



**Durham**  
University

School of Government  
and International Affairs



كلية الآداب والعلوم<sup>1</sup>  
College of Arts and Sciences  
QATAR UNIVERSITY جامعة قطر

HH Sheikh Nasser  
al-Mohammad al-Sabah  
Publication Series

مركز دراسات الخليج  
**Gulf Studies Center**

MONOGRAPH SERIES:

THE SHURA COUNCILS IN THE PERSIAN GULF

Number 2: September 2019

Representative Councils in Oman

A Normative Assessment of Parliamentary Efficacy of the Majlis Ash-Shura in Oman

Ahmed Ali M. al Mukhairi

## Introduction

The scholarly literature on the legislative branch of political systems often disregard the Middle East region and specifically the Gulf countries (Iran, Iraq and the GCC states). The traditional approach, based on the classical political science division of executive authority between presidential, semi-presidential and parliamentary systems, and the focus on the representation criteria makes any analysis of this complex region of a revolutionary republic (Iran), a reconstituted republic (Iraq since 2003), and a group of Arab monarchies with very distinct traditions and governance styles and political cultures, difficult. These countries' governance systems feature a variety legislative practices and different degrees of accountability and balance between the legislative and the executive branches of government, and certainly some work better others, but they do not as a rule enjoy consolidated or semi-consolidated democratic systems. The fact that the Gulf region has remained, broadly speaking, in the grey zone of the hybrid political regimes, without a clear definition of the attributions granted to the legislative/shura/consultative councils, has made this project necessary in order to explore and understand what is the actual role, function and performance of the elected and appointed chambers in this particular region and under what institutional structures do they function.

Scholars attribute to the legislative chambers three main roles within the political systems:

1. Linkage, representation, debate and legitimation;
2. Oversight and control, mainly on the executive branch;
3. Policy making.

Bearing in mind these commonly accepted attributes, the objective of this project is to use comparative elements to analyze the different case studies that compose the Gulf region in the three roles, and to address the following questions:

Which is the primary role of the councils within the political system in the Gulf region?  
Which grade of autonomy the councils have regarding the executive branches of government?

How influential the councils can be in the policy making process?

What makes a legislative body efficient?

How representative and accountable they are?

What is the perception from the civil society about the role and performance of the councils?

To fill the gap in the literature, this 'Majlis in the Gulf' project gathered a distinguished group of scholars and specialists from within the region, equipped with the necessary methodological and comparative tools, to discuss and assess the role, function and performance of every one of the legislative/consultative chambers in the Gulf region. The project was initiated within the Gulf Studies Center at Qatar University, led by Dr Luciano Zaccara, and supported at its launch by the Konrad Adenauer Foundation (Gulf Office). The project has reached the publication phase of the wide-ranging research generated by its participants with the support and collaboration of the al-Sabah

Programme in International Relations, Regional Politics and Security at Durham University.

The results of the many debates and discussions, and the findings of our team will be captured and disseminated in a new monograph series – *The Shura Councils in the Persian Gulf Sub-region* – jointly published by the Qatar University Gulf Studies Center and the al-Sabah Programme at Durham University. These publications will be available free of charge through the two universities' websites for interested parties to consult and download.

The coordinators of this project and the publications series would like to thank the authors for their participation in this project, as well as the unyielding support of the Gulf Studies Center directors, Drs Mahjoob Zweiri and Abdullah Baabood, and the rest of the team, Arwa Kamal Eldin Gaf Abbas, Farah Anwar AlQawasmi, Ashleen Williams, Amjed Rasheed and Juline Beaujoun. Without them and their input this project and monograph series would not have been possible.

Luciano Zaccara and Anoushiravan Ehteshami

Doha and Durham

## *About the Author*

Ahmed Ali M. al Mukhaini is researcher and analyst in public policy, governance and history. He served at the Omani Majlis Ash-Shura (elected chamber of the bicameral council of Oman) between 1999-2008. He is currently serving as an advisor at the Office of the Executive President at the Capital Market Authority in the Sultanate of Oman. He is an alumnus of Durham University and the University of Glamorgan, as well as the Georgetown University Leadership Seminar, and the Southern Methodist University Rule of Law Program.

---

## *Disclaimer*

The views expressed in the Shura Councils in the Persian Gulf Monograph Series are those of the author(s) and do not necessarily reflect those of the HH Sheikh Nasser al-Mohammad al-Sabah Publication Series, Durham University, or Gulf Studies Center Monograph Series, Qatar University. These wide-ranging Research Working Papers are products of the scholarship under the auspices of the two institutions. They are disseminated in this form to encourage debate on the important academic and policy relevance of legislative authority in the Gulf and the relationship between the executive and legislative branches of government in these important countries. Copyright belongs to the Author(s). Bibliographical references to the Shura Councils in the Persian Gulf series should be as follows: Author(s), *Paper Title* (Durham, UK and Doha, Qatar: The Shura Councils in the Persian Gulf Monograph Series, Number, Date).

MONOGRAPH SERIES:  
THE SHURA COUNCILS IN THE PERSIAN GULF

Number 2: September 2019

Representative Councils in Oman:  
A Normative Assessment of Parliamentary Efficacy of the  
Majlis Ash-Shura in Oman

Ahmed Ali M. al Mukhaini\*

---

\* The author would like to extend special thanks and appreciation to Dr. Luciano Zaccara for his relentless support and determination to see this paper published. His editorial efforts are highly appreciated. The author would also like to thank Dr. Larry Brown for his avuncular advice, edits and content review. This paper would not have been possible without the support and sponsorship of Konrad Adenauer Stiftung and Qatar University.

## Introducing the Socio-Historical Context

Until 1970, Oman was a divided country with at least two systems of government, monarchy and Imamate. Most of the discussion in this paper refers to the monarchical rule of the Al Busaid dynasty (“Monarchy”) that survived post 1958 war, locally known as al Jabal al Akhdhar war. The Monarchy system employed consultative and advisory councils, while authority remained in the hands of the monarch, who was not impeachable. Assassination and palace coups provided the main means for transition of power. The imamate system (“Imamate”),<sup>1</sup> on the other hand, was more democratic in nature than the monarchy. It employed a representative college that was largely made of scholars and community leaders. The Imam was the national leader selected by the college. By extension, he was also impeachable by the college. However, due to pragmatic and survival needs, the quasi-democratic Imamate system often slipped into forms of hereditary rule, since it could not develop a social cohesion framework that could replace or challenge the tribal structure of society. The two systems co-existed in Oman until 1958, after which the Imamate continued in exile since the monarchy prevailed in the al Jabal al Akhdhar war.

In 1970, when Sultan Qaboos bin Said, (the “Sultan”), assumed power, the Omani society perception of itself as subjects and the role of the monarchy could only be described as medieval and quintessentially patriarchal. It was akin to nothing of the 20<sup>th</sup> century monarchies or the mushrooming post-colonial Arab republics. Therefore, in order to conceptualise and understand the modus operandi of monarchical rule in Oman, the medieval literature of wisdom and advice for kings and courtiers would serve as a useful reference point. In Arabic it is known as sultani manners or al ādāb a-ssultaniyah. The term sultan here does not refer to the form of government, but rather to authority. Such reference point is generally known to belong to the literary genre of Fürstenspiegel, or mirrors for princes. Due to its focus on the survival of the monarch (rather than the monarchy), whose survival means the survival of the authority of his entourage members, the al ādāb a-ssultaniyah continues to shape the political mind set in Oman, and is in part responsible for ineffective institutionalisation of the state. Moreover, such a landscape is catalysed by an ambient hierarchical and non-homogenous society. This in turn has sustained the interlocked interests of traditional actors and the below identified governance nodes, and nurtured the reification of the Monarchy or perhaps the state in the Sultan.

Being desirous to unite a country that was stricken by poverty and lack of essential services, rifted by a separatist movement in the south, the Imamate that wishes to resurrect itself, and surrounded by competing foreign interests and neighbourly interferences, the Sultan concentrated power in his own hands. He pursued a course of creating a new national identity and brought about a renewed sense of nationhood. He took stock of existing governance nodes and pursued a course of reconciliation and co-

option into the state apparatus. Several routes and means were available and used, such as entrenching commercial interest, reification of a new national identity and associated value sets, and the representation and consultation duet. However, the Sultan decided to focus most of his efforts on the representation and consultation, commonly known in the Omanis context as shura.<sup>2</sup>

Governance nodes in Oman include merchant families, tribes with political aspirations, remnants of the Imamate in Oman, influential members of the ruling dynasty (Al Busaidis), competing members of the royal family (Al Said), military and security apparatus, and the British. The shura's twin engines, representation and consultation, provided an opportune means to engage the different governance nodes in varying degrees, without binding the Sultan to the outcome of the consultation process. It also provided for the pace of implementation to be controlled by the Sultan. Having some roots in Omani history and Islam, compounded by a Fürstenspiegel interpretation of the duty of obedience of the Sultan, the shura morphed into several versions to cater for political requirements, and provided utility for the Sultan to gauge and manage public discourse. As a result, the ultimate ruling authority remains within the Sultan.

Institutions, which were destined to embody representation and consultation, were not confined to the legislative branch of government or Majlis Oman. It was a cross cutting approach and was equally and effectively used in every other branch or node of government, including the executive, the judiciary, ombudsman, neo-tribes,<sup>3</sup> religious legitimacy, advisory councils, trade unions, civil society organisations, security apparatus, military, and even some private sector entities and projects.

The Majlis Oman, the bi-cameral parliament of Oman, is one of the above institutions, where such representation and consultation have been closely and carefully calculated and articulated. Due to the political staging and conditioning that have persisted since 1970, a large portion of the public, including some Majlis Oman members, do not have faith in the institution itself. Instead, they concentrate all their trust in the Sultan, which resulted in a low or negative perception of the Majlis Oman. However, they still participate in the political process, including political campaigning, voting, debates and some quasi-legislative and oversight competences. This amounts to political cognitive dissonance, which has affected the efficacy of representation and consultation, to the benefit of the executive. The causes of such political cognitive dissonance reside in three factors:

(1) Tribal Clientelism, or neo-clientelism: this entails tribal and political leaders taking active role in the participatory process seeking to impress or please the Sultan in order to gain favours or be deemed loyal. There is a prevalent impression that the state influences the election process, though covertly. This has fed into the above point, where admission to the Majlis is viewed as a benefit and admitted members as being government favourites. Moreover, boycotting of the political process would

inhibit the progress of the process, which will undermine the utility of the process for the state. This in turn will render a tribe or political leader ‘uncooperative’. In addition, it might result in the loss of representation and, hence, any potential influence over the evolution of this nascent political process. On a different note, elections provide tribes with a rare opportunity to demonstrate whatever is left of their dwindling influence.

(2) Social Mobility: the Majlis Oman proved to be a good social mobility conduit leading to personal-cum-communal commercial and political gains. Property, projects and potentials for political appointment are examples of such gains. This has been more significant in the case of the *nouveau riches*, who managed to build wealth through a real estate boom or short-lived government policies and have been seeking self-actualisation.

(3) The Consensus Self-fulfilling Prophecy: the executive led by the Sultan created an image about Omani political character, which is based on consensus building and cooperation, rather than adversary and loyal opposition. This image is contrary to historical events. Hence, such an image was born out of a political utility where the executive is to be immune against challenges to legitimacy, authority or knowledge. Moreover, Oman had to craft its own political flavour and not to copycat others. The political machinery and ambience in some Arab countries, which have been dominated by a debilitating adversarial relationship between the executive and legislative, have been utilised to visualise what the Sultan did not want Oman to be. Naturally, Omanis would trust his vision and decisions. The aforementioned image morphed into a self-fulfilling prophecy. It inhibited serious challenges to the executive as well as full invocation of the Majlis competences as stipulated in the Basic Law of the State.

## The Assessment Landscape

This paper examines the overall efficacy of the Omani parliament. It focuses specifically on the period (October 2011 – September 2015), since it coincided with the expansion of the powers and competences of the Omani parliament. Such powers and the 2011 events raised popular expectations from the Majlis ash-Shura. Hence, the period of examination, unless otherwise specified, is the parliamentary term (2011-2015).

It is worthy to note that the term “representative authority”, within an Omani understanding of separation of powers, has morphed significantly. It was first used by Sultan Qaboos in November of 1975 to refer to the separation between the legislative<sup>4</sup> (*tashri'iyah* تشريعية) and representative (*tamthiliyyah* تمثيلية)<sup>5</sup>. The term ‘legislative’ was used by the Sultan to denote social justice and the judiciary, as opposed to the representative, which was used to denote the government who served people. The Montesquieu’s concept of the three powers and popular sovereignty was not present in the Omani discourse at that stage of Omani state formation, though Sultan Qaboos did



use the terms “modern government” and “democratic rule” in his first speeches to the people of Oman in July and August 1970. For a period spanning four decades, the terms ‘democracy’ and ‘democratic rule’ were not deemed politically correct, inferring that democracy is a foreign concept and that Oman has its own version of the political participatory process different from established models of democracy.<sup>6</sup> Arguably, this has instilled a sense of political apathy among the populace, and encouraged over-reliance on the state to provide and guide. Subsequently, a ‘strong’ state has evolved.<sup>7</sup> The terms “representative” and “democratic” resurfaced again in the Sultan’s speeches and official discourse in 2011, in a context that is much closer to the commonly accepted Montesquieu’s understanding.<sup>8</sup>

The representative authority in the Sultanate of Oman is embodied in the bicameral Majlis Oman. The Sultan, according to the Basic Statute of the State (the Basic Law), heads it. It is worth noting that as per the Basic Law, the Council of Ministers is also chaired by the Sultan. The position of a Prime Minister, as head of the executive authority, is not mandated by law. However, it remains a discretion of the head of the state. While this is not conducive to real separation of powers and the required full autonomy of the Majlis Oman, it has been useful to an extent in pushing the political participatory process forward and coercing the executive authority, embodied in the Council of Ministers, to subject itself to the ‘scrutiny of’ and cooperate with the Majlis Oman, though not fully.

The use of the term “representative” has been encouraged by the Inter-Parliamentary Union (the “IPU”) over the last two decades due to several factors, the most notable of which are two. The first factor is that the essential tenets of the democratic process are representation and consultation of the people in running their own affairs and ruling public domain. It has been observed that the representational aspects of democracy might have been on the decline as manifested by decreasing voter turnout and parliamentary accessibility and accountability. The second factor is the continuing evolution of the role of parliaments, where their functions have been oscillating in intensity from legislative to oversight, with the latter being more and more dominant recently. This aspect will be touched upon once again in the section assessing the legislative abilities of the Majlis ash-Shura.

The Majlis ash-Shura (the “ash-Shura”) was established in 1991, to succeed the Consultative Council (*al-majlis al-istishari* المجلس الاستشاري), which was established in 1981. Members of the Consultative Council were appointed by the state. They included tribal and private sector representation as well as ex-officio senior civil servants. Ash-Shura members, however, were selected through a two-phase process, where people provided the Sultan with three names for each constituency and he selected one of them based on vague criteria. Further discussion on the evolution of the electoral process is elaborated later in this chapter. In 1996, the Basic Law of the State, promulgated by Royal Decree 101/1996, established the bicameral Council of Oman, which comprised

of two chambers: a new Majlis ad-Dawlah (the “Dawlah” or State Council), and the existing ash-Shura. Members of the upper chamber, the “Dawlah”, are appointed by the head of state. While this paper will focus primarily on the ash-Shura, a brief section will outline the main features of the Dawlah touching briefly on the evolution of its relationship with the ash-Shura.

Prior to embarking on any further descriptive empirical analysis of the behaviour and efficacy of Majlis Oman at large, and the ash-Shura in particular, it is imperative to discuss the context of its operation by shedding light on the political and constitutional landscape of the country.

The Basic Law was promulgated by Royal Decree No. 101/ 96 and amended by Royal Decree 99/2011. The 2011 amendments, which were in response to popular demands during the 2011-social unrests (alias Omani Spring), enshrined people’s right to elect their representatives as well as the organisation and powers of the Majlis Oman, and relationship between its two chambers. Until 2011, elections were governed by an executive regulation, and Majlis Oman’s powers were governed by a primary legislation, which was a subject to changes influenced by the executives.

The current constitutional standing of Majlis Oman does not, as yet, provide for total separation of powers and by extension full legislative and oversight powers. According to the Basic Law, the Sultan remains the sole law maker and has full authority to reject bills and proposals sent to him by the Majlis Oman, without any obligation to provide justification for such rejection.<sup>9</sup> This is compounded by the Majlis Oman’s lack of veto powers to any of the Sultan’s decisions, whether in his capacity as the head of the executive or as the head of the state. Moreover, he has full authority to appoint, and by extension remove from office, secretaries, ministers, undersecretaries, ambassadors, senior military officers, governors, etc. It is worth noting here that the Sultan also heads the Supreme Council of the Judiciary, and he appoints Supreme Court judges.

As evidenced above, the lack of separation of powers, at both the legal and practical levels, has reinforced the position of the Sultan as the sole decision maker and creator of the modern state of Oman. This has led to weakened institutions that are not willing to challenge each other through the available, albeit limited, mechanisms for checks and balances. This has sustained the patriarchal<sup>10</sup> approach in running the affairs of the state, despite the sultan’s repeated calls since 2003 to these institutions to assume their designated roles and responsibilities and act within the remits of the law in terms of checks and balances.

This lack of institutional behaviour has roots in four factors:

1- The overarching tribal and traditional mind-set that governs the praxis of people running these institutions and societal leaders. This mind-set is further intensified by marital relationships and newly founded commercial interests as well as uncertainty of the political outlook of the country post the current Sultan.

2- The evolutionary process of institutions and customs. Institutions would need to develop a deeper understanding of their purpose, and not mere objectives, and articulate rules of engagement with other institutions gradually in order to avoid havoc that might arise if sudden changes to evolved and existent balance of powers were to occur. Such a situation could result in a constitutional crisis and the need for courts to guide this evolutionary process. Oman has no constitutional court. Although the Supreme Court, by virtue of law and design, has some constitutional authority through a specialised constitutional circuit, it has never officially established or formalised this circuit and shied away from constitutional matters, such as disputes over constituency lines and administration, non-constitutional provisions of promulgated laws that are invoked in cases reaching the Supreme Court, etc. The Court, however, did invoke principles of human rights in some instances while interpreting the provisions of the law.

3- The Sultan's legacy. People have great respect and love for the Sultan. This was fashioned partly by exercising the official power of the state to construct a particular image of the Sultan. His management of people's aspirations and expectations as well as persistent direct contact with people in the first few decades of his rule earned him a great sense of love and respect. He is seen as a 'saviour' and sovereign in the very traditional and old caliphate sense. During the 2011 social unrests, he was the only pillar of the modern state of Oman that people could rely on and believe in. Naturally, he is aware of this, and this profound sense of affection was turned into something of a cult status that resulted in an undoubted faith in the benevolence and wisdom of the Sultan, reducing the relevance of other governmental institutions. The Basic Law has contributed to this situation by solidifying his position as the sole law-maker and repository of all authority.<sup>11</sup> For example, the Sultan has the authority to dissolve the ash-Shura at his discretion and without justification.<sup>12</sup> The Dawlah would be suspended accordingly, since it cannot be in session while the elected chamber is not.<sup>13</sup> Moreover, the Basic Law makes the Sultan inviolable,<sup>14</sup> preventing by law any attempt to challenge his behaviour or leadership. Such acts were considered, by Articles 121-126 of the 1974 Omani Penal Code, as crimes against the state punishable by up to three (3) year imprisonment. In 2018, this law was repelled by a new Penal Code, Article 97 of which increased the period of prison sentence to a minimum of three (3) years and maximum of seven (7) years.

4- Strong state and weak society status. Progress of Human Development Index of Oman shows the benefit of the Sultan's efforts in uniting the country and building a modern state that provides welfare services for all its nationals<sup>15</sup> and citizens, though at some cost to civil liberties. Furthermore, a strong state control resulted in excessive reliance on the state. This has led to the virtual non-existence of civil society organisations ("CSOs") as known in the academic literature, except for charity oriented CSOs and those pertaining to professional development. The latter group has not

contributed to the regulation of the professions they represent. Emergence and development of civil society is indicative of the extent of participatory process in a country, as shown by empirical evidence.<sup>16</sup>

Reliance on the state was further fuelled by high oil income that encouraged government spending. This in turn served to dislocate traditional tribal and societal welfare services and have replaced them by centrally designed and operated social welfare services. This situation was conducive to a neo-clientelism, where traditional patronage lines and hierarchy gave way temporarily to relations with the state (or its embodiments such as the Sultan, ministers, etc.) This does not suggest that traditional patronages have dissolved or have been replaced. They have rather pragmatically disappeared with potentials of re-appearance at times of crises, subject to the resultant commercial and political interest lines being consolidated in a more sustainable manner.

The following section briefly describes the composition and the role of the Dawlah, as the upper chamber of the bicameral Council of Oman. It does not aim to provide an assessment of its parliamentary efficacy.

## Majlis ad-Dawlah (Appointed Chamber):

The Dawlah (alias State Council) was first mentioned in the Basic Law when it was promulgated in 1996. Neither the purpose nor the objectives of this institution were clearly articulated. In 1997, the Dawlah was established and its internal regulations outlining its competence, processes and procedures was promulgated by a royal decree. It took the form of a primary legislation. The purpose of the institution remains unclear, while the objectives have often been outlined in public statements by members of the council of ministers, and the Majlis Oman. By purpose we mean the rationale of its establishment, especially in a region that is new to political institutions, and where only two countries in the region adopt a bicameral system. A typical rationale would involve equal representation of the populace based on the administrative division/ organisation system or better representation of the societal strata and political opinions and ideologies. The purpose of widening the basis of “popular involvement” was used for both the ash-Shura and Dawlah establishment.

The financial and administrative independence of the Dawlah, as well as the ash-Shura, is not clearly stated in the Basic Law. In previous legislation, as mentioned in the above paragraph, such independence was not left for interpretation, but was clearly mentioned. However, based on customs and existing practice, one can discern that the Dawlah enjoys a reasonable degree of independence from the executive, taking into consideration the aforementioned political landscape of the country.

The role of Dawlah is advisory and acts as a think tank for the government. This role is often cited as applying brakes to the ash-Shura’s “zealous” demands or bringing balance to the ash-Shura’s “pro-citizenry” views. Public discussions in circulation fail

to distinguish between voters and nationals, where it is expected that the ash-Shura would pay attention to voters' attitude and opinions, while both the ash-Shura and Dawlah should care about nationals and citizens. The description of the role of the Dawlah, as uttered by members of the Dawlah, ministers, Omani academicians, observers and journalists, often posits the interests of the executive government at the end of the scale in opposition to the interests of nationals. This position, in light of the political landscape in the country, bestows a more prestigious and homogenous face on the Dawlah as compared to the ash-Shura. Most perilously, it creates a tension between the populace and the government, and further entrenches the state as a stronger player than society. This may eventually render the ash-Shura politically insignificant, though it will not undermine its role in social mobility and Omani clientelism.

As per the Basic Law, the size of membership of the Dawlah, including its chairman, cannot exceed the membership size of the ash-Shura,<sup>17</sup> in order to provide the latter with equal opportunities when voting during joint sessions. The Dawlah is usually comprised of former government officials (such as ministers, undersecretaries, ambassadors, judges, senior military officers and others of equivalent rank), as well as opinion, scholars, culture and community service representatives. The members and chairman are appointed by a royal decree and usually after the final results of the ash-Shura elections have been announced. As it stands today, there are eighty-four (84) members, fourteen of them are women, representing nearly seventeen (17) percent of the Dawlah membership.

In terms of competences and prerogatives, the Dawlah shares with the ash-Shura the examination of draft laws and draft general state budgets prior to promulgation. The process of reviewing draft laws is outlined in the Basic Law with set time periods for each of the two chambers.<sup>18</sup> The Dawlah does have the authority to review the ash-Shura comments and send to either the Sultan or the Council of Ministers, as the case may be, for final approval. Traditionally, the Dawlah has some oversight powers, though such powers have been phrased in a more collaborative manner, where the chamber assists the executive in ensuring the "smooth running of development plans".<sup>19</sup> However, the Dawlah cannot question ministers nor scrutinise the performance of their portfolios. This remains a prerogative of the ash-Shura chamber.

## Elections: Gateway to the Majlis ash-Shura

The participatory process, as manifested through elections, has been gradually and measuredly introduced in Oman over the last twenty-five years. For example, in 1991, only tribal elites and community leaders were requested to propose three names for each constituency and the Sultan chose one of them. Then, in 1994 women of the electoral district of Muscat only participated in the election process both as nominees and voters. Participating in the selection process was expanded. In 1997, women's right

to participate in the political process was extended to all Omani women across the country. However, the two-phase selection process was still in use, though the number of participants has increased exponentially. Women made only ten percent of the voters. In 2000, voters were allowed to elect their representatives directly using secret ballot without any government intervention, however, with a limited suffrage. Women made thirty percent of the voters. Suffrage became universal in 2003, where right to vote was extended to all Omanis aged 21 years old and above. It was the first free direct and general elections in Oman, where voters casted their votes in secret ballots and chose their representatives directly.

Notwithstanding the above, the selection process in Oman has been modulated by two compounding factors:

(1) The combination of the administrative and electoral division systems. The Sultanate of Oman decided in 1991 to use the administrative division system as a means to map the electoral division system. Wilayats (the local name for counties or districts) were considered electoral constituencies. This combined use has brought in systemic anomalies based on major variations in population size, population density, access to utilities, area, terrain, etc. The consequence is inequality of representation and access to the ash-Shura among the populace. It has also caused significant practical challenges to the administration of elections as well as campaigning, which is still conducted to a large extent on tribal and familial grounds. The scope of this paper does not allow delving into this aspect with a greater degree of analysis.

(2) The lack of a party system. Parties are not allowed in Oman. In such a system, candidates come forward *independently*. However, their nomination or initial support for nomination comes from the tribe or tribal links. Moreover, lack of a party system results in a high membership turnover. Every round of elections changes around two thirds of the ash-Shura membership (averaging sixty five percent).<sup>20</sup> As a result of the 2015 elections, around seventy percent of the members have been replaced by new members. A few members, however, have managed to hold on to their seats for over three terms by virtue of maintaining a direct and relevant relationship with their constituency.

As of 1994, 2nd Term of the ash-Shura, a quasi-representative system was introduced, where each county or constituency which has a population size of 30,000 and above is represented by two members. Each of the constituencies with a population size of less than 30,000 is represented by one member. According to Article 58 Bis 11 of the Basic Law, the term of the ash-Shura is four years, starting from the date of its first meeting called for by the Sultan after announcing election results and continues till the next elections.

## Structure and Powers of the Majlis ash-Shura

During the 2015-2019 term, the ash-Shura had eighty-five (85) members representing sixty-one districts, amongst them one woman. About two thirds of the members represented two-seat constituencies, standing at twenty-four (24) constituencies out of the total sixty-one (61) constituencies of the country. All members have to join one of the nine permanent committees of the ash-Shura and its executive bureau as follows:

| <b>Majlis ash-Shura Body</b> | <b>Notes</b>  |
|------------------------------|---|
| (1) Presidency               | 3 members: Speaker and 2 deputies   |
| (2) Executive Bureau         | 3+6: three members of the presidency (ex officio) and six members elected for this body |
| (3) Nine Committees          | Averaging 8 members per committee   |

The ash-Shura bylaws provide for the formation of task forces, enquiry committee special committees. This, however, is more in line with its representative remit, since the permanent committees cater mainly to legislative and oversight functions.

In terms of political composition, the ash-Shura does not recognise or adopt any formal categorisation of members in terms of political orientations. Members when approached by researchers or journalists on this subject, deny the existence of such categorisation. This denial is most probably driven by lack of recognition on their part due to legal concerns, since engaging in politics or what might seem to incite disharmony is prohibited by law in Oman. However, people with experience in the ash-Shura confirm that a sort of categorisation exist, albeit informally. Members are often categorised along the following lines:

- (1) religious (e.g. Salafist, extremist, moderate, reformist, etc.),
- (2) economic (e.g. protectionist, expansionist, liberal, pro-WTO, anti-WTO, pro-merchant families, pro-labourer, etc.),
- (3) degree of conservatism and openness to change, at large, and
- (4) regional and tribal lines, though to a lesser extent, due to legal reasons.

Needless to say, these categories are not mutually exclusive. Due to the infancy of political life and the aforementioned legal concern, there is no specific or objective process or system to categorise members along the above lines. It is possible, and actually transpires, that a member's classification changes once or twice throughout the ash-Shura 4-year term. It is safe to posit that only about twelve percent of members will hold to their categorisation. Such attribute is usually ascertained through voting choices and stances as well as deliberations within committees and in the plenary session. It is paradoxical that such a categorisation is used mainly to orchestrate smooth bill passing or approval of use of a parliamentary tool such as parliamentary questions, minister question session, etc.

Accountability of ash-Shura's members to their constituents has been a subject of debate among the populace. There is no systematic arrangements for members to report to their constituents about their performance in office. Individual efforts by a few members have demonstrated great interest from the public and contributed to the re-election of some members. Such efforts included a quarterly newsletter, active social media accounts, regular town-meetings with the constituents, and collective work among members representing several counties in a region.

Due to the high turnover of ash-Shura's members in every election resulting from lack of organised political groups, it is premature to assess how effective the electoral system is in ensuring the accountability of ash-Shura, individually and collectively, to the electorate. What further compounds the issue of accountability is the lack of systematic monitoring and review of levels of public confidence in the ash-Shura. This has very often been a major obstacle to getting sufficient voter turnout.

The Basic Law, however, provides for the termination of a member's term due to misconduct or failure to discharge duties. Subsequently, the internal bylaws of the ash-Shura provides procedures for preventing conflicts of financial and other interests in the conduct of parliamentary business. They have not yet been put into practice, or at least officially and publically.

## Representativeness and Performance

The concept of representativeness as an overriding characteristic of parliament underwent significant discussion within the Inter-Parliamentary Union (IPU) debates, conferences, resolutions and publications moving the discussion away from the legislative-oversight continuum to a representative-approach. Significant milestones included the publication of two documents:

- (1) Parliament and Democracy in the Twenty-First Century. A Good Practice Guide, in 2006. This was later translated into a self-assessment toolkit that forms the methodical basis of this paper.
- (2) Global Parliamentary Report. The Changing Nature of Parliamentary Representation, in 2012.

Both documents root their thesis in representativeness, the duties it forges upon parliaments and, similarly, citizenry rights and expectations. The aforementioned Global Parliamentary Report, jointly published by the IPU and UNDP to reflect the mainstreaming of parliamentary representativeness in the development discourse, highlights "three dominant pressures facing parliaments. Each is playing itself out in different ways and at different speeds in specific countries and regions. However, there are common themes in the greater public desire for:

- information and influence in parliamentary work
- accountability and responsiveness to public concerns



- service and delivery to meet citizens' needs". (UNDP and IPU 2012)

Earlier long-held positions of practitioners and academicians treated legislation and oversight as identifying characteristics of parliaments. Parliaments and their efficacy have often been assessed and categorised in terms comparable with the legislative and oversight processes, such as the legislative cycle, bills turnaround time, enquiry reports, parliamentary questions, vote of confidence, etc. This resulted in some understanding of parliaments in terms of a spectrum of each of these two sets of processes and where they are played within each parliament, i.e. whether they are exercised within committees or plenary sessions. Practitioners, represented in the Inter Parliamentary Union and others, realised that the abovementioned approach eventually obscured, or perhaps obviated, the *raison d'être* of parliaments: representation and consultation in the subjects of concern to people. Such obviation was due to multiple factors including, *inter alia*, increase of lobbyists' influence, obsession of parliamentarians and their staff with the due process more than the content of legislation, rise of 'professional parliamentarians'<sup>21</sup> enhanced ability and competencies of the executive to draft and negotiate better legislation,<sup>22</sup> the growing gap between legislation and its practice and enforcement,<sup>23</sup> etc. Thus, the shift to a more representative-oversight array of functions.

The ash-Shura has within its competence eight parliamentary tools, three of them are mostly used for the representative function of members. They are: (a) parliamentary questions, (b) proposals (bill), and (c) studies and special enquiries.

It could be argued, judging from the ash-Shura deliberations, that the composition of the ash-Shura represents the diversity of political opinions and social demography in the country, though the Speaker of the ash-Shura differs. The Speaker believes that additional candidacy criteria that were introduced just before 2011 elections<sup>24</sup> limited the extent of representativeness of the ash-Shura. The situation has worsened in the (2015-2019) term, where further restrictions were introduced that have adversely impacted the representativeness of the ash-Shura. While I agree with non-constitutionality of additional restrictions, the genre of deliberations post ante do not show remarkable deviation from the composition reflected in earlier deliberations. Women's representation is scarce, where there is only one woman out of the eighty five members.

In terms of representation of marginalised groups and regions in the composition of the ash-Shura, reference to marginalised or minorities groups is not politically feasible. Without prejudice to the above, almost all ethnicities are represented in the ash-Shura since ethnicities tend to live in groups. For such a reason and due to a lack of concerted effort, persons with disability are not represented. Overall, it is not easy for an average person to be elected to the ash-Shura. A strong tribal base, affluence, good civil society and charity record and face-to-face contact are key ingredients.

Once elected and sworn in, members have parliamentary immunity. This is seen as a strong incentive for them to bring up the concerns of their constituents as well as raising alarms and blowing accountability whistles. They are required by law and expected by norms of practice, however, to fully investigate an issue before raising it or accusing a member of the executive. To strip a member off his/ her immunity, a majority vote in the ash-Shura is required. Members who have been prosecuted so far were either caught red-handed or had their immunity stripped off by a majority vote.

In terms of the effectiveness of the ash-Shura as a forum for debate on questions of public concern, it has been active and responsive in taking up topical issues and major popular concerns. Despite that, the results of the debate have not always been favoured by the public nor managed to be translated into action or pressure on the executive. The consequence has been dire, as interest among the public has slowed down and the ash-Shura has been accused of inefficacy.

The biggest recent improvement has been the increasing use of social media to interact with the public, though there is a great room for improvement.

## Legislative Role and Performance

According to the Basic Law of the State, laws are enacted by the Sultan only (para 10 of Article 42). This could be interpreted as a mere procedure, where draft laws approved by parliaments are forwarded to the head of state for ceremonial ratification and promulgation without real powers to veto or inhibit this stage of legislation. On the other hand, it could be interpreted as a competence reserved solely to the Sultan, being head of the state, as has been the case in Oman. Moreover, Articles 58 Bis 19, and Bis 26 to Bis 28 of the Basic Law of the State may be used to infer that the Sultan is also the head of the bi-cameral national parliament, the Majlis Oman.

Articles 58 Bis 35 to Bis 39 of the Basic Law outline some quasi-legislative powers of the ash-Shura, addressing review of draft legislation when referred from the executive and review of draft law proposals initiated by the ash-Shura. Article 58 Bis 40 provides for the referral of the general state budget, deemed as a form of legislation, since it is issued by a Royal Decree, and empowers government agencies to draw and spend public funds for specific ends. Article 58 Bis 41 provides for the review of international, multilateral or bilateral treaties that the executive wishes to sign or ratify. This is contrary to international practices, where the executive signed and the parliament then ratifies.

As per the Basic Law, the Council of Ministers refer draft laws to both chambers of parliament: ash-Shura and Dawlah. They have the right to approve or amend such drafts. Their recommendations are sent to the Sultan for promulgation. In case the bi-cameral parliament made amendments to the original draft, which he deemed unfit, the

Sultan may send it back to the two chambers to revisit the proposed amendments, and then send it back again to the Sultan, whose decision is then final.

The above-mentioned process can be further broken into the following steps. Draft laws are referred to the ash-Shura, which has at maximum three months to resolve whether to approve the draft law or amend it. Then, it shall send their resolution and comments to the Dawlah, which has at maximum forty-five days to study the law and the accompanying ash-Shura's comments and resolution. If a difference of opinion arises between the two chambers, a joint session is chaired by the speaker of the Dawlah to discuss points of difference and vote on them. The results of this joint session are then sent to the Sultan for his decision and necessary action. In case the subject of the referred draft law has is of urgent matter, then the above mentioned periods are reduced to one month for the ash-Shura and fifteen days for the Dawlah.

As per the 2011 amendments of the Basic Law, the ash-Shura has the right to initiate laws, however, subject to the executive approval and cooperation. In the 2011-2015 term, over eight new laws in the form of a draft proposal were passed by the ash-Shura but were stuck down at the executive level. No further action has been made on any of the proposed new laws nor any feedback has been provided to the ash-Shura.

It is important to note at this juncture that the Basic Law of the State provided for the ash-Shura's right to initiate laws without prescribing conditions or criteria. However, Articles 128-130 of the ash-Shura bylaws made a procedural distinction between draft laws initiated by individual members and those initiated by committees. Member-initiated drafts are sent to the concerned or relevant committee within the ash-Shura. The committee should submit a report to the ash-Shura to be listed in the agenda of the next plenary session. Members are encouraged to orchestrate and amalgamate ideas into a single proposal. Committee initiated drafts are sent to the Legislative and Legal Committee. Similarly, the committee should submit a report to the ash-Shura to be listed in the agenda of the next plenary session. If a proposal is accepted upon voting at the plenary session, the speaker would then forward it to the Council of Ministers, which in turn should start its own review process and provide queries or feedback to the ash-Shura. On the other hand, if a proposal is declined at the plenary session, the proponent has an opportunity to contest there and then defend his/ her proposal. The bylaws do not address whether the declined proposal could be represented after a period of time.

While the ash-Shura has the constitutional competence to review all draft laws, as per the Basic Law, it does not have the authority to enact these laws. The Sultan remains the sole law maker in that sense. The Sultan may, by virtue of the Basic Law, issue laws in between ash-Shura's sessions as provided for in Article 58 Bis 39. This provision has been used substantially by the executive authority to pass laws and legislative amendments, which does not wish to be subjected to ash-Shura's scrutiny. This should not necessarily infer that the ash-Shura has influence or powers in its own

right. A more appropriate understanding would be in line with the ash-Shura's ability to mobilise public opinion against the executive. This is a 'competitive advantage' drawn from the ash-Shura's pursuit of better representativeness. The Basic Law does not provide revoking or contesting laws that were enacted during ash-Shura's recess.

On the operational aspect, internal procedures for subjecting draft legislation to full and open debate in the Majlis are quite productive and often produce good recommendations. This is largely due to intensive committee procedures and deliberations for scrutinising and amending draft legislation. Though many debates take place at the plenary session, they remain less effective than the in-depth discussions and committee hearings held at the committee level while scrutinising draft legislation. The secretariat provides detailed comparative analysis to committees, who recently started seeking professional second opinions. One of the main obstacles faced by the ash-Shura during this review process is the lack of explanatory memoranda which should accompany draft laws. Subsequently, committees resort to inviting government officials to explain the draft law or defend it in camera. This often results in mistaking formal official views for objective technical opinions.

In terms of engaging stakeholders during the legislation cycle, the ash-Shura, often at the committee level, consults civil society organisations, relevant societal groups, and professionals. However, there is no detailed, systematic and fully transparent procedures for such consultation. Choice of the relevant groups and interests in the course of legislation, duration of consultation and degree of involvement, vary greatly among committees and remains ad-hoc or subject to individuals' choices. Moreover, stakeholders cannot proactively initiate their own involvement. They have to be invited to participate. Furthermore, public balconies during plenary session cannot be used for demonstration, demarche or making public statements.

Senior staff of the secretariat of the ash-Shura as well as some journalists opined in separate interviews that the ash-Shura has not been actively or systematically involved in ensuring that legislation enacted is clear, concise and intelligible to the average person on the street. They based their assessment on the lack of granularity at the time of discussion. Moreover, committees vary greatly in how they study or present the outcomes of their study.<sup>25</sup> Understandably, however, the above assessment is not generally held or accepted by members of the ash-Shura, including the speaker, or junior members of the secretariat. In their interviews, they referred to a meticulous process of ensuring clarity of the draft laws as well as their constitutionality. Internal bylaws of the ash-Shura does specify some steps but does not provide methods or tools to ensure clarity and intelligibility.<sup>26</sup>

With the same token, the ash-Shura, at least from the deliberations witnessed, has not been very much concerned with ensuring that legislation enacted is consistency with the human rights of the population. The human rights discourse remains sensitive

and foreign to the majority of members. This position stands a possibility of change, however, with seventy percent of the members in the 2015-2019 term having been exposed to human rights discourse or legislation in one way or another during the course of their career or education. Moreover, the National Commission for Human Rights decided to address human rights issues from a legislative perspective, which should provide a platform of sensitisation and response for the ash-Shura members.

Senior policy advisors and members of the secretariat within the ash-Shura and media observers confirmed, in their response to a question about streamlining human rights in the draft laws review process, that it was limited to ensuring compliance with Human Rights treaties, which have been ratified by the Sultanate. This suggests more of a compliance approach than a human-right-base-approach or a risk assessment approach.

In a similar vein, main streaming gender perspectives in policy making and bill drafting has also been disputed. Once again, ash-Shura members and junior staffers believe that main streaming gender perspectives is well practiced, though not systematised. Senior staffers and some journalists on the other hand believe that main streaming gender perspective is weak in the ash-Shura deliberations and internal workings, despite the increasing number of female staff within the ash-Shura. No recent assessment has been conducted to investigate the reasons behind such difference in views and reluctance on the side of members to adopt a more gender-equity and sensitivity approach. Historically speaking, a study conducted in 2009 evaluated the impact and role of Omani women members in the ash-Shura from 1994 to 2007. It concluded that gender issues appearance on the active agenda of the ash-Shura and its discourse was correlated with the election of two strong minded women. Despite that, and in line with comparative literature in other jurisdictions, only 21 percent of their deliberations and statements during plenary sessions was overtly feminine or pro-gender equality and women empowerment.<sup>27</sup>

## Oversight Role and Performance

While there are good (but less than rigorous and systematic) procedures and tools whereby members can question the executive and secure adequate information from it, they remain largely unenforceable due to lack of cooperation from the executive and unwillingness of the ash-Shura to enter into an adversarial or independent relationship with the executive. Despite the above, the number of parliamentary questions in the last term (2011-2015) were over seventy, compared to just fifteen questions in the previous term (2007-2011). The use of such a parliamentary tool is relatively low due to lack of appreciation of its political significance and use on the side of members.

Specialist committees are quite capable of carrying out their oversight function, in terms of interest and knowledge as well as preparation. While the executive authority

(Council of Ministers) frequently permits ministers and senior government officials to participate in committee hearings and meeting sessions, it is not usually the case with question sessions at the plenary level. Recent discussions with some ash-Shura's members reveals that a new method of overcoming that reluctance is being proposed. It will entail bringing two or more ministers simultaneously to discuss concerns over a particular sector or issue. The speaker of the ash-Shura and members believe that there is a significant possibility for improvement in this regard. The speaker believes that once the internal regulations of the Majlis Oman is ratified by the Sultan and issues into a primary legislation, the specialised committees will be more able to assume closer scrutiny and oversight.

The draft budget is referred to the ash-Shura annually in November with the expectations to have it returned to the executive authority by mid-December. Though the Basic Law provides for a period of thirty days, wherein the ash-Shura studies the draft budget and provide feedback, realistically speaking, the ash-Shura usually has a shorter time, mainly due to the following:

- (1) lack of updated or sufficient information about the government vision and future policies and the implementing strategies,
- (2) lack of a coherent budget, wherein the budget is not presented as a planning and executive tool to enable the ash-Shura to contribute to its development. The draft state budget is often presented simply as *incomprehensible lines of expenditure coupled with a project shopping list as explanatory notes*.
- (3) Pressure from the executive using the Sultan's name, since the budget must be issued by him on January 1<sup>st</sup> every year. This pressure is usually exercised by the speaker of the ash-Shura. This is compounded by the ash-Shura's concern not to be seen by the public or depicted by the executive, which dominates the media, as a stumbling block.

On the positive side, the new amendments to the Basic Law of the State do require further transparency and that the executive authority inform the ash-Shura of which of the recommendations and comments made by the ash-Shura have been accepted and put into practice, and which have not been taken on board as well as justification for both categories.

In terms of other spheres of influence, the ash-Shura has no bearing over scrutinising appointments to executive posts since appointments are by virtue of the Basic Law a sole competence of the head of the state. In terms of holding occupants of executive posts to account, the ash-Shura has the constitutional competence to question ministers and conduct vote of confidence procedures, however, the executive has not permitted this and the ash-Shura has not yet escalated the matter to the head of state.

It is worth noting that an essential factor in enabling the efficacy of parliamentary roles, especially the oversight function, is access to a wide base of competent staff who are sufficient in terms of number and expertise. There is a consensus among those

interviewed that the current skill-mix of the secretariat is not adequate. Members are desirous of having their own staff independently of committees. In the current situation members have to share staff who are assigned to committees. Only committee chairs have access to dedicated committee offices. Members have argued that their constituencies are not served appropriately nor sustainably due to lack of human resources and office space. More emphasis has been put on access to specific and updated information that will better enable members to discharge their duties.

## Transparency and Accessibility

Transparency and accessibility are key to effective parliaments. It has been singled out in the IPU vision for the 21st-century parliaments as one of the key determinants of efficacy and popular involvement. As far as the ash-Shura is concerned, and in light of the 2011 amendments of the Basic Law, plenary sessions of the ash-Shura are open and highly accessible to the media and the public, though the ash-Shura can hold in-camera plenary sessions to discuss matters of great sensitivity to Oman's economic or political wellbeing. In practice, such sessions are very rare and often met with great scepticism by the public, though members usually leak highlights of the discussion on their personal social media accounts. Committee meetings, on the other hand, are by law to be held in camera. The law also stipulates that verbatim records of the plenary sessions and all committee deliberations are confidential and not considered public documents. Access to such documents must be granted by permission of the speaker.

This status quo is complemented by good coverage in social media as well as printed press. Journalists are generally free from restrictions on reporting ash-Shura business and member activities. They, however, often apply self-censorship encouraged by post 2011 amendments to the Penal Code and Press Law, where the ceiling for freedom of expression in Oman was lowered significantly.

The ash-Shura is considered highly effective in informing the public about its work, through a variety of channels including social media outlets such as twitter and Facebook, biannual discussion sessions targeting youth, TV and radio reports, and press statements and coverage. This does not suggest that there is no scope for improvement. For example, the ash-Shura has not been targeting youth accurately and effectively, though there has been several events entailing direct contact between segments of the young population and senior ash-Shura members. However, according to all those interviewed, there is no systematic targeting to attract youth interest in the ash-Shura work and process. This is compounded by lack of consistent measure of youth involvement or inclusion in the ash-Shura discourse and work. Most of the youth interests and involvement seem to be channelled and manifested through social media outlets, often expressing varying degrees of sarcasm and cynicism.

Notwithstanding the above, and considering the political landscape in Oman subject to the ebbs and flow of political apathy, the ash-Shura seems to have developed reasonably well in providing adequate opportunities for electors to express their views and concerns directly to their representatives, regardless of ideologies or any other lines of interests or grouping. The procedures to be followed for individuals and groups to make submissions to a parliamentary committee or commission of enquiry are considered highly user-friendly, though not always commonly or sufficiently known to the public. However, electors remain confused between the former role of the ash-Shura pertaining to services and utilities, which have been assumed now by the municipal councils, and its wider role of legislation, making national policies and scrutinising the performance of the executive. Moreover, opportunities for nationals and citizens to have direct involvement in legislation through their own initiatives and petitions remains modest, while referenda are non-existent.

## Accountability

Arrangements for members to report to their constituents about their performance in office are modestly systematic, although there are no legal inhibitions that prevent members or the ash-Shura institution to develop such arrangements in a more sustainable manner. Existing arrangements remain largely driven by personal initiatives and staff cooperation.

Perhaps lack of interest in developing the above mentioned reporting arrangements stem, to an extent, from the features of the electoral system in Oman. As discussed earlier, high turnover with every election undermines the likelihood of re-election except in a few cases. On the other hand, it could be argued that the high turnover is an indication that the electoral system is reasonably effective in ensuring the accountability of ash-Shura, individually and collectively, to the electorate. Such turnover coupled with relatively low voter turn-out is an expression of satisfaction, or lack thereof, of the voters with the performance or role of the ash-Shura.

The Basic Law clearly prohibits members from accruing personal benefits by virtue of their offices. The speaker and members are fully cognizant of this prohibition, yet it has become acceptable for members to obtain benefits such as access to land, government grants, etc. while in office. This blind-eye approach is driven by two factors. The first factor is a belief shared among the ash-Shura members that they have no leverage over government contracts or major development projects. Hence, an association with corruption, as perceived by them, is highly unlikely. The second factor is the high turnover of members with every election, which infuses an atmosphere of uncertainty of political future among current incumbents, who have no alternative means of income generation. Consequently, the system for ensuring the observance of agreed upon codes of conduct by members is relatively weak and at best modest.



The internal bylaws of the ash-Shura and existing practices do not address procedures in a transparent and robust manner for preventing conflicts of financial and other interest in the conduct of parliamentary business. This modest approach to such a key aspect of members behaviour is driven by the aforementioned two factors.

The above should be read in tandem with the fact that the Omani Election Law does not prescribe any prohibitions on campaign finance. In addition, members often use their own funds. According to some sources,<sup>28</sup> that some candidates from marginalised groups got partial funding from their own communities to ensure representation at the ash-Shura. Other sources<sup>29</sup> suggest that some candidates who are close to the executive by virtue of kinship or commercial interests have also been funded by the executive to ensure insider influence. All these reports cannot be verified or validated; however, they remain in circulation and may, to an extent, impact deliberations within the plenary and committee sessions as well as ash-Shura's accountability to the populace.

As a result, oversight of candidate funding to ensure that members preserve independence in the performance of their duties has ranged between low and very low, with a few answers negating any correlation between campaign funding and influence due to the lack of the former. In a related vein, the ash-Shura does not adopt systematic monitoring and review of levels of public confidence in their performance. Most of the feedback remains ad hoc based on anecdotal evidence as expressed in social media or printed press.

Finally, the system whereby members' remunerations are determined remain vague and unclear to the public. Candidates prior to being elected are often confused and misinformed about members' remunerations and perks. Needless to say that there is no system in place. The current practice is that a package is negotiated and agreed upon among the members and then presented to the Sultan for approval. The Council of Ministers technically has no say in such decision.

## Involvement in International Policy

The ash-Shura was designed primarily with a local affairs focus. This is apparent from speeches delivered by the Sultan during official opening sessions. Moreover, Royal Decrees regulating the affairs of the ash-Shura have left international affairs outside the mandate of the ash-Shura. In 2011, however, amendments to the Basic Law of the State provided for a limited involvement of the ash-Shura in this field, presented as complementary to that of the executive. Article 58 Bis 41 provides the Council of Ministers will full power and authority over international treaties and agreements, and other forms of international law instruments. The role of the ash-Shura in this context is advisory and non-binding upon the executive. The Council of Ministers holds a position that the ash-Shura has no jurisdiction over military, security and foreign

affairs. Such position is inferred and consolidated by Articles 58 Bis 41 to 44, which refers to socio-economic fields while providing for ash-Shura oversight competences vis-à-vis treaties, State Audit reports, ministers' question sessions and annual ministerial report-cum-statement before the ash-Shura. This, naturally, weakens the ash-Shura ability to influence foreign and international affairs and scrutinise and the government's foreign policy. This view is held commonly among ash-Shura members and secretariat as well as many observers and journalists.

Information about the government's negotiating positions in regional and universal/global bodies is neither adequately nor timely shared with the ash-Shura. This leads, once again, to the inability of the ash-Shura to influence the binding legal or financial commitments made by the government in international fora, such as the UN. However, the ash-Shura's effectiveness in ensuring that international commitments are implemented at the national level received an array of views ranging from totally inadequate to adequate. Higher ratings came from senior members within ash-Shura, while the lowest ratings came from staffers and media professionals.

In terms of the ash-Shura's ability to scrutinise and contribute to national reports to international monitoring mechanisms and ensuring follow-up on their recommendations, ratings remain low to very low. This is apparently due to its limited legislative ability and influence, as discussed earlier. Though ash-Shura members have been vocal in the media and in committees charged with developing such reports, they are often called into line by senior members and government officials. As discussed earlier, ash-Shura members are not highly sensitised to human rights discourse. Mechanisms related to trade and other specialised sectors, such as the environment, are often left to the concerned ministry. They are not reduced to direct impacts on people's lives and livelihood, which inhibit ash-Shura members' abilities to address these issues appropriately.

The ash-Shura's effectiveness in monitoring the government's development policy, whether as 'donor' or 'recipient' of international development aid has been enabled mainly through the reviewing process of the draft state budget. No written information is provided about donating or receiving international or GCC based development aid. Instead, most of the information is exchanged verbally during committee hearings or question session with the minister responsible for finance. The same platform is used, albeit in vain, by the ash-Shura to scrutinise spending on the military, because the ash-Shura has no oversight over military and security portfolios.

While fostering political dialogue for conflict-resolution, both at home and abroad, is a presumed role of the ash-Shura, it seems that the ash-Shura has little or no activity in this regard. The main reason for such inactivity is lack of authority to negotiate and make decisions. During the 2011 unrests, the ash-Shura's attempts to negotiate between the protestors and the government did not bear fruits. However, the Council of Ministers realised that such inability could put them in direct confrontation

with the populace. Consequently, the Council of Ministers responded positively to some ash-Shura interventions in order to defuse local public protests. A case in point is re-instating the powers of the Public Authority for Consumer Protection, by suspending a resolution issued by the Council of Ministers to limit the Authority's domain of influence. The aforementioned resolution caused a public cry and speedy mobilisation culminated in a letter from the ash-Shura to the Sultan as chairman of the Council of Ministers requesting the resolution to be revoked or suspended.

The ash-Shura has been very effective and active in inter-parliamentary cooperation at both regional and global levels. Through joint and parliamentary committees, membership in inter-parliamentary unions and associations, and active participation in joint regional and international parliamentary projects, the ash-Shura has been able to project a positive image of the representative institutions in Oman. This aspect seems to be agreed upon by most of those interviewed. In fact, inter-parliamentary cooperation has been greatly encouraged by the executive as it is considered to be in line with Oman's general outlook. Moreover, such cooperation is not perceived to come up with political, legal or financial obligations and provide a back door for the executive in order to test waters. The ash-Shura members seem pleased to play such role with no strings attached. Furthermore, it allows ash-Shura members to use a discourse that usually invokes citizenry sentiments and is anchored in human rights. However, this does not mean that the ash-Shura is able to scrutinise the policies and performance of international organisations like the UN, UNESCO, World Bank, IMF, etc. to which the government contributes resources.

The above assessment calls for the Council of Ministers to accept the internally promulgated ash-Shura bylaws, and where there are differences, they are to be raised to the Sultan for arbitration and final decision, as has been the custom in Oman.

## Conclusions

The Basic Law of the State provides the ash-Shura with reasonable powers and competence, though an ample scope for expansion and development remains. However, great developments have occurred within the ash-Shura chamber since 2011, as members feel more empowered and freer to express themselves. Their interaction with public concerns has become better and, hence, their representativeness has deepened. Members and observers alike have commented on the progress, however modest, made in the process of reviewing draft legislation, especially in the area of engaging stakeholders. The ash-Shura has been successful in engaging the media both in print and electronically. Its presence on the social media platforms along with those of members have turned the ash-Shura into a more transparent institution.

Even within the existing powers and competences, however, the ash-Shura can enhance its performance and extent of representativeness significantly. This would

require a *modus operandi* that is anchored in a sense of accountability to the electorates and the Basic Law. For example, correspondence with the Council of Ministers could invoke articles of the Basic Law where appropriate and present the citizenry with responsibility as a context for the correspondence. Moreover, it could require expanded use of existing parliamentary tools and at the same time move away from regionally-based-service-oriented discussions to a national policy level.

It could also require the Council of Ministers to be responsive to the ash-Shura mandate and recommendations, recognise the ash-Shura bylaws and interpret the Basic Law in a way that is conducive to an institutionalised state. The executive and representative can better cooperate with each other to determine parameters of the oversight role of the ash-Shura with the intention to sustain its representativeness.

The legislative capacity of the ash-Shura can be further expanded and institutionalised through developing written rules and guidelines for reviewing draft laws and providing alternative means for the public to come forward with their views or concerns about a draft legislation. Moreover, further institutional linkages with think tanks could compensate for any existing shortage in subject matter expertise, when specialised legislation is referred. Finally, in this regard, the ash-Shura can pay close attention to making legislation accessible to all stakeholders. It also can encompass a human rights based approach to further anchor its representativeness.

As the ash-Shura continues to develop in transparency and public representativeness, its role can be strengthened by the Council of Ministers through greater openness and cooperation to meet the rapid evolution of the ash-Shura and popular expectations.<sup>30</sup>

## Notes

- <sup>1</sup> A system that is based on the Ibadhi school political ideology and its approximation of the concept of state.
- <sup>2</sup> Lower case shura refers to the philosophy and process, while higher case Shura or ash-Shura refers to the institution, i.e. the elected chamber.
- <sup>3</sup> Tribes which were created or hived off by the state.
- <sup>4</sup> Sultan Qaboos often sets the tone of political terminology in Oman. For example, the phrase 'ethnic minorities' is not considered politically correct by the sultan. Hence, media professionals, intellectuals and politicians are advised-cum-instructed to use the phrase 'cultural groups'. Similarly, terms such as 'legislative' or 'legislation' are not considered politically correct. The aforementioned groups are advised-cum-instructed to use terms such as 'representative' and 'laws' respectively. In fact, the term 'legislator' in Arabic has several forms denoting degree of authority and capacity. This is could be a subject of another research.
- <sup>5</sup> Please see khitaab sahib al-jalalah ila ash-sha'b (trans. Sultan Qaboos address to the nation), 26<sup>th</sup> November, 1975, Muscat. Retrieved 9<sup>th</sup> September, 2016 from <http://www.sultanqaboos.net/article-action-id-119.htm>
- <sup>6</sup> See David Held's 1999 book entitled Models of Democracy.
- <sup>7</sup> This draws upon Joel S. Migdal thesis of strong state-weak society continuum. Also see al-Mukhaini, Ahmed (2013). Qira'ah fi dawr mu'ssassa' al-mujtama' al-madani (trans. Exploring the Role of Civil Society Organisations). In al-Hashmi, Said (Ed.). arrabi' al-'umani, qira'atun fi as-siyaqat wa addilalalt, (trans. The Omani Spring, reading into contexts and significances): (pp. 95-111). Beirut: Dar al Farabi. Also, Said, Basma (2013). At-tajrubah ad-dsitoriyyah fi 'uman (trans. Constitutional Experience in Oman). Beirut: Centre of Arab Unity Studies.
- <sup>8</sup> See Khitaab as-sultan Qaboos bin Said fi al-in'iqad as-sanawi li majlis 'uman( (trans. Address of Sultan Qaboos bin Said at the annual session of Majlis Oman), November, 2011, Muscat. Retrieved from <http://www.sultanqaboos.net/article-action-s-id-207.htm>
- <sup>9</sup> Article 58 Bis 35 of the Basic Law.
- <sup>10</sup> The use of the term patriarchal denotes the rule of a patriarch figure rather than the rule of men.
- <sup>11</sup> Articles 42, 43, 44, 52 and 54 of the Basic Law.
- <sup>12</sup> Article 58 Bis 19 of the Basic Law.
- <sup>13</sup> Article 58 Bis 34 of the Basic Law.
- <sup>14</sup> Article 41 of the Basic Law.
- <sup>15</sup> This paper draws a distinction between nationals and citizens, where the word 'nationals' refers to Omanis and the word 'citizens' refers to all those residing in the country.
- <sup>16</sup> See Al Mukaini, Ahmed. (2010). Almujtama' almadani fi 'uman, attareeq quduman (trans. Civil Society in Oman, the Way Forward). Muscat: Tawasul Global Connection Centre.
- <sup>17</sup> Article 58 Bis of the Basic Law.
- <sup>18</sup> Articles 58 Bis 35 to Bis 38 and Article 58 Bis 40 of the Basic Law.
- <sup>19</sup>

|   |           |         |
|---|-----------|---------|
| Majlis  | Ad-Dawlah | website |
| <a href="http://www.statecouncil.om/Kentico/Inner_Pages/CountryCommittee/overview.aspx">http://www.statecouncil.om/Kentico/Inner_Pages/CountryCommittee/overview.aspx</a> |           |         |
- <sup>20</sup> Analysis of official and final elections results starting from the third term (1997-2000) till and including results of the seventh term (2011-2015).
- <sup>21</sup> Membership becoming a job rather than a political function or calling.
- <sup>22</sup> The IPU estimated that around 25 percent of legislation came from parliaments, and the rest came from the executive.
- <sup>23</sup> The IPU estimates a global average of 26-30 percent gap between legislation and its application.
- <sup>24</sup> Such as education level.
- <sup>25</sup> Interviews with senior staff from 26<sup>th</sup> January 2016 to 3<sup>rd</sup> April 2016, and two journalists who cover the Majlis closely in Muscat, March 2016.
- <sup>26</sup> Interview with the Speaker in Muscat on 7<sup>th</sup> April 2016, and informal interviews with members from Salalah, Muttrah and Biddiyah, and junior staffers in Muscat during April 2016.
- <sup>27</sup> See al Mukhaini, Ahmed. (2009). Taqweem adaa' al-mar'ah al-'umaniyyah fi majlis ash-Shura (trans. Evaluation of Omani Women Performance in the Omani Mjalis ash-Shura). In Proceedings of the Omani Women Symposium at Saih al-Makarim (Oman). Muscat: Ministry of Social Development.

- <sup>28</sup> Informal interviews with voters in the Sharqiyah region, mainly in al Qabil and Sur, and al Batinah region, mainly in Barka, in February 2016, and focus group discussions with female candidates from various parts of Oman, conducted in Muscat 2010.
- <sup>29</sup> Informal interviews with young voters from Nakhal and Wadi al Ma;awil, and a group female candidates from the Sharqiyah, Dhakhiliyah and Muscat regions, in February 2016.
- <sup>30</sup> The Council of Ministers strive to maintain its stronghold over access to the Sultan and loci of authority and financial perks and would continue to do so for the foreseeable future. This understanding was deduced by the author as a result of political analysis and review of the ash-Shura members efficacy and influence, which witnessed a remarkable decline as of 1997. This coincided with the establishment of the Dawlah. This understanding was confirmed by a cabinet-level government official, while reflecting upon the 2011 social unrests and its impact on the ash-Shura's composition, performance and popularity.