything like this without some informal prodding.

13- Quite interestingly Arab News reported on 14.09.05 that king Abdullah had received the members of the Majlis al-Shura and told them: "You represent the Saudi people and you have to do it well." Of course they do not, because they are not elected, but the intention is that they should.

14- See the Chapters by Kapiszewski and Valeri in this volume.

15- Prince Talal bin Abdul Aziz (a half-brother of Saudi King Abdullah, who is widely expected to play a growing political role, after spending years in exile for advocating (in the '60s) support for

some extent expected and envisaged, with the precedent of Oman showing the way. Kuwait, and more recently Bahrain, have elected parliaments,[16] but the difference is one of degree, not substance; the amir or king in any case retains the power to appoint the government, and the latter includes a substantial number of members of the ruling family and possesses almost exclusive powers of initiative. In these conditions, parliament effectively only has veto power – it can turn down specific laws proposed by the government, and can force the resignation of specific ministers, but beyond that looms the specter of institutional paralysis.

The case of Kuwait is typical in this respect. There, parliament has for over 10 years now rejected all attempts on the part of the government to open up limited exploration and production opportunities to international oil companies – a matter of importance for the Kuwaiti economy. The parliament has also forced the resignation of several ministers, including members of the ruling family. But in the end the parliament cannot vote in a different executive, because the prime minister is appointed by the amir and forms the government. In theory the parliament could deny or withdraw its confidence, but then the conflict would be almost impossible to resolve.[17] Because of the large number of members of the ruling family in ministerial positions, including, of course, the prime minister, a motion of no confidence in the government would necessarily affect the legitimacy of the al-Sabah's rule, and is consequently not on the cards.[18].

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Gamal Abdel Nasser and Pan-Arabism) has done so, and also demanded the introduction of a constitution in Saudi Arabia.

In an interview with French-based Radio Monte Carlo, reported by AFP on 27.08.05, he said that Saudi Arabia needed "political reforms in the first place, then economic and social (reforms), such as reforming education and the judiciary." It is necessary to "start with political reform, that is introducing a new basic statute (of government), or what is known in the West as a constitution," Talal said.

The proposed constitution would be tantamount to "a social covenant between ruler and ruled, compatible with known constants in Saudi Arabia in terms of religion and genuine traditions." Prince Talal said the current appointed consultative council, which has an advisory role, should be given additional powers, and turned into a "quasi legislative council" that monitors the government. It should also debate an election law, he said.

16- See the chapter by Andrzej Kapiszewski in this volume.

17- One may note that the European Parliament is very much in a similar position, this being the key unresolved, and irresolvable, issue of Europe's democratic deficit.

18- Following the death of Sheikh Jaber Al Ahmad Al Jaber Al Sabah, parliament played an important role in excluding the heir apparent – Sheikh Saad Al-Abdullah Al-Sabah – from the succession and elevating instead Sheikh Sabah Al-Ahmad Al-Sabah. It is possible that this may lead to a change in the relationship between parliament and the ruling family, all the more so since the new Amir decided to depart from established custom and exclude the al Salem branch of the family from all positions of political power.

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Iran offers a variation of the same theme. The country has an elected parliament and president, but ultimate political authority rests in the hands of non-elected officials whose final approval is necessary for decisions and policies to become effective. We may describe the Iranian situation as one in which the ruler,[19] who is absolute and responsible to no-one, organizes consultation in a way that is institutionalized and resembles democracy, but retains and uses ultimate power.

In fact, the case of Iran clearly demonstrates how institutionalization is less important than consensual practice. Clearly, non-elected officials there disregard the will of the vast majority of the people quite frequently – indeed probably much more frequently than in the Arab Gulf countries, notwithstanding the much higher degree of institutionalization in Iran.

When we look at the Arab world outside the Gulf, we see either authoritarian rulers engaging in very little consultation, if any at all; or constitutional monarchies in which the monarch remains beyond question and criticism, and "organizes" political representation and government change, combining the formalities of electoral democracy with the required degree of cajoling and fraud to legitimize and perpetuate absolute power. Countries like Morocco or Jordan are usually considered to be more advanced towards democracy than the Gulf countries, although their use of democratic tools is purely instrumental and serves the main purpose of defending the throne.[20]

As we dig deeper, we come to the conclusion that a system based on *shura* is characterized by the presence of a non-elected, absolute ruler who does not behave capriciously, but organizes "consultation." The way in which this is done may evolve and eventually closely resemble the democratic institutions but ultimate power is retained by the ruler.

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19- Or, as the Algerians would say, "le pouvoir" – to indicate the faceless, not elected and essentially irresponsible military hierarchy that finally calls the shots. Algeria provides another example of a country with a double hierarchy: an elected hierarchy which holds the appearance but not necessarily the substance of power, and a parallel, self reproducing hierarchy, in whose hands the substance of power actually rests.

20- David Brumberg (2005) has introduced the distinction between "liberalised" and "full autocracies"; he includes Jordan and Morocco among the liberalised autocracies but considers Saudi Arabia a full autocracy on a level with Libya, Syria and Saddam's Iraq - an evaluation that overlooks the practice of shura entirely.

## *The Preference for Shura*

Let us ask ourselves why *shura* appears preferable to democracy in the eyes of many in the region? (The region has in fact very few "democrats.")

There are, I believe, two main motivations for the region's preference for *shura*. Tradition is clearly not a satisfactory explanation because traditions are forgotten when they become impractical and are invented when it is felt that there is a need for them.

The first motivation has to do with the role of religion in politics – because Islam aims at being a political order as well as a personal faith, a clean separation of religion and state is almost impossible.[21] Consequently, there must be a place for religion somewhere in state institutions. Thus, either a) you have direct government of the clerics; or b) you assign ultimate power of control to the clerics (the Iranian situation being somewhere in between); or, finally c) you have a "secular" ruler whose job is to balance various opinions, including religious opinion (the Saudi situation). Indeed a "secular" ruler will never accept being defined as such, and will try in all ways possible to acquire religious legitimation,[22] even if his power was originally acquired by conquest or use of force; the ruler will certainly not define himself as "secular" in the sense of not being a believer! Having credible religious legitimation is an essential element of strength for any incumbent ruler, and in this sense a factor facilitating the practice of consultation and consensualism.

Indeed, if one plotted the various Arab political systems on a diagram, with one axis showing the degree of religious legitimacy claimed by the ruler, and the other the extent to which consultation takes place (assuming that both variables could be measured); we would then find a positive correlation, in the sense that those rulers who have no claim to religious legitimacy also are less prone to engaging in consultation. The cases of Iraq, Syria or Libya illustrate this point very clearly.

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21- Turkey is the only Moslem country that has a secular state, and has more than once been confronted with a trade-off between maintaining the secular character and having genuinely democratic institutions. The dilemma may only be resolved, if ever, through membership in the EU.

22- The al-Saud do so through the alliance with the wahhabi ulama and the al-Sheikh family; more recently, the King has donned the title of Custodian of the Two Holy Mosques; the Jordanian and Moroccan monarchs claim direct descendance from the Prophet. It is important to understand that these are as much tools to gain popular acceptance and legitimacy, as a way to "occupy a space" and prevent a more explicit and encumbering role of the religious hierarchy.

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**Religious Legitimation and Consultation**
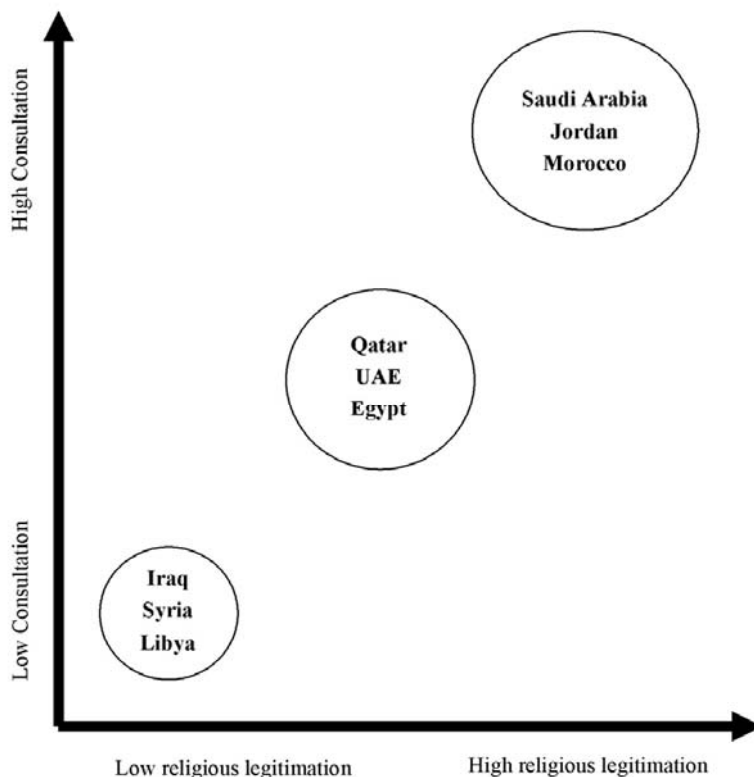


Consultation goes hand in hand with some religious legitimacy in the sense that the availability of religious legitimacy may ease the opening of the political space. At the same time, the need for a place for religion in politics requires the combination of various sources of legitimacy (both popular and religious).

In other words, somehow the space for religion in politics must be occupied – if the ruler does not credibly occupy it, this space remains up for grabs, and contenders will arise from within society – with greater or lesser religious credentials.[23]

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23- Indeed the fight is primarily on the terrain of religious legitimacy. It is not by chance that al Qa'ida calls the al-Saud monarchy "the apostate regime", and the al-Saud call the terrorist "deviant" – i.e. from proper Islamic behaviour and beliefs.

The second key motivation for *shura* (or straight authoritarianism) is the constant fear of factionalism and dissent (*fitna*). It is a deeply rooted belief in the region that dissent and factionalism will bring about the demise of the state – not its rejuvenation. The notion that political parties, i.e. institutionalized factionalism, are key to the ability of the government to adapt to changing circumstances and correct mistakes is entirely foreign to the historical experience of the Arab countries. Instead, the latter is dotted with civil war and penetration from abroad leading to submission.

The instinctive fear of factionalism has a lot to do with the multiple identities that coexist on the Arab political scene – communal, regional, "national," pan-Arab, pan-Islamic, and so on – which mean that no Arab ruler is ever solely or fully in control of his polity. Political scientists have been asserting that Arab states are durable and consolidated, but Arab rulers do not seem convinced. Notwithstanding the demise of the original strain of pan-Arabism, the issue of Arab political identity refuses to die, and the unresolved Israeli/Palestinian conflict, notwithstanding all peace agreements, is perceived as a failure essentially attributable to divisions and dissension amongst Arabs – as an Arab failure.

Indeed, democracy based on political parties would almost inevitably become embroiled with regional politics and lead to accusations – whether justified or baseless – of outside interference on the part of neighboring countries.

Can democracy really thrive under such conditions? Can these "durable" and "consolidated" states survive in the absence of an ultimate power holder if political fault lines defining factions end up coinciding with communal/regional or pan-Arab divides?

## The Theory and Practice of Democracy

Without pretending to cover the very vast ground of what democracy actually is and how it has evolved, let me mention a few salient features that are relevant to my argument.[24]

The theory behind democracy is rule by the majority; people vote, elections are won or lost, winners govern, and losers play the role of the opposition. In the

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24- Democracy is of course a huge argument and I could not possibly do justice to it. However, it is striking how all literature about "exporting democracy" always seems to assume that the term is absolutely unequivocal, and that our democracy works perfectly, and never asks how its practice may look in the eyes of observers from the Arab countries.

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next election, roles may be reversed. The distinction of roles makes the adjustment of policies possible. By shifting their votes, voters determine which policies are adopted.

This is the theory; the practice, however, does not completely conform to it.

We know that elections are won or lost at the center of the political spectrum. Therefore, the tendency has increasingly been for candidates to appeal to moderate sections of the electorate and to tone down differences with one another. This has led to many a campaign in which the difference between candidates has been quite small; a corollary is the growing importance of character and personality over political programs. Frequently – although not always – this has led to a feeling that the elections are not important, and voter participation has been very low in some cases.

The limited political differentiation is also a consequence of the growing limits on the freedom of action of individual governments. This is, of course, especially clear in Europe, where many matters are decided (by the national governments collectively) in Brussels, and each individual national government cannot radically depart from common rules. But it is also very true for many developing countries, which cannot adopt policies radically different from the ones suggested by the IMF or World Bank, or that are mandated by membership in the WTO. Isolationism is less and less of an option, and increasingly detailed and stringent international rules limit the freedom of elected governments. To a lesser extent, this is also a consequence of the multiplication of independent non-elected agencies in charge of specific aspects of policy – from central banks to antitrust or other regulatory agencies. Governments are just not free to do whatever they would like to, and a wider and increasingly important area of political decision-making is de facto not under democratic control.[25]

Once elected, governments do not necessarily stick to their promises. This is such a cliché that one feels embarrassed repeating it, but it is nevertheless the case that, once in power, elected officials will start looking at opinion polls, need to deal with various corporate interests, will be targeted by various lobbying groups, and so on. In short, they will engage in *shura.*[26]

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25- This is one of the key accusations levelled against the process of globalisation. It is also the heart of the so-called "democratic deficit" debate within the European Union.
26- And/or corporatism – see the chapter by Steffen Hertog in this volume.

The ability of democratically elected governments to take decisive action, to antagonize important segments of society on the strength of their democratic legitimation, to offer leadership, or to go against public opinion is strictly limited.

In 2003-5, we witnessed a revival of democracy, of sorts. Faced with issues of war and peace (albeit remote ones in Iraq), governments found themselves going against public opinion, and elections have mattered. We have seen election surprises – or elections so close that the outcome could not be predicted. It is too early to tell whether this will prove to be a turning point or an exception to the norm. I suspect, and to some extent hope, that it is an exception. In more peaceful times, when issues are less widely engaging, elections results can confidently be predicted in advance, and make little difference anyhow: people grow increasingly cynical about the exercise.

Arab elites observe these phenomena and are as aware of them as Europeans or Americans. They are tempted to conclude that the only effective difference between a democracy and the *shura* system is that in a democracy you may get rid of the ruler more frequently.

This difference is not trivial. Indeed, change at the top has been, and remains, the key unresolved issue in all Arab political systems. But the problem arises more because rulers grow old, sick, and senile – and their established successors get to power when they are also old, and are likely to be sick and senile soon – than because they are not democratically elected.[27]

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27- In a commentary written following the death of Yasser Arafat – but clearly intended to be generalised to many Arab leaders (including probably King Fahd…) – Dr. Mohammed T. Al-Rasheed wrote in Arab News (November 11, 2004):

"Ancient Egyptians made a high art out of mummification. They, however, dealt strictly with the dead, clinically or otherwise. We have inherited some of that art and now are elevating it to the science of keeping our leaders alive. Arafat is dead, or he isn't; might it be that he was never alive? Then again, we might need an Arab summit to declare that humans, of all walks of life, grow old and die.

The obscenity of clinging to power and life is beyond belief. There is no humility of the basic human kind that says: If I don't retire, I will die one day in office. (…) Death is an existential necessity if only because it clears the stage for others to try their hand at old problems. No one in this world has the right to lord it forever. No one has the right to think that they can do that either. We suffer miserably from this malaise to a point where we are the laughing stock of humanity. (…) History understands that politics is the art of the possible and not the science of righteousness and the esoteric. Esotericism in our political scene means only the ones who have been there forever can manage our daily lives when reality and history knows perfectly well that they are responsible for our demise and malaise."

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## The Impact of New ICT on Shura and Democracy

The advent of ICT has further narrowed the effective difference between *shura* and democracy. The ease with which public opinion can be monitored through the Internet – either because people are polled, or because they express themselves through chat rooms, forums, or spontaneous or organized emails – has increased the *shura* component in democracy. Also, the ease with which individual citizens can access and monitor important government documents greatly increases the opportunities for active individual or organized participation in the policymaking debate. Political participation, individual or associated, is becoming more important, and the periodical ritual of voting less so. In *shura* systems, the impact has been even more dramatic. What used to be a process based on the informal *Majlis*, i.e. meetings at which people where more or less free to express themselves if they found the right opportunity to voice their specific concern, has become a system in which much wider sections of society can actively participate.

In the past, you needed to have some special access to express yourself – in democracies as well as in *shura* systems. Access was strictly limited to a relatively small number of individuals. However, in democracies, everybody periodically had a chance to cast their vote – an important difference. Today, access is much more widely available. People can and do express themselves all the time on every issue that is of interest to them; they can find like-minded people and build coalitions or networks on specific issues. This facility is available to all, regardless of the political system. Paradoxically, the fact that the web is closely monitored by the security services in non-democratic countries confirms the relevance of expressing oneself in that media. Short of a massive crackdown on freedom of expression (as occurred in Syria, nipping in the bud the timid spring of Bashar's rule), the Internet changes the meaning of *shura* entirely.

My contention is that in most Arab countries, a crackdown is now very unlikely. The penetration of satellite TV has destroyed governments' ability to censor or control passive information. The development of communication systems, leading to massive decrease in the cost of telephone or data communications, is frustrating any attempt to control or limit access to "dangerous" websites. Although the national authorities attempt to "filter" or prevent access to specific web sites (generally ones carrying pornography; but also political sites), access can easily be gained by using foreign providers. In addition, satellite access to the Internet – offered in packages with subscriptions to

pay TV channels – has destroyed whatever residual control the authorities might have had – they can observe, but not control.[28]

Nothing demonstrates the essential uncontrollability of the Internet better than the fact that it has become the medium of choice for al Qa'ida and many other violent opposition groups.[29]

At the same time, as Internet usage becomes more widespread, authorities will be better able to monitor opinion in detail. (It goes without saying that privacy is not protected in Middle Eastern countries.) In general, this is true of all manifestations of the ICT revolution, from the credit card to mobile phones – they offer opportunities to monitor and control individuals.

There is, of course, nothing democratic about this use of the Internet – nevertheless, it does offer authoritarian governments the opportunity to be more responsive to society's concerns on the one hand, and more selective in clamping down on truly dangerous opposition on the other. This is important – to a large extent, a democratic conscience develops out of the stupidity and sclerosis of incumbents holding power, and out of the feeling that the repressive hand of the government is punishing innocent people. As long as repression is "just" in the sense that it is perceived as touching only potentially violent opponents, the majority may very well accept it. It is only when it becomes "blind," and is perceived as affecting individuals that "have been seeking no trouble," that the majority revolts against authoritarian rule and espouses democracy.

## Undefined Polities and Effective Representation

*Shura* also has the very considerable advantage that it can still be practiced in conditions in which the practice of democracy is difficult. Democracy requires polities with well-defined boundaries – you must be able to define who has the right to vote in a clear and satisfactory fashion. If there are potential grievances concerning the attribution of the right to vote, elections are unlikely to lead to a legitimate government.

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28- Rachele Gianfranchi and Rym Keramane, "Internet, Telecom Sector Liberalization and Civil Liberties in the Middle East and North Africa Region", argue that telecom sector liberalisation and the emergence of competitive communications services is positively correlated to increased civil liberties in the region. My observation of the phenomenon in the Gulf countries substantially confirms this hypothesis.
29- Gilles Kepel (e.g. 2004) has argued the point extensively and conclusively.

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In many Arab countries, the boundaries of the polity cannot easily and unquestionably be defined. In many countries, expatriates constitute a significant percentage of the resident population and even outnumber the native population of adult age.

Indeed in some cases, expatriates have been long-time residents and have very significantly contributed to economic development. Nevertheless, the granting of nationality remains a difficult and contentious tool with which to integrate them.

In the extreme case of Dubai, nationals constitute just 5% of the resident population. However, the situation in other emirates is not entirely different – expatriates constitute the majority of the resident population. Only Saudi Arabia is somewhat less exposed, but even there, expatriates are in excess of 25% of the total population and 50% of the active workforce. An electoral process in which only nationals vote is not likely to endow the elected government with great legitimacy, and will very soon lead to questions and tensions concerning who deserves to be called a citizen.[30]

Whenever a large and diverse expatriate population is present, *shura* offers the advantage of allowing expatriates or other "marginal" groups to be heard, without their opinions necessarily being given any pre-defined weight. In a sense, the various groups of foreign nationals are assimilated to (subordinated) tribes, and the ruler can take their existence into account in his game of balancing and consensus-building.

Similarly, the influence of wider identities (Arab, Islamic) is also problematic. "Foreigners" will likely believe that they have a right to intervene in the "domestic" debates of this or that country in the name of their broader identity. Political alliances may be established across boundaries in ways that will solicit accusations of foreign interference and meddling. Loyalty to the state will be questioned or doubted more easily, leading to mistrust and rejection of the verdict of the poll. All these negative phenomena are exacerbated by the development of ICT and the direct penetration of "foreign" media in homes thanks to satellite dishes.

All incumbent Arab regimes pursue a strategy of consolidating their respective states – motivated essentially by a very basic instinct for the survival of the state as precondition for their permanence in power. However, the definition of their "people" is not without problems because of the intensity of personal and

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30- The matter is controversial in both Kuwait and Qatar.

cultural ties across "national" boundaries. In these conditions, the exercise of democracy, as opposed to *shura*, may itself be divisive and a threat to the survival of the state.

## *Leaders and Reluctant Followers*

The fundamental dilemma that the liberal elites of the Gulf must face is that while they would like to see greater accountability on the part of those in power, they also know that in a proper democratic setting, their political weight would be greatly reduced. All the electoral experiments in the region have seen the victory of conservative forces of different shades, while liberals have been entirely excluded from representative institutions in some cases.

This phenomenon has very profound roots, and should not be attributed to purely contingent factors, such as the better organization of the conservative forces, or interference on the part of the incumbent regime. It is entirely to be expected that societies which are exposed to such rapid change as the Arab Gulf countries will try and maintain their bearings by defending certain aspects of "tradition." Thus, from dress code to the social condition of women, from the education curriculum to the modalities of judicial punishment, resistance to change is widespread and deeply ingrained.

The "conservative" or "reactionary" reflex of the majority of people is the obvious reaction of individuals that see their culture and lifestyle – as well as their position in society – challenged by the pace of change. The normal gap and conflict between generations, and between better- and less-educated individuals, is wider and more acute than in most societies. The conflict between genders (to the extent that women challenge their status in society, and certainly not all of them do) is also a powerful force supporting conservative outcomes, because even younger and better-educated males are seldom ready for women to be significantly emancipated.

Furthermore, the "rentier mentality" – i.e. the expectation that the ruler should provide for his people, to some extent independently of each individual's contribution to the economy – is more widespread among the less educated and marginal than it is in the elite. The latter understands the importance of physical and human capital, and has knowledge of industrial societies from direct contact; the former only experiences an economy based on the circulation of the oil rent, and observes the extraordinary accumulation of wealth in the hands of the few.

In this context, the liberal elites promoting the integration of their countries into the globalization process – and their own integration into the global elite – know perfectly well that their agenda is not popular. Their best option is to rally

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behind the enlightened autocrat who leads his country through a period of rapid transformation.

The problem is that the autocrat is not always enlightened – experience has shown that the most extremely conservative rulers are vulnerable to being deposed (as in Yemen, Oman, and Qatar), but clearly, even originally "progressive" autocrats can grow older and tired, and become increasingly unwilling or unable to make controversial decisions or contemplate change. Nevertheless, they cling to power, and the record of their durability is quite remarkable.

Against this background, *shura*, understood as broadened political participation, is certainly part of the agenda of the liberal elites. It is a tool to fight or counteract regime sclerosis, provided that consensualism does not become a trap forcing a slowdown of the pace of change until all components of society are ready for it.

But democracy, understood as a system in which even the ultimate leader can be challenged, remains more controversial. If, at times, it appears to be the only promising option to rejuvenate leaderships, its perils are also all too evident. In many – indeed all – Arab countries, in which traditional rulers have lost power, they have been replaced by less liberal regimes. Not only have the latter not been democratic, they have also been distinctly less participatory. The danger of electoral exercises that are run only once and never repeated is only too clear. Hence the widespread attitude of the region's liberals. They accept democracy and consider it their ultimate goal – but one that is not to be striven for right now.

## *The French President and the Queen of England*

One anecdote has it that when told about the position of some intellectuals who wished to bring about constitutional rule, Prince Nayef, Saudi Arabia's interior minister, exclaimed: "What? They would like the king to become like the Queen of England? This will never be!"

The anecdote is interesting because it causes us to ponder what the role of the incumbent kings and amirs might be in a *shura* system that evolves closer to democratic norms. Is the Queen of England the relevant parallel?

In fact, I submit that a more pertinent parallel may be found in the very republican French constitution. There, which distinction is made between the strategic policy-making level, which is entrusted to the president, and the current affairs or administration level, entrusted to the prime minister and cabinet. This distinction is very relevant to the Gulf oil-exporting countries, and certainly not

entirely alien to the Arab political tradition – where a distinction is normally made between the so-called *sulta* ministerial positions (interior, defence, and foreign affairs – portfolios that are necessarily occupied by members of the ruling family) and the "technical" positions (including petroleum – which is not entrusted to a prince in Saudi Arabia, unlike the tradition in Kuwait).

The problem here is finding an adequate institutional arrangement to separate the allocative and developmental functions – i.e. the management and distribution of the oil rent – from the implementation of developmental and economic transformation projects.

It is widely recognized that democracies – like markets – tend to be shortsighted and are unable to think strategically. Democratically elected governments have a predictable tendency to shun issues whose solution will bring short-term costs and only long-term benefits; they are inclined to overspend in the proximity of elections, promise much more than they can deliver, etc.

It is for this reason that the creation of independent, non-elected agencies is invoked, beginning with an independent central bank. In the specific case of the oil-producing countries, the IMF and World Bank mantra envisages the creation of independently managed oil funds to which the oil revenue (rent) should accrue to be accumulated for the benefit of future generations – without government control. Of course, this is not easy, and we hardly see governments not tamper with such funds to solve some short-term problem – the future will be somebody else's concern.

Attempts to dictate rigid rules that will determine exactly how the oil rent is allocated fail to deal with economic and political realities and needs. Some experts have toyed with the idea that the oil rent should be distributed to the citizens in equal allotments,[31] or entirely or partially invested abroad (which is what an oil fund does), but there is no rigid rule that will be work in all situations.

The point is that in an oil-exporting state, the allocation of oil rent is the key political function, and this cannot be delegated to some funny rule invented by maverick experts.

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31- Interestingly a group of five MP in Kuwait proposed in Februray 2006 the creation of a fund which would receive each year 25 per cent of the profit of the Fund for Future Generations and distribute the cash in equal amounts to all citizens. The Fund for Future Generations receives 10 per cent of oil revenue and is very opaque: its yearly profits are not declared and details of the allocation of investment are confidential (*Arab Times*, February 15, 2006).

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The notion that the administration of oil rent is the key function reserved to the incumbent holders of power, and is to be performed on the basis of *shura* and consensualism, not democratic control, appears to be in line with the prevailing consensus in international financial circles. In this view, the hereditary, non-elected political leadership will be responsible for the establishment and administration of a national fund which will receive the oil revenue. The fund will then decide what proportion should be spent and what proportion invested, and how. It will then allocate the funds to be spent to the regular government budget, or to other institutions.

A clear distinction between strategic functions, i.e. the administration of the oil rent to pursue economic and social development, and the function of administering the state, including developing non-oil revenue sources that will be required in addition to the revenue that is received from the oil fund, may be the key to defining a boundary between an area that may be progressively opened to democratic control and an area which, for the foreseeable future, remains reserved to the sovereign.

Based on this line of thinking, most important step in the direction of bridging the gap between *shura* and democracy is possibly the separation of the office of the prime minister from that of the king or amir. If the prime minister is appointed from outside the royal family, he can effectively be subjected to the control of a parliament that is either already elected, or is likely to mutate from being appointed to being elected.[32]

By the same token, reducing the number of ministers that come from the ruling family or its immediate relations is also a crucial step forward in the direction of greater responsiveness, and is possibly more important than other formal elements of democratization. Of course, pragmatism will be required; it is likely that the *sulta* ministries will continue to go to members of the ruling family for a while and will respond primarily to the sovereign, rather than the prime minister.

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32- This was discussed in Kuwait in early 2006 in the occasion of the accession to the Amirate of Sheik Sabah Al-Ahmad Al-Sabah. Some members of parliament publiscly asked the new Amir to appoint a Prime Minister from outside the family. The Amir confirmed the separation of the post of Prime Minister from that of Crown Prince but again appointed a Prime Minister from within the ruling family. Liberals in the country were deeply disappointed with the new government (see "The future of Kuwait's 'New Era' dim: Liberals" in Kuwait Times, February 15, 2006).

### *Shura, Political Participation, Constitutionalism and Democracy*

This discussion may hopefully help us in framing the issue of the democratization of the Arab countries, as well as the debate on how democracy should best be promoted, in a more flexible and effective way than is commonly the case.

Democracy, in a way, is a black and white affair – either it is there, or it is not – but pretending that it should be implemented immediately may be a simplistic approach and may backfire.

In this respect, the experience of Iraq will be instructive. The elections of January and December 2005 have been a very significant success – notwithstanding the fact that they should ideally have taken place even earlier. Nevertheless, the outcome is clearly not without problems. It is widely recognized that the future of Iraqi democracy will require a degree of consultation and consensualism, much like a *shura* system. Whether this will be possible in the absence of a political authority that is above the political fray (like a benevolent autocrat – or an occupying army) remains to be seen.

The outcome of the Iraqi elections will certainly be noted in neighboring countries for the danger that it may present. All other countries in the region regard the high levels of polarization as having the potential to be extremely dangerous.

The alternative to the immediate creation of democratic institutions does not need to be the indefinite postponement of progress towards democracy. One should certainly insist on freedom of expression as a minimum prerequisite and use political participation as a measurable variable to indicate progress towards democracy.

In historical experience, democracy has rarely prevailed because of pressure from below; more frequently, it has been the outcome of differences of opinion within the elite. As the literature on democratization has shown, it is frequently the contrast within the regime between hard-liners and soft-liners that leads to an opening. This then acquires a momentum of its own, and may go beyond what even the soft-liners intended.[33] In this sense, a process of widening political participation may be expected to be conducive to eventual democracy because sooner or later, the debate will grow beyond the ruler's ability to mediate, and democratic rules will become the only acceptable tools to resolve disputes.

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33- O'Donnell and Schmitter 1986

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*Shura*, therefore, though not democracy per se, may nevertheless indicate that governmental practices are progressively growing to approximate democracy, especially in the age of the Internet. Rather than denouncing *shura* as being short of democracy, liberal elites in the Arab world as well as external promoters of democracy may opt to work with the concept and aim at progressively widening political participation.

There is a lot that can be accomplished without necessarily challenging the position of the incumbent holders of power. Institutional diversification is very important in this context, as it allows for the segmentation of political power into functionally specialized institutions and for multilevel governance. It is not by chance that the first electoral experiment in Saudi Arabia has taken place at the level of municipal elections – there is a long and well-established tradition of conducting experiments at the local level before calling for national elections.

At the central level, the separation of executive power into a "strategic" level – reserved for the incumbent holders of power – and a "tactical" or "technical" one – for disposable appointees from outside the incumbent ruling circle – is very important. Contrary to the thesis that sees "all in the family"[34] as a factor of strength, a narrow definition of the "family's" reserved space facilitates adjustment and meaningful political participation. In this respect, individual countries are in sharply different positions.

Ultimately, the separation of the office of prime minister from that of king/amir or crown prince opens the door for criticism of the government, which is not necessarily also criticism of the ultimate holder of power. It should therefore be regarded as a crucial step in the required direction.

Institutional diversification and the segmentation of power do not coincide with constitutionalism. The notion of a constitution being above the ruler – possibly leading to the latter being held accountable for upholding it – is not easily acceptable in the region. On the contrary, constitutions, which are tools with which rulers can define the modalities and boundaries of political participation are becoming increasingly widespread. These constitutions serve as much to reassert and consolidate the absolute power of the ruler as to introduce new institutions and organized forms of political participation.

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34- Michael Herb, "*All in the Family: Absolutism, Revolution, and Democracy*" Albany: SUNY *Press, 1999*

Again, constitutionalism is not necessarily a step towards democracy, but may institutionalize forums for political participation. The danger is also that it might attempt to define and crystallize the attribution of powers to different institutions too early in the process. This will exacerbate controversy, rather than facilitate participation and a maturation of the political debate.

The experience of Bahrain, with the continuing controversy on the respective powers of the House of Deputies and the Shura Council, exemplifies the potential pitfalls of constitutionalism. The adoption of a bill of rights, and guarantees for basic individual freedoms, particularly including freedom of political expression, may be more important than adopting a proper constitution, especially if the latter is potentially controversial and written prematurely.

The worst thing that can happen in the path towards regional democratization is the adoption of democratic appearances while the substance of authoritarian rule is maintained. The experience of fraudulent elections, cowed parliaments, and hereditary presidencies-of-the-republic-for-life are the worst outcome for democracy, because they breeds disillusionment with the very idea of democratic rule. It is much easier to convince people that change is possible and is taking place in regimes that are openly authoritarian, but are evolving towards greater political participation than in regimes that are formally democratic, but in fact just as authoritarian, if not more so.

# Biographies

Camille **Ammoun** is a PhD candidate in political sociology at Sciences Po in Paris. He is currently working on state-society relations in Saudi Arabia. He wrote his master's dissertation on the Saudi Consultative Council. He holds a master's degree in international relations from Johns Hopkins University and a BA in economics from the Saint-Joseph University in Beirut. He also acquired experience in business banking and management consulting after graduating from the HEC business school in France.

Steffen **Hertog** holds an MA in politics, economics and law from Bonn University, an MSc in the theory and method of social sciences from SOAS in London, and will complete his PhD about Saudi economic reforms at the University of Oxford in early 2006. He has been traveling and working in the Middle East extensively, inter alia as consultant for a Gulf government in 2003 and 2004. He is author of "Segmented Clientelism: The Political Economy of Saudi Economic Reform Efforts," in Paul Aarts and Gerd Nonneman (eds.), *Saudi Arabia in the Balance* (NYUP/Hurst, 2005).

Abdulhadi **Khalaf** is Senior Lecturer in Sociology of Development at Lund University. After getting his PhD in 1972, he was elected as a member of Bahrain's parliament in 1973-4. He has worked as a senior researcher and consultant at Team International, Beirut; the Arab Development Institute, and UN-ESCWA. His current research interest is the role of NGOs in the democratization processes in the Gulf region. His most recent publication is included in the Swedish language anthology *'Social Movemen*ts.*'* His published books in Arabic include, '*Conditions and needs of Working Women in Bahrain' (1983), 'Civil Resistance'* (1986), and '*State-Building in Bahrain*' (2004). His publications in English include *The Unfinished Business – State Building in Bahrain*, (2001).

Andrzej **Kapiszewski**, who received his PhD in 1976 from the Jagiellonian University in Krakow, Poland, is Profesor of Sociology and Political Sciences, and Chair of the Department of Middle East and Far East Studies at Jagiellonian University. He has previously served as Polish ambassador to the United Arab Emirates and Qatar and as president of Andrzej Frycz Modrzewski Krakow College. He has been a visiting professor at several American universities including Stanford University, the University of Wisconsin-Milwaukee and

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Giacomo **Luciani's** career has been marked by repeated "trespassing" between academia, industry and government. Since June 2000, he has been Professor of Political Economy and Codirector of the Mediterranean Programme of the Robert Schuman Centre for Advanced Studies at the European University Institute. Currently, he is also Professorial Lecturer in Middle Eastern Studies at the Bologna Center of SAIS (Johns Hopkins University). He has consulted for various international organizations and Gulf governments. His research interests include the political economy of the Middle East and North Africa and the geopolitics of energy.

His main line of research has concerned the rentier state and democratization. His publications include "The Rentier State" (coeditor and coauthor); "The Politics of Arab Integration" (coeditor); "The Arab State" (editor and coauthor); and chapters in "Democracy without Democrats?" edited by G. Salame; "Political Liberalization and Democratization in the Arab World" edited by R. Brynen, B. Khorany and P. Noble; and "Modernization, Democracy and Islam" edited by S. Hunter and H. Malik.

In more recent times, Professor Luciani has worked on EU-GCC relations, contributing to the Bertelsmann Foundation's report "The EU and the GCC. A New Partnership" (2002; updated in 2005). He and Tobias Schumacher authored the book "Relations Between the European Union and the Gulf Cooperation Council, Record and Promises for the Future" (2004). He also coedited and coauthored the book "Regime Change in Iraq: The Transatlantic and Regional Dimensions" (2004).

Farah **Al-Nakib** holds a BA in Journalism and Modern Middle East History from George Washington University in Washington DC. After graduating, she has served as Media and Research Coordinator at the Center for Strategic and Future Studies at Kuwait University, and then as Director of Admissions at the American University of Kuwait.

Gianluca Paolo **Parolin** has completed his PhD in public law with a dissertation on citizenship in the Arab world. He has devoted his studies to comparative

public law and Islamic law at the University of Torino (Italy), but most of his research has been carried out in Arab research centers *min al-Khaleej ila al-Muhit*. Among his main interests is the application to the Arab world of the traditional methodology of legal comparison in the constitutional area, especially its outcomes in the Gulf region. He has published several articles and essays on contemporary issues regarding constitutional developments in GCC states in general and Bahrain in particular.

Abdulaziz **Sager** is the chairman of the Gulf Research Center (GRC), which he established in Dubai in July 2000. He is also the chairman of Sager Group Holding, founded in 1980 in Saudi Arabia, which is active in the fields of information technology, aviation services, and investments. He has a special interest in Gulf political and strategic issues and is a regular contributor to many Gulf newspapers including *Khaleej, Al Sharq Al Awsat*, and *Arab News*. He is a frequent participant in regional and international forums and conferences on Gulf issues, and through the GRC has organized joint events with NATO, the International Institute for Strategic Studies, the Carnegie Endowment for International Peace, the Bertelsmann Foundation and many other groups. He holds an MA in International Relations from the University of Kent at Canterbury, and is currently working on a research program entitled 'Gulf Security: Political Interactions and Perceptions (1971-2003) – A Comparative Study of the GCC States.'

Dr. Naomi **Sakr** is Senior Lecturer in Communication at the School of Media, Arts and Design at the University of Westminster. She is the author of *Satellite Realms: Transnational Television, Globalization and the Middle East* (I.B. Tauris, 2001), editor of *Women and Media in the Middle East* (I.B. Tauris, 2004), and a contributor to recent books on global media flows, television policy, Al-Jazeera, the making of journalists, international news, the regionalization of transnational television, media reform, and governance in Gulf countries. Her articles have also appeared in journals such as *Critique: Critical Middle Eastern Studies*, *Gazette*, *Javnost/The Public,* and *Social Research*. Her principal research interest is media policy in the Arab Middle East.

Marc Valeri received a PhD in political science from the Institut d'Etudes Politiques of Paris in 2005. He is now a Jean Monnet Fellow at the European University Institute in Florence, Italy. He has contributed to the Etudes du CERI (2005), to a special volume of *Maghreb Mashrek* (2003) about the Gulf monarchies, and to several recent conferences on the Gulf (in Abu Dhabi, Paris, and Florence). His current works deal with authoritarianism and political legitimacy in Oman and the Gulf.

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