



Parliamentary Book Shelf

The Saudi Majlis Ash-Shura: Its National & International Roles
by Dr. Mohammed Abdullah Al-Muhanna , Riyadh, 2009, 212 pages.

With the increased attention being given to the Middle East and their insurgent revolutions demanding more open and democratic societies, it is extremely beneficial to have up-to-date scholarly books pulling back the curtain on the legislative institutions within these autocratic regimes so we can learn more about their formal powers, how they are structured and operate, and how they relate to the broader civil society. Dr. Al-Muhanna, was born and still lives in Riyadh and has graduate degrees from George Washington University (U.S.A) and Durham University (U.K.). He has given us an excellent overview of one of the world's most intriguing parliamentary chambers, Saudi Arabia's Shura Council.

Anyone who visits the Shura Council is immediately overwhelmed not only by its state-of-the-art architectural design combining the originality of Islamic and Western styles but by its modern technological infrastructure which includes computer screens at members' desks, electronic voting with fingerprint identification, televised plenary and committee proceedings, and large press rooms and public galleries. And anyone who has had the pleasure of meeting and getting to know

the members of the Shura Council cannot but be impressed with their intelligence, their training and their commitment to improving the economic and social conditions of their people. Over 65 per cent of the 150 Council members hold doctoral degrees, many from top Western universities and about 20 per cent hold masters degrees. In terms of occupational backgrounds, about 40 per cent are in the academic and educational fields and over 30 per cent have worked in government ministries and institutions. They are by and large an impressive group of knowledgeable legislators.

In keeping with his Western-based social science education, Dr. Al-Muhanna has taken a functional approach to his study of the Shura Council, focusing on its legislative and oversight functions. He also spends considerable time placing the chamber's roots within the country's Islamic heritage and cultural tradition. "Ash-Shura" means consultation. Al-Muhanna writes that the Saudi ruler "should consult his people, because Allah ordered His Prophet...to consult the Muslims by saying: 'and consult them in the affairs.' This order is directed to the Prophet, who was supported by revelations from Allah, and should apply to the ruler who must follow his footsteps." (p. 46)

The Council, especially since 1992 when it was re-modeled

and re-vitalized by King Fahd in the aftermath of the Gulf War, without question makes a significant contribution to the legislative process through its right to initiate legislation and to be consulted on draft legislation. Its main rival is of course the Council of Ministers whose government departments and agencies the Shura Council attempts to oversee. Both bodies are secondary to the King who is his own Prime Minister and who at the end of the day makes all final decisions. However, the Shura Council unlike many other legislatures is hardly in decline but instead is on the rise. In a country whose Basic Law states that the King has absolute authority, the Council as the author says "has played a significant role in legitimizing the participation of citizens in decision-making and rationalizing the process of formulating and implementing public policies." (p. 194)

While the book provides invaluable insight and data about the Council, it could have taken a more detached and critical approach. Al-Muhanna makes no comment on the fact that political parties which are instrumental to the workings of legislatures are illegal in Saudi Arabia. He claims that the 1993 appointments of Council members "were welcomed by almost all sections of the Kingdom's community..." (p. 76) despite the fact that no women were appointed. All appointments to the Council are

made by the King. Half of the members may be re-appointed for another four year term but again that depends on what the King thinks of you. The Chamber's budget must be approved by the King. The Speaker and Vice-Speaker who wield real power in how the Council operates are appointed by the King. While the Council may seemingly have the right to call government witnesses to appear before it, in fact the Speaker has to submit to the King requests to summon any government official beforehand. The dominance of the executive over the legislative is overwhelming. It is as if the author has no concept of parliamentary privilege, which is the cornerstone of any legislative role.

It is unfortunate that Dr. Al-Muhanna did not comment on whether the Shura Council should have a role in the transfer of power from the founder's (King Abdul Aziz) children to the next generation of rulers which could happen fairly soon. Right now that job belongs exclusively to the Allegiance Commission which restricts the process to the ruling family itself. As others have pointed out, the Shura Council could play an important role in the succession plan especially if there is deadlock within the Commission. Assigning the Council with a constitutional role in this matter might provide greater legitimacy to the Saudi ruler whoever it may be.

In 2006, the Inter-Parliamentary Union published a learning guide to good parliamentary practices entitled *Parliament and Democracy in the Twenty-First Century*. It claimed that every parliament should have five key characteristics. They should be representative, transparent, accessible,

accountable and effective both at the national and international levels. It is hoped that the members of the Shura Council will keep these benchmarks in mind as Saudi society and political culture evolves.

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**Politicians above the Law:
A Case for the Abolition of
Parliamentary Inviolability**
J.P. Joseph Maingot, Q.C., with
David Dehler, Q.C. Ottawa:
Baico Publishing Inc., 2010.

This book deals with a significant topic, of interest to a well-defined, but rather limited audience of specialists. It examines the application of the rule of law, and in some respects the application of the rules of law, to parliamentarians. It also contrasts the treatment in law that parliamentarians receive in countries that apply parliamentary immunity, vis-à-vis those that subscribe to the doctrine of parliamentary inviolability.

The core of the issue is that in order to be able to accomplish their official duties freely and without hindrance, members of all parliaments need a certain degree of exemption from the general law applicable to the population at large. To some degree, this is a reflection of parliamentarians' need for a margin of professional manoeuvre in their work: within their respective houses, they must have some freedom to state publicly what needs to be said

so that the legislative body they belong to can make appropriate decisions. In some measure, this is also a factor of the relationship, including the stresses and strains between the legislative branch of the government and the others, in particular the executive. Legislators ought not to be subject to prosecution by the executive arm of the state for performing their tasks, sometimes in opposition to the executive's policies. Legislators also need some other ancillary freedoms, in particular ones that relate to the legislature having first call on their professional time.

The real question treated here is the extent of the necessary exemption. Generally speaking, Maingot classifies all countries of the world into two groups: those of the English speaking genre, namely the Commonwealth and the United States in one category, and the rest of the world in the other. The Anglo countries apply a regime of parliamentary immunity, in which the exemption granted to parliamentarians is limited. The rest of the world has adopted a much broader set of exemptions, namely parliamentary inviolability. This book reasons that this latter type of regime is too broad and is unjustifiable in a modern, democratic context. Maingot has a point and, despite the respect that should be accorded to a former Law Clerk of the House of Commons of Canada, it must be said that he could have presented his argument more strongly.

It is questionable why the author chose to lump all non-Anglo countries into a single category. When he combines all countries that adhere to the doctrine of parliamentary