

FOREWORD

THE International Institute of Islamic Thought (IIIT) presents this scholarly work on the topic of consultation, or *al-Shura*, which examines the concept as a tool for reconstruction and reform in the Muslim world. The word, or rather principle, has been mentioned in the Qur'an, with the practice of the Prophet (SAAS)* and the Companions also seeming to point in this direction. The Prophet in fact both advocated the practice of consultation and engaged in the practice himself. However, Muslims remain largely unaware of the importance and value of *al-Shura* with scholars remaining somewhat undecided as to whether it is obligatory or not and what matters call for consultation. In a modern context *al-Shura* has been associated on one level with democratic participation in a decision making process, with qualification particular to the Qur'an and the Sunnah. This has fired up debate with critics challenging the notion of equating *al-Shura* with democracy. Unfortunately, according to the author, although much has been written on the subject, in reality it has been at best ineffectively applied and at worst heedlessly ignored. This has serious consequences for the Muslim world mired as it is in political authoritarianism whose intrinsic aspects are also reflected destructively in the private sphere. As such, concludes the author, consultation should be adopted as a way of life for all Muslims to protect their interests and as a tool for reconstruction and reform. Much of the book explores ways in which the principle can be introduced, institutionalized and applied in Muslim society and common life. In doing so the author addresses the subject from some intriguing new angles and gives insight into areas hitherto little, if at all, examined.

* (SAAS) – *Salla Allahu 'alayhi wa sallam*: May the peace and blessings of God be upon him. Said whenever the name of the Prophet Muhammed is mentioned.

Foreword

This study has been published to widen discourse, invite scholars to respond, and hopefully pave the way for further research. Doubtless readers may agree with some of the issues raised, and also disagree with others, but it is hoped that for the most part both general and specialised readers will benefit from the perspective offered and the overall issues examined in the book.

Where dates are cited according to the Islamic calendar (hijrah) they are labelled AH. Otherwise they follow the Gregorian calendar and labelled CE where necessary. Arabic words are italicized except for those which have entered common usage. Diacritical marks have been added only to those Arabic names not considered modern.

The IIIT, established in 1981, has served as a major center to facilitate sincere and serious scholarly efforts based on Islamic vision, values and principles. Its programs of research, seminars and conferences during the last thirty years have resulted in the publication of more than four hundred titles in English and Arabic, many of which have been translated into several other languages.

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INTRODUCTION

IN recent decades the Islamic academic and cultural field has witnessed the publication of hundreds of books and articles on the subject of consultation (*al-shura*). Hence, one might wonder whether there remains anything to be added on this topic. I would answer such a query in the affirmative: There are numerous things that still need to be said on the subject of consultation: some of them basic, others subsidiary; some of them academic and theoretical, others practical and functional.

This being the case, I have taken care in this study to avoid repeating things that have already been said on the subject at hand, while at the same time highlighting what is new and useful. The present study deals primarily with new questions relating to the issue of consultation, new angles to this issue, or aspects thereof that have not received attention heretofore. Anything that falls outside these three categories I have left aside except by way of brief reminder, as a foundation for the discussion of new issues, or in order to provide some needed correction or clarification.

Consequently, I have dwelt neither on definitions and linguistic analysis of terms, nor on points that are self-evident. Nor have I concerned myself with lengthy introductions or digressions except within what I have deemed the necessary limits. Rather, my ongoing concern has been to treat the issue to which I have made reference to in the title of this book, as well as fundamental, current issues that serve to promote the practice of consultation and support efforts to build up the Islamic community worldwide. My hope throughout has been to bring the practice of consultation from a state of dormancy to one of effectiveness, from inertness to action, from passivity to responsiveness, and from dependency and subordination to a sense of mission and creativity.

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Another concern of mine has been to ensure that the study is well founded on authoritative sources. It was a pleasure for me in the course of writing this work to delve into a number of verses from the Holy Qur'an, events from the life of the Prophet, and examples set by the rightly guided caliphs. In doing so, I adhered closely to a source-based¹ methodology as well as source-based and legislative principles.

I have striven in this study to advance the cause of consultation in both the academic and practical spheres. In the academic sphere, I have sought to offer genuine, qualitative additions to the many writings that have been published on the subject of consultation, particularly in the modern era. I have aimed to discuss a number of subsidiary issues and questions in a manner that presents a more complete and coherent picture of what consultation entails. Moreover, I have sought to achieve these aims as they relate to both the process of consultation in and of itself, and to its place and function within the Islamic framework. As for the practical sphere, the study moves gradually in this direction, ending with a specification of the concrete forms and mechanisms by means of which the consultative process can reinforce reform efforts, thereby enabling the Islamic community worldwide to reemerge with self-respect, a pioneering spirit, and confidence in its message and mission.

Chapter One. The Place of Consultation in Islamic Life

Section 1 of this chapter highlights the importance of consultation both in texts relevant to Islamic law and on the level of practical necessity. The first half of the section focuses on a number of texts from the Holy Qur'an and Prophetic traditions, whose relevance to the topic of consultation has received little attention. Such texts include the Qur'anic verses that recount the exchange which Allah (SWT),* initiated with His angels concerning the creation of Adam and the future of his descendents on earth. This exchange was seen by the well-known scholar Muhammad al-Tahir ibn Ashur as a kind of consultation which God conducted in order to honor and educate the angels, as

* (SWT) – *Subhanahu wa Ta'ala*: May He be praised and may His transcendence be affirmed. Said when referring to God.

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well as to inspire emulation. Such texts also include the numerous Qur'anic verses that establish a foundation for consultation in individual life: between husbands and wives, between parents and children, and even in situations involving marital discord or divorce. In the second half of *Section 1*, I seek to demonstrate the comprehensiveness of consultation, which is relevant to virtually all areas of life, both the spiritual and the material, the individual and the corporate.

The significance and comprehensiveness of consultation are likewise demonstrated in *Section 2* of this chapter, which is devoted to an elucidation of consultation's purposes and benefits. For such purposes and benefits are not – contrary to prevailing beliefs – restricted to that of arriving at the most valid point of view on this or that issue. In fact, I have listed no fewer than ten purposes and benefits that can be achieved through the practice of consultation.

Chapter Two. Basic Issues in Consultative Practice

Consultation-related issues are discussed here in the context of three themes. The first of these is that of consultation relating to public affairs: Who is responsible for engaging in such consultation? To whom is it addressed? The answer I propose to these questions is consistent with the overall thrust of this study, which favors comprehensiveness and generality. The reason for this is that comprehensiveness and generality are features that emerge in the traditional Islamic texts describing consultation. As such, consultation is considered to have a wider, more general application, unless it would be difficult or impossible to do otherwise, unless one or more individuals have already engaged in the requisite consultation on behalf of others, or unless the issues at stake are of such a highly specialized nature that no one but those with the relevant knowledge and expertise would be capable of offering the needed counsel. In light of this same principle – namely, that of comprehensiveness and generality – as well as the fact that men and women are equal in situations calling for consultation, this section of the study likewise takes up the question of “women and consultation.”

Section 2 of this chapter deals with membership in consultative councils, particularly those that have the right to consider questions on

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the level of national government and its specific realms of jurisdiction. Who are such senior advisors to be? What qualities should they be expected to exhibit? And how are they to be chosen? An overview of what scholars have had to say about the conditions and qualifications required of such advisors yields the following three: integrity, knowledge, and experience.

As for the means by which advisors are to be chosen, there are two primary methods, namely, election and appointment, each of which is characterized by its own details and concrete forms. The Qur'anic revelation, the Sunnah and commentaries on them indicate that these two methods can also be combined, with priority given to election.

Section 3 of this chapter deals with the question of whether the outcome of consultation is to be considered binding or only instructive. This question leads necessarily and automatically to another question, namely, that of how we are to treat the majority opinion of consultative councils, and decisions made by means of consultation that are supported by a majority. In view of the discussions and disagreements that continue to be sparked by this issue among Muslim scholars, thinkers and writers, I have given lengthy coverage of this point, including a presentation of the evidence for and against opposing points of view. Such evidence is drawn from the Holy Qur'an, the life of the Prophet and the examples set by the rightly guided caliphs, as well as from principles laid down by Muslim jurists, scholars who have devoted themselves to the study of the principles of Islamic jurisprudence (*usuliyyun*), and Hadith scholars.

Chapter Three. An Overview of Islamic Consultation From its Founding Era Onwards

Section 1 of this chapter deals with the initial consultative experiences of the Islamic community, that is to say, the manner in which consultation was conducted during the lifetimes of the Prophet and the rightly guided caliphs. Based on an examination of these two foundational eras, I have sought to identify the lessons such early experiences of consultation offer us in the present day, as well as the features of these experiences which, though indispensable, are also in need of support and supplementation from other areas of Muslims' lives.

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Section 2 includes a brief overview of the developments witnessed by the practice of consultation – on the levels of both actual practice, and theorization and scholarly interpretation – subsequent to the era of the rightly guided caliphs. An examination of these two levels makes clear that the place of consultation in the life of the Islamic community suffered a marked setback at that time. There are numerous reasons for this; however, the main reason is that, apart from certain exceptional cases, the practice of consultation remained without organization or regulation, and this is despite the fact that the major developments witnessed by the Islamic community and the Islamic state, both positive and negative, had necessitated the establishment and development of organized plans, institutions and systems in virtually all other areas of Islamic life.

Chapter Four. Consultation Today: How Do We Promote it and Build Upon it?

This chapter takes as its starting point the lessons to be gleaned from historical experience, both its virtues and its failings, for the sake of restoring consultation to its place of honor and rebuilding it both conceptually and organizationally. What I propose is that such rebuilding requires us to redress the primary failing in the area of consultation, namely, the organizational vacuum, by working to systematize and institutionalize consultative practice.

To this end, *Section 1* of this chapter presents four legislative principles which are both amply supported by the texts of Islamic law and applicable to virtually all interpretative issues of relevance to new developments in human life. These principles are: (1) that new forms of corruption necessitate new rulings commensurate thereto; (2) the prohibition of evasive legal devices, or of anything which has the potential of leading to that which is forbidden or destructive (*sadd al-dhara'i'*); (3) unrestricted or public interests (*al-masalih al-mursalah*), that is, human interests that are not explicitly identified by any text in the Qur'an or the Sunnah but which are generally agreed upon based on circumstances that arise in human society; and (4) borrowing that which is beneficial from others.

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Section 2 is a practical extension of *Section 1* and the four principles presented there, with special emphasis on the fourth principle, namely, borrowing that which is beneficial from others. In this section I present examples from the areas and approaches in which consultation is an effective instrument of reform and progress on the level of individuals, groups, states and institutions. The emphasis placed on the principle of borrowing that which is beneficial from others leads into a discussion of the issue of reliance on modern democratic systems and learning from their experiences and methods. I endeavor to demonstrate the legitimacy of this practice, indeed, the great need for it. Such borrowing is an ongoing means of emulating the Prophet which finds support in the Qur'an and in the example set by the Messenger of God, the rightly guided caliphs, and the righteous ancestors, that is, the Companions of the Prophet and their believing successors.

I then set out to show that democracy needs us as much as we need democracy. Indeed, democracy needs us even more than we need it. The reason for this is that whereas we need the knowledge and practical experience democracy has to offer in the realms of form, organization and procedure, democracy needs us in order to treat maladies that are integral to its very structure.

Lastly, in a complement to the aforementioned discussions of the importance of consultation and ways to reactivate it and render it effective, I conclude my study with the message that consultation alone is insufficient. For given the fact that consultation is a part of the Islamic framework, it will only succeed, bear fruit, endure and prosper to the extent that other parts of this same framework are operating in conjunction with it.

These, then, are the themes God has laid on my mind and heart. Hence, I ask Him to accept this labor of mine, overlooking its deficiencies and opening the way for its defects and errors to be amended. He is the One Who hears and answers.

*Praise be to God, by whose grace alone good deeds are performed.
Praise be to God, who has guided us to this, and without
Whom we would not have been thus guided.*