

EVOLUTION OF THE CONSTITUTION OF SAUDI ARABIA

Introduction

On October 20, 2006, The Custodian of the Two Holy Mosques King Abdullah ibn Abdul-Aziz issued a Royal Order establishing a Council called “the Bay’ah Council”, institutionalizing the process for determining the future succession in the Royal Family. The Bay’ah is the compact that binds the ruler to the ruled in Islamic Shari’ah. The ruler commits himself to follow and protect Islam, to safeguard the welfare of the citizens, and to protect the land and the security of the country. The ruled, in turn, are bound to give advice and to be loyal to the ruler in everything except that which contradicts Islam. This new landmark law is yet another major step along the road of constitutional reform, and the latest development in Saudi Arabia’s evolution. This evolution actively embraces the continuing constitutional evolution and modernization in the Kingdom, which goes hand in hand with the development of the State and the society in Saudi Arabia. Such development is characteristic of the Saudi experience, and will be followed by other developments when the need arises.

Role of Islam in politics in Saudi Arabia

Commitment to constitutional reform in Saudi Arabia, in the political behavior of modern Saudi monarchs, is deeply rooted in the rich history of continuing traditional Islamic practices in the Kingdom. The Shari’ah, derived from the Qur’an and the Sunn’ah, forms the basis of the Saudi constitution. For the Saudi people and their rulers,

Islam is the basis and context of their thinking, feelings, and behavior. It touches every aspect of their lives; it motivates them, provides guidelines to citizens for their relationship with their rulers and officials, and it provides them with a framework for their everyday actions.

Politics and government are viewed as constituting only one sphere of religion. Constitutional Islamic values such as the concomitance of belief and deed, Shura or mutual consultation, the duty of hearing and obeying, the duty of enjoining rightful behaviors and beliefs and forbidding wrongful ones, and responsibility and accountability, drive citizen participation in the Kingdom's political system.

The Saudi succession system is also consistent with Islamic tradition which was developed by Muslims in accordance with their times, circumstances, and principles. The first four caliphs (Al-Kholafa Al-Rashidon), were selected through nomination and consultation among Ahl Al-Hal Wa Al-Aqd (the people who tie the knot and untie it), (a group of honest, wise, experienced and righteous people who possess the right to elect or remove a ruler) who engaged in extensive consultations to build a consensus and then gave the Bay'ah to a potential Khalifah whom they found worthy- as followed by Caliph Umar. Another method is through appointing a successor in a process known in Islam as "Istikhlaf", a practice previously followed by Caliph Abu

Bakr when he appointed Caliph Umar as his successor prior to his death. Either process must be followed by the general consent of the people including Ahl Al-Hal Wa Al-Aqd in a process known as Bay'ah, which I defined before. But let us now jump to the Saudi practice and experience with succession, Shura (consultation), and constitutional change

Practice of
Islamic
Constitutional
Principles
in the Early
Saudi States
(1744)

The importance of Islamic Constitutional values was evident in the 18th century when the ruler of the first Saudi State, Muhammad ibn Sa'ud, allied himself with the religious reformer at that time, Mohammed ibn Abdul-Wahhab. The relationship between both leaders laid the Islamic foundation of the State. Since that time this constitutionally Islamic-based principle of consultation has been firmly adopted in the administration of the Kingdom.

Mohammed ibn Abdul-Wahhab, began to preach in favor of a return to the original teachings of Islam. He formed an alliance with Muhammad ibn Sa'ud who at that time ruled over the town of Dir'iyyah, in Najd, the central region of Saudi Arabia. The two Imams signed a covenant in which the religious leadership was given to ibn Abdul-Wahab and the political leadership maintained by Ibn Sa'ud.

Flexible and
Tolerant
Version of
Islam

Since its early stages, the Saudi State adopted, what was, at times, a flexible and tolerant practice of Islam. For

example, when Imam Sa'ud Al Kabeer captured Makkah in April 1803, he annulled all excessive taxes but did not remove the Ottoman's appointed Chief Qadi (judge) who ruled according to the Hanafi School of Fiqh which was the official rite of the Ottoman Empire and not the Hanbali School of law which inspired the teachings of Muhammad ibn Abdul-Wahab. That showed a dynamic, flexible, egalitarian and tolerant approach of the Saudi Rulers in their practice of Islam.

**Early
Administrative
System**

The First and Second Saudi States followed the early Caliph Umar model who laid the administrative base of the empire, creating the offices of Qadi (Judge) and Wali (Governor), and establishing fixed taxes. However, it did not transform into well-defined and organized institutions that manage and administer and assist the executive authority in managing the affairs of their expanding territories.

**Conditions of
State
Government in
the Arabian
Peninsula
(1843- 1902)**

In the early Saudi States, the lack of state institutions that safeguarded the needs of the state and society is linked to the failure of both states. It allowed invaders to inflict grave damage to the social fabric, and to polarize the tribes in Al-Hijaz and Najd, when the Ottoman armies invaded Arabia to crush the Saudi State. The loyalty of the tribes was fickle, to say the least. The rulers of the first state found themselves besieged and without enough financial and military support from the tribes. The second Saudi state fell chiefly because of internal disputes among

members of the Sa'ud family as well as the disloyalty of the tribes, who changed sides constantly, exchanging benefits according to their current interests.

In 1924 Abdul-Aziz ibn Saud took control of the Hijaz (the Western Province of Saudi Arabia), ending a long journey of battles to unite a vast but torn and fragmented territory. The demise of the first and second Saudi states in the 19th century provided Abdul-Aziz with lessons to be learned in his struggle to unify the Kingdom. He realized that Islam is the only solution attached to the culture, history and circumstances of the nation and the feelings of its inhabitants. Unity was accomplished because Abdul-Aziz took the Qur'an and Sunnah as the sources of its constitution, its legal system, education, information and all other fields of life. He succeeded not only in unifying the country but also in proving the credibility of the Islamic solution and its validity for his time. He also instituted a revolutionary practice which deemed that owning land and farming are prerequisites for the stability and loyalty of the shifting interests of the nomadic tribes of Arabia.

**Saudi Modern
State:
Application of
Islamic
Constitutional
Principles**

The legitimacy of the Al-Sa'ud monarchy emerged from its adherence to the principle of consultation and the relatively smooth transitions in the succession to the leadership. King Abdul-Aziz's truly significant decision to implant the concept of Bay'ah established by the

Shari'ah (Islamic Law) and sanctioned by tradition personified his legitimacy. Such implementation was carried out from the first date on the road of uniting the country. In recapturing Riyadh, the criers were out in the city, announcing to the people: "Ajlan has been killed, and the rule belongs to Allah first and to Abdul-Aziz ibn Sa'ud next." Abdul-Aziz recognized that the principle of consultation (Shura) had been and still was an integral part of Arab Muslim life. He awaited his father's arrival in Riyadh. Imam Abdul-Rahman was the ruler who carried the Bay'ah of the people of Riyadh before he went in to exile, ten years before. But he recognized the outstanding qualities of his son, and thus abdicated in his son's favor. In a general meeting in Riyadh in June 1902 the people of Riyadh, lead by the Ulama and the notables (Al-A'ayan), gathered in significantly large numbers, to give the Bay'ah and pledge their confidence and loyalty to their new Imam, Abdul-Aziz. Abdul-Rahman ceded the sword of Saud the Great, who had conquered all of Arabia, a century before, to the new Imam. By adopting the principles of Shura and Bay'ah, Abdul-Aziz accepted these values as the binding and the legitimizing standard for Islamic governance in the current Saudi State. Such public gatherings and solicitations of the Bay'ah followed suit in every town and region where Abdul-Aziz extended his reach; in the Qasim, in 1904; in alAhsa, in 1913; in the Hijaz, in 1924-25. In each phase, he took on a new title, and a new constitutional entity that suited the time and the increased territory that was added to his realm. As his

forces surrounded Hayel, in August, 1921, in a public gathering, in Riyadh, he was given the Bay'ah as the Sultan of Nejd and its Dependencies. In 1926, he was given the Bay'ah as King of the Hijaz and Sultan of Nejd and its Dependencies, thus acquiring new constitutional responsibilities.

To Abdul-Aziz, the principle of Ash-Shura was much more than consulting the Ulama or elected representatives. Even before he marched on the Hijaz, he had begun to collect a coterie of advisors from the Arab world. They became al Shu'ba As-Siyassia, or the political department, and which met on a daily basis to review Saudi and international events. The King's decision-making benefitted greatly from the varying and often opposing opinions that were expressed freely in this gathering.

Simple
Administrative
Process
(1902-1926)

King Abdul-Aziz superimposed an effective territorial state upon the old tribal structure. At the beginning, the administration of Najd and al-Hassa was fairly simple. Most of the towns had an Amir, a Judge, and a treasurer, all under the king's authority. The king delegated some of his authority to his son Sa'ud in matters concerning Najd and to ibn Jalawi, governor of al-Hasa, in matters concerning that province. The Hijaz presented an administrative challenge to the king due to the complexity and long established political practices of this region. However, King Abdul-Aziz always had his eyes on

implementing a nation building processes that fit the needs and aspirations of the people and grew through the people's assessment of what will best serve the nation and its citizens. Indeed, a close examination reveals that the Kingdom went through several stages of progressive evolution, in which the kingdom's constitution and representative institutions maintained its Islamic identity and matured with the development of the nation and the society in the Kingdom of Saudi Arabia:

First Stage:
The
Establishment
of "The
National
Council"
(Jan., 1926)

As we have seen, first, Imam, then Sultan, Abdul-Aziz ruled through the Amir and the Qadi of a region. There was even the title of Mansoob, or appointee, which worked well for the Imam and the Sultan. The establishment of the "The National Council" followed King Abdul-Aziz's entry into Mecca, in December, 1924, when he became King of the Hijaz and Sultan of Nejd and its Dependencies. Ameen alRehani the Arab-American historian gives a delightful and inclusive account of Abdul-Aziz's first few days in Makkah, in his book, "The History of Nejd and its Dependencies". You will bear with me for my translation of the account. " When he arrived in alAbtah, in the outskirts of Makkah, on the evening of the 7th.day of Jamada Alaoola, in the year 1343, the 4th.of December, 1924, Abdul-Aziz reigned in his camel and mounted a stallion and entered the heart of the city, as a pilgrim, followed by his entourage, all as pilgrims. On the third day he met with the people of Makkah, including the 'Ulama of the Haram, Holy

Mosque, and of the environs. He delivered to them a long and eloquent religious, social, and political speech. We select from it the following quotation: "The most precious lands are those in which the Shari'ah of God is applied, and the best people are those who follow the rule of God. God has honored this "House" and its standing from the day when our Master and Prophet Abraham, peace be upon him, rebuilt its thickness. The Arabs, even during their apostasy, revered it." And then he continued: "What I want for these lands is to act according to what is in the Book of God and the Sunnah of His Prophet, in the basic teachings. But in ancillary matters, the differences between the أئمة (the 4 imams of Sunni Islam) is a mercy." And then he said, with sincerity: "Now I am in your conscience and you are in mine. Religion is advice. I am of you and you are of me. This is our belief in the books between your hands. If there is anything in them that counters the Book of God, then ward us of it, and ask us about what troubles you. The judge between us is the Book of God and what came down in the books of the Hadith and the Sunnah.....We did not obey ibn Adul-Wahhab and others except in what they supported with a verse from the Book of God and the Sunnah of his prophet. Our decisions are derived from the Ijtihad (interpretation) of the Imam Ahmad ibn Hanbal. If this is agreeable to you, then, let us swear to do as the Book of God ordains, and the Sunnah of the Prophet and the Sunnah of his exalted Successors. Some of those present said: "We swear", but the Sultan countered: "Tell us with

frank speech what is on your minds". Again, some of those present said that they have nothing other than this. The Sultan said: " I beseech you by the Almighty, do not dissimulate (use tuqyah). Do not keep things from us." One of the Ulama said: " Allow us to meet with the Ulama of Nejd so that we will discuss the basics of the creed and the ancillaries, and we will decide on what we will agree, inshallah, God willing." On the 21st of Jamada alAoola, the 18th of December, fifteen Ulama from Makkah met with seven from Nejd, and they discussed the basics of the creed and its ancillaries. The Ulama of Makkah then issued a statement that said: "Agreement has been reached between us and the Ulama of Nejd", to the rest of the statement. Without that agreement, the following developments in the constitutional evolution could not have taken place. The most important tradition had always been to follow the Quranic call of reaching decisions through consultation. For this reason, the King introduced a "Consultative Council" named "The National Council" (al-Majlis al-Ahli). In December 1924 and after taking control of the rest of the Hijaz, the King called for a meeting to which he invited the dignitaries of Makkah. At this meeting, King Abdul-Aziz asserted: "I see no better way for you than leaving the responsibilities of action to you." He summed up the task in an Arabic metaphor: "They will be eyes for me and ears for the people: they listen to their complaints, look into them then come to me." To underline the seriousness of their task, he warned "You find some governments creating

consultative councils but many of them are more illusionary than real. They are made only to be said that there are councils and organizations I do not want illusions but I want facts.”

Members of the Council were elected from three sectors of the community: the Ulama, the dignitaries (A1-A’ayan), and the merchants. Each sector elected a number of representatives to the Council. January 22, 1925 marks the first Saudi model of people’s participation in the administration of state affairs. The representatives of the three groups of Makkah chose fifteen members as well as the president of the Council. In the first several meetings, the council specified its powers, and left those concerning foreign and military affairs in the hands of the King.

Second Stage:
The
Establishment
of the
Consultative
National
Council (Aug.,
1926)

Six months later, a new Council with a broader and more sophisticated member base was established. The council was composed of two religious scholars (Ulama), a representative of the merchants, three competent members from the government and all of Mecca’s 12 districts representatives. The functions of the new Council included reviewing the court system, internal security, education, health, trade, communications, and municipal affairs. The Council was inaugurated on August 2, 1925. The importance of the “National Consultative Council” is that it was the heart of the General Consultative Council which played an important legislative role prior to the creation of the Council of Ministers.

Establishment of the Constituent Assembly (1926)

In 1926, Faisal, son of King Abdul-Aziz, was appointed as Viceroy of Makkah. He was assisted by a small consultative council composed of three members appointed by the King. In addition, a Constituent Assembly was established to propose a draft of the Basic Regulation of the Hijazi Kingdom. It consisted of thirteen members, eight of whom were chosen via secret ballot by representatives of the various cities of the Hijaz, and the other five, including the chairman, were appointed by the King.

Third Stage: Approval of the Kingdom First Written Constitution: Basic Regulation (Al Talimat Al-Assasih) (Aug. 30, 1926)

The Constituent Assembly took seven months to complete its work and propose a draft for promulgation. This took place on August 30, 1926, and the Basic Regulation was published in the official newspaper on September 3, 1926. This Constitution consisted of nine sections and seventy-nine articles that dealt with: The Kingdom (of the Hijaz), the System of Government (Islam), the Capital (Makkah), the Official Language (Arabic), Administration of the Kingdom, the Legal System (Shari'ah), the Viceroyalty, the Administration's Responsibility; the Affairs of the Kingdom; Assemblies: (1)the Consultative Council, (2)the Council of Madinah, (3)the Council of Jeddah, District Councils, Tribal and Village Councils; Board of Accountability; General Inspectorate; Employees; General Municipal Councils; and Municipal Administration Committees.

A.
Establishment of the Consultative Council (Majlis Ash-Shura)

The Consultative Council was composed of twelve members, the Viceroy, his advisors, and six persons to be chosen by the King from among people known for their efficiency and ability for a period of one year. It discussed matters brought to its attention by the Viceroy. Both cities of Jiddah and Madinah had administrative councils consisting of the Qaim Maqam, or Mayor, his deputy, and four dignitaries to be chosen by the King from among those who were known for their efficiency and ability for a period of one year.

B.
Establishment
of the District
Councils

A council was established in each neighborhood and was composed of the district chief, his deputy, and a number of notables chosen from among the qualified people in the district. Its decisions were submitted to the deputy (Qaim Maqam) who in turn submitted them along with his own remarks to the Viceroy, where they were then proposed to the King for his approval.

C.
Establishment
of the Village
and Tribal
Councils

The Basic Regulation assigned a council for each village and a council for each important tribe composed of the tribal chief at the village, a religious deputy and two notables. On April 2nd, a proclamation was issued by Abdul-Aziz which referred to the Ahl al Hal Wal Aqd of the citizens of Nejd as proposing to him that he become King of the Hijaz and Nejd, thus unifying both administrative entities into one Kingdom. The Basic Regulation, now, ruled both, the Hijaz and Nejd

Establishment
of the
Commission of
Inspection and
Administrative
Reform
(July 8, 1927)

One year after the approval of the Kingdom's first written constitution, the King ordered the formation of a committee known as “The Commission on Inspection and Reform.” The Commission's mission was to evaluate the administrative system and to come up with recommendations as to the best ways for reform. On the top of the list of the recommendations submitted by the Commission's seven members to the King was a proposal for a new Consultative Council. The proposals were approved by the King and a new statute for the Council was issued on July 8, 1927, naming it the Consultative Council.

Fourth Stage:
Establishment
of the
Consultative
Council
(July, 1927)

The council was composed of eight members under the chairmanship of the Viceroy. Another method of electing its members was adopted. Four were chosen by the government after consultation with “Ahl Al-Hal Wa Al-Aqd.” The other four were chosen by the government at its discretion but two of the last four must be Najdis. On the same day that the statute of the Council was issued, the King stated: “We looked into the matter of the Consultative Council on which the people depend, and we wanted to leave the question of electing its members to the people, and we wished for all the people to participate.”

The works which the government proposed to the Council included the following: budgets of public agencies, amendments to the annual budget; licenses and

concessions for economic and construction projects; the expropriation of property for public interest, decisions regarding employment of foreign nationals; and the legislation of laws and statutes.

It is worth noting that all laws enacted during that period were first studied and discussed by the Council. In that respect, King Abdul-Aziz said, and I quote: “I have ordered that no law be issued and applied in the country before it is presented to your council by the Attorney General’s office, and that you modify in full liberty, in a form beneficial to this country and its visitors, the pilgrims of the Holy Mosque. You know the base of our system and rules is the Islamic doctrine. In this circle you are free to issue any law or regulation and approve any dealing you determine serves the interests of the country, on the condition that it does not contradict Islam,” end of quote

In addition to its proposed work, the Council was authorized to draw the attention of the government to any mistakes in the application of laws and statutes. The Council was an improvement on the original one in the sense that it was given more specific duties and explicit rights to differ from the government. On Sunday, July 17, 1927 the Council convened its first session.

In 1928 a new amendment was issued that increased the Council members to twelve and assigned a permanent

Vice Speaker whose nomination was made by the King, with an elected second Vice Speaker by the Council; it increased the frequency of Council's sessions from twice a week to daily. The Council continued working under the same system without any amendments and exercising wide jurisdiction until the establishment of the Council of Ministers in 1953.

Fifth Stage:
Establishment
of the Council
of Deputies,
(Majlis Al-
Wukala)
(Jan., 1932)

As the task became more complex in modern times, the Kingdom came up with new processes to preserve the tradition of Ash-Shura. One of the recommendations of the Commission on Inspection and Reform of 1927 was the establishment of an organization that assists the Viceroy on executive matters. This highlights the Commission's awareness of the need to distinguish the executive from the legislative role, and recognition of the need for reform in both the instructions and the statutes of the Consultative Council. In August 1927, the King approved the recommendation of the Commission, followed in January, 1932, by the establishment of the Council of Deputies (Majlis al-Wukala). This Council could be considered the predecessor of the Council of Ministers of 1953. All of these developments almost came to naught. Trouble was brewing in the realm. With peace coming in 1925, the Ikhwan, the movement that Abdul-Aziz instituted in 1912 to settle the nomadic tribes and to use their religious fervor in uniting the Kingdom, began to agitate for more authority in the land. Ibn al Dawish, their legendary leader and confidant of Abdul-Aziz along with

ibn Bijad, began to vie for political independence from Abdul-Aziz. They began to raid Iraqi and Jordanian territory, in defiance of the orders and wishes of Abdul-Aziz. He had signed agreements with the British, delineating the borders between his lands and those of the Sharifi rulers of Iraq and Jordan. Ibn al Dawish and ibn Bijad began to criticize Abdul-Aziz for making deals with the infidel, thereby challenging his very faith and, hence, his legitimacy as the ruler. As was his practice, Abdul-Aziz used patience and discussion to meet the challenge. Twice he forgave the dissidents for their disloyalty, and in 1928 he called for a general conference, where the Ulama, representatives of the rebels, the people of Nejd, and Abdul-Aziz joined battle, with words, about who was right and who was wrong. 800 persons were in attendance. Abdul-Aziz reviewed his accomplishments and achievements and after the sentiment filled speech ended, he proposed that he step down as ruler and the assemblage could then choose a replacement for him from the Al Saud. All those assembled started weeping and expressing their refusal of his abdication, after which, they all reaffirmed their Bay'ah to him and swore to follow his lead. Alas, ibn al Dawish and ibn Bijad continued their rebellion. On the 30th.of March, 1929 the two hosts met in the desert oasis of al Sibalah. The Ikhwan were protected by stone berms that they had built, and Abdul-Aziz headed towards them from where he had camped, facing their fortifications. He called for his steed and when he mounted, he spread his warriors along a

three mile front. They were mostly townspeople and a few Bedu. The chief of the Harb tribe, Abdul-Muhsin al Firm, led the cavalry. Abdul-Aziz occupied the center with his brother, Muhammad leading the left flank, and his son, Saud, leading the right flank. In the end there wasn't much of a battle. Abdul-Aziz and his troops charged the fortifications of the Ikhwan, who, presently, fled their positions, ceding victory to Abdul-Aziz. Ibn al Dawish fled, and sought refuge with the very infidels whom he had disparaged Abdul-Aziz for dealing with, the British, in Kuwait. After a few months, the British, after hard negotiations and recrimination by Abdul-Aziz, delivered al Dawish to him. And thus peace reigned, and Abdul-Aziz continued his revolutionary efforts to unify his realm.

Sixth Stage:
Unification of
the Kingdom
(Sep. 23, 1932)

On September 23, 1932 Saudi Arabia was proclaimed, and a new State came in to being. The previous condition was too complicated and cumbersome both from an administrative as well as from a constitutional point of view. The Kingdom of the Hijaz and Najd and its dependencies not only did not sound like a country but it also emphasized that there were two distinct states joined together by one man. The birth of Saudi Arabia laid all of that to rest. The people now carried one nationality, the Shura Council represented them all and they had one king for all.

Approval of
Nizam Majlis
al-Wukala
(Dec. 30, 1932)

On December 30, 1932, the government issued the Deputies Council Ordinance (Nizam Majlis al-Wukala). The Council was composed of the Deputy of Foreign Affairs, the Deputy of Financial Affairs and the Deputy of the Consultative Council. The Council of Deputies functioned for twenty one years until the creation of the council of Ministers in 1953, which brought all the provinces of the Kingdom under its own jurisdiction.

**Gradual
Reform:
Building the
Institutional
and
Administrative
Base
(1930 – 1954)**

During these early stages of rule, King Abdul-Aziz established several specialized administrative entities, mostly in the form of directorates as a modern administrative organization, departing from the traditional administrative system of the First and Second Saudi States. He also established diplomatic relations in accordance with officially recognized political representation, including the appointment of ambassadors.

Two sets of developments helped to bring major changes. The first was the discovery of oil in the Eastern Province in the 1930's which added another source of income to the Hijaz as the province that contributed the only source of national income. The second was the increasing complexity of government affairs which rendered the old type of administration inadequate. The increased complexity of government affairs forced a gradual reform in the character of internal administration and led to the establishment of many ministries. A number of centralized departments were founded which eventually

paved the way for the establishment of the Council of Ministers. The Ministries of Foreign Affairs and Finance had already been in existence since 1930 and 1932, respectively. World War II necessitated the transformation of the Agency of Defense into the Ministry of Defense in 1946. During the period from 1951 to 1954, the Ministries of Interior, Education, Agriculture, Communication, Commerce and Industry, and Health were founded.

**Seventh Stage:
Establishment
of the Council
of Ministers
(Oct., 1953 –
Mar., 1954)**

When the decision to establish a Council of Ministers was made, the component elements were already in existence and all that was needed was to pull these different ministries together into a coordinated and centralized body. On October 9, 1953, King Abdul-Aziz announced that “the public interest of the country”, the “increase of the number of obligations and the diversification of the responsibilities,” and the desire to “ensure the control of the work and the assignment of responsibilities in the best possible manner,” required the establishment of a council of ministers. The Council had wide authority on foreign and domestic affairs. The effect of this latest constitutional development was not witnessed by the great man. He died a month after that and his son Sa’ud presided over the first meeting of the Council of Ministers. The first session of this first Council of Ministers was held on March 7, 1954 and was attended by the king, the Ministers, and religious leaders. In his speech the King asserted the Islamic principle of

consultation implemented by the Kingdom and outlined the functions of the Council according to the Statutory Regulations of 1954.

**New Statute
of the
Council of
Ministers of
(1958)**

The newly established Council of Ministers continued to operate under the Statute of 1954 for about four and a half years. However, in March 1958, the financial and monetary crisis compelled King Sa'ud to call for evaluating and developing the organization. This process led to a complete replacement of the old statute. A Royal decree was issued granting Crown Prince Faisal complete authority to lay down and supervise the execution of internal and external policy and called at the same time for reviewing the Council of Ministers Law. The Council of Ministers as originally founded was not a formal policy making structure, but rather an advisory body in which the appointed Ministers were only to recommend to the King their opinions considering the affairs of the country. In 1958, the Council of Ministers, following a major reorganization, was developed into a formal decision-making body, with legislative, executive and administrative functions. Most of the constitutional basics in the Kingdom were embedded in the 1958 statute.

**Proposal for
a New
Constitution:
The Basic
Law of 1960**

In 1960 a serious attempt was made in favor of a comprehensive, broadly authoritative, modern constitution. Until then the only constitutional documents that existed were the Basic Regulation, the Statute of the Consultative Council, the Statute of the Council of

Deputies, the Council of Ministers Law of 1954, and the Council of Ministers Law of 1958. The first effort at laying down such a comprehensive constitution was made by Crown Prince Faisal in 1959 and 1960 and resulted in a proposal for a Basic Law of Governance. Although this proposal did not go beyond the proposal stage, it was the first attempt to write down a broadly based constitution for the Kingdom and it was almost instituted.

The proposed Basic Law of Governance of 1960 consisted of a preamble and 200 articles and was divided into eight parts. The proposal of the Basic Law of Governance dealt with: the Kingdom, the system of government, the capital, the official language; economic and political matters; equality of opportunity, the inviolability of private ownership; and the social function of private ownership and social justice. In addition, individual freedom is guaranteed and protected by the law with an emphasis on the principles of the definition of crime, and the right of defense and recourse to the law and the assumption of innocence until guilt is proved. Freedom of opinion and formation of societies are guaranteed within the limits of the law. It also introduced proposals regulating institutions already in existence, introduced a proposal for creating other institutions such as the Office of the Attorney General, and the National Council (al-Majlis al-Watani) which represent a completely new step towards the development and

revitalization of the old Consultative Council (Majlis al-Shura).

**Regions
Ordinances
(1963)**

A Regional Law was enacted by Royal Decree No. 12 of 1963. The purpose of the Law was to allow regional governments to share with the central government any decisions regarding their areas; and to set up tribal committees to allow tribal members to participate in the decision-making process on particular types of community affairs. However, the Statute almost immediately drew criticism and was never fully implemented.

**Council of
Ministers in
the Eighties:**

At the end of the 1980s, the Council of Ministers continued to be the only dominant political institution in the Kingdom with powers to legislate and to issue laws. The Council was responsible for formulating state policy, pertinent to internal and foreign affairs, national economy, education, social welfare and all public affairs, and it oversaw their execution. It possessed regulatory, executive, and administrative authority. The 1980s saw a great expansion of governmental agencies in the Kingdom, which is considered to be the governmental response to meeting the needs and demands of the Saudi nation.

**Plans for a
New
Constitution**

It is worth noting that in the 1980s, a committee was established during King Khalid's reign whose responsibility was to prepare a new basic law. Such a

constitution would contain regulations governing the Consultative Council. The Saudi government made the commitment to revive the Consultative Council, and the 1990s indeed witnessed steady political reform.

**Eighth Stage:
Political
Reform of the
(1990s)**

Through consultation and constant awareness of the people's needs and aspirations, King Fahad pushed forward Saudi Arabia's constitutional and participatory evolution. On March 1, 1992 King Fahad of Saudi Arabia announced three Royal Decrees that established three important changes in Saudi domestic political law: a "Basic System of Governance", which is a constitution; "The Statute for a New Majlis Ash-Shura", and "A System of Regional Government for the Kingdom's Thirteen Provinces." These laws took precedence over all other laws and regulations. These laws represented positive progress towards reform, recognition of citizens' civil and political rights, and public participation in government.

**A. Current
Constitution:
The Basic
System of
Governance**

The Basic System of Governance is the most important constitutional document among the three documents. Its significance emerges from the fact that it is similar to the constitutions of other countries in terms of what it includes. This law has been guided by Islamic law in defining the nature, the objectives, and the responsibilities of the State, as well as defining the relationship between the ruler and the ruled based on brotherhood, consultation, friendship and cooperation. In addition, provisions for the

different authorities of the state and their inter-relationships, the general obligations and duties of the state, the political, social and economic fundamental principles, the tradition and affirmative rights and freedoms of individuals, and judiciary independence are also included.

**B. Ash-Shura
Council**

Article 68 of the Basic System of Governance mandates the establishment of the Majlis Ash-Shura. All members (as of April 2005 a Speaker and 150 members) are appointed by the King. The Shura Council in its new form became an institution intended to allow citizens to participate directly in the administration and planning of country policies, and in monitoring the performance of its agencies.

According to the 1992 law, the Council renders advisory opinions. In addition to providing opinions about public policy if asked by the King as the Head of the Council of Ministers and its role in the legislative process, the Shura Council, in particular, is authorized to provide opinions and suggestions in the following areas: the general plan of economic and social development; international laws, charters, treaties and agreements, and concessions; the interpretation of laws; and the annual reports submitted by ministries and other governmental bodies. A Royal Decree issued on August 20, 1993 detailed the bylaws of the Consultative Council, the bylaws of the rights of the members of the council, the rules that regulate financial

and functional matters of the council and the rules to investigate and try its members.

Amendments
to Ash-Shura
Council Law
(Nov. 27, 2003)

On November 27, 2003, the King Issued a Royal Order granting wider powers to the Majlis Al-Shura, enabling it to propose legislation without his permission. Today, both the Shura Council and the Cabinet must be in agreement in order for the legislation to gain the King's approval. If the views of both councils vary, the issue is returned to the Shura Council to decide whatever it deems appropriate.

C. Regional
Law

The Regional Law mainly governs the relationship between the central and the local governments and is considered as part of the constitutional documents. The Regional Law declares that the goal in dividing the country into several regions is to improve the level of administrative work and development, maintain security and order, and guarantee the rights and liberties of citizens in the framework of the Islamic Shari'ah. This indicates that the regions enjoy considerable financial and administrative independence. This initiative is viewed by the government as a major effort to decentralize authority in the Kingdom.

Amendment
to the
Council of
Ministers

The latest Council of Ministers Law was enacted in 1993 in order to coincide with the Basic Law and the Shura Council Law of 1992, and to complete the constitutional development in Saudi Arabia.

**Elections
(2005 – 2006)**

In 2005, the Kingdom held its first Municipal Councils Elections. Although, Saudi women did not participate in this historical event, a gradual reform is being officially promoted to open the door for Saudi women to participate in the political process in Saudi Arabia. For example, in September, 2005, women's election was permitted for Saudi Chambers of Commerce Boards for the first time in the history of the Kingdom. The ministerial decision opened the door for women's role in the political, economic, and social development of Saudi Arabia. In January 2006, two businesswomen won seats in the election for the Jeddah Chamber of Commerce and Industry, and women have been elected to the boards of the Engineers Association and the Journalists Association.

**The
Succession
Process
(1992)**

Prior to 1992, the crown had passed to one of the sons of King Abdul-Aziz, according to seniority, consultation, family consensus, and Bay'ah. This mechanism has allowed a smooth transfer of power for over six decades, covering four ascensions to the throne. Throughout these years the succession process followed the Islamic tradition of designating Muslim leaders, such as the first four caliphs (Al-Kholafa Al-Rashidon), selected through the process of Shura (Consultation), and Bay'ah between Muslim subjects and a ruler.

Later, a significant qualitative change was introduced by the Basic System of Governance of 1992. King Fahd's

1992 decree on succession established two precedents: an acknowledgement that the grandsons of King Abdul-Aziz were legitimate claimants to the throne and the King's prerogative to choose and to withdraw approval for the Crown Prince. The Basic System introduced changes in the rules of succession by allowing the selection of a King or Crown Prince from among the children of the sons of the founding King, Abdul-Aziz ibn Abdul-Rahman Al-Faysal Al Sa'ud, on the basis of "suitability" and the most upright among them, rather than seniority. The law allows the King, for example, to choose as his Crown Prince a son or a nephew instead of one of his brothers who, traditionally, have been the only persons eligible for succession.

The Basic System of Governance asserts that, upon the death of the King, the Crown Prince shall assume the royal powers until Bay'ah, by the people, is given. Article 6 of the same law requires citizens to give the Bay'ah to the King in accordance with the Qur'an and the tradition of the Prophet, in submission and obedience, in times of ease and difficulty, fortune and adversity in everything except that which contravenes Islam.

Ninth Stage:
Newly
established
"Allegiance
Commission"
(Oct. 20, 2006)

As mentioned at the beginning, on October 20, 2006, King Abdullah of Saudi Arabia issued a Royal Decree establishing the procedures for appointing a new Crown Prince to the kingdom by setting up a new Council called "the Bay'ah Council". What makes this change important

Conclusion

is that in addition to taking the final decision about who rules in the future out of the King's hands and institutionalizing it, it brings stability to the succession process. The process follows the Qura'nic call of reaching decisions through consultation, and an evolution of the role of consultation in determining succession that dates back to the Caliph Umar, who left the process of choosing his successor to six of the Prophet's Companions. The Law regulates the procedures related to stable governance and prevents the development of a constitutional vacuum or political chaos. It allows for the ruler's choice of successor to be rejected by the Council and for the Council's choice to be chosen, even if the ruler does not agree. The new Council will also have the right and responsibility, on the advice of a medical committee, to declare a king incapable of ruling or a crown prince unfit to succeed. The Council, which will be chaired by the oldest son of the Kingdom's founder, will take its decisions by majority vote on a secret ballot and will have a quorum of two-thirds of its members. It will include all the living sons of Abdul-Aziz and one son of the dead or incapacitated sons of Abdul-Aziz. It will be bound to respect the kingdom's Muslim faith and ensure the, between quotation marks, "preservation of the state and the unity and cohesion of the ruling family, as well as the unity of the nation and the interests of the people".

The process of change and development in Saudi Arabia has affected the country both socially and politically.

Political reform of the 1990s indicated a gradual reform being officially promoted in the Kingdom of Saudi Arabia, which has opened the door for more participatory values in Saudi Arabia in areas such as shared decision-making, and checks and balances. The recent leadership transition occurred smoothly following the death of King Fahd, which is viewed as a sign of stability in the Kingdom.

The recent Bay'ah Law is yet another major step along the road of constitutional change with municipal elections, elections to chambers of commerce and industry, the establishment of an independent Journalists' Association, the permission of women's election permitted for several nongovernmental organization boards, an independent Human Rights Commission, and now the law on the succession. Five years ago, Saudi Arabia launched a National Dialogue in which men and women engaged in dialogue to define their aspirations and ideas on change and reform in the Kingdom. All of these play an important role in Saudi Arabia's constitutional evolution. These accomplishments indicate that the Kingdom will continue to flourish, as it has since the founding of the modern state. It is evident from the characteristic of the Saudi progressive evolution that the recent reforms in the Saudi Constitutional System are not going to be the last, but rather will be followed by other developments when the need arises.