

Conflict in Application: The Western and Islamic Notion of Rights

By

Ronald Anthony Milon
Graduate Student
Department of Political Science

A writing project
submitted in partial fulfillment
of the requirements for the degree of
Master of Arts in the Department of Political Science
and for admission into the Ph.D program
New School for Social Research
Graduate Faculty of Political and Social Sciences
65 Fifth Avenue
New York, New York 10003

First Reader: Professor Adamantia Pollis, Department of Political Science
Second Reader: Professor Talal Asad, Department of Anthropology

January 1995

Acknowledgments

At this time I would like to express my deepest thanks to Professors Pollis and Asad for their assistance in offering me suggestions for revisions and other improvements. Professor Pollis merits a special note of appreciation for her stimulating dialogue, friendship and for her understanding. I learned a great deal from her. More than she will ever know.

This paper is offered in loving memory of Emily E. Milon, my grandmother, for always loving and believing in me.

Ron Milon

Ronald Anthony Milon

Master's Project

Department of Political Science

New School for Social Research

Conflict in Application: The Western and Islamic Notion of Rights

Abstract

Given the recent global transformations a new focus is now taking place on the issue of rights in theory and application. During the cold war the ideological glasses of the West and East colored the various debates on human rights. Ever since the Gulf War, the human rights movement in the Arab/Islamic world -- which once focused on the struggle to liberate the Palestinians -- has taken on a new dimension. Many Arabs and Muslims have seen it increasingly as a cudgel used by Western powers to pursue their interests in weaker countries. The fundamental issue on rights now deals with the relationship between collective and individual rights. More specifically, the problem with the state denying the rights of individuals in order to preserve the collective society.

This project is designed to deal with such a situation by looking at the problem of applying international human rights law in Islamic states. Review of this application will show the difficulty of applying universal norms when there are diverse cultures and ideas about rights. Also, such an effort will relate the competing ideas of individual and collective rights.

Outline

- I. **Introduction:** Context of Global Change and Human Rights
- II. **The Research Problem**
- III. **Islamic and Western Conceptions of Rights Compared:**
 - A. The Western Origin of Rights
 - B. Assumptions on the Modern Notion of Rights
 - C. Islamic Origin of Rights
 - D. The Modern Debate: Traditionalists versus The Modernists
 - E. Issues on Universality and the Problem of Comparing
- IV. **Islamic Application in the Areas of:**
 - A. Individual Political Rights
 - Saudi Arabia
 - a. Freedom of speech and press
 - b. Political participation

Egypt

- a. Freedom of speech and press

ii

- b. Political participation

B. Individual Civil Rights

Saudi Arabia

- a. Torture and other cruel, inhuman, or degrading punishment
- b. Arbitrary arrest, detention or exile
- c. Denial of a fair public trial

Egypt

- a. Torture and other cruel, inhuman, or degrading punishment
- b. Arbitrary arrest, detention or exile
- c. Denial of a fair public trial

V. **Conclusion**

The post Cold War era continues to experience change in the power configurations (structures) and debates of issues relevant to the maintenance of peace and the continued survival of human kind. During the years of the Cold war, debates focused on the ideological issues of the two superpowers, i.e., economic and security issues. Because of this, many issues important to maintaining peace, such as human rights, were considered to have lower priority in the political debate. When the issue of rights came up, it was buried in the debate of civil and political rights versus economic, cultural and social. Hence, the rights debate was part of a larger framework of maintaining the superiority of one economic and political system over another; the East/West debate.

Today such events like the fall of communism, the breakup of Eastern European and Soviet republics, the removal of Apartheid in South Africa and the election of Nelson Mandela as the first black president and the possibility of peace in the Middle East all illustrate that the global climate is changing from the tensions that were the core of the Cold War to one of possible cooperation and peace along with new transnational issues.

The ending of the Cold war has changed the dynamics of the human rights debate from one which was ideological and confrontational to a focus on their universal application. The debate, which was once colored by ideological glasses, is now focused on the application of international norms. But the ending of the Cold war has also introduced new problems and issues that the international community must deal with

such as the crisis in Bosnia, economic stagnation in Africa and transnational concerns such as Aids and the environment and other political and social issues. The human rights debate now, more than ever, offers the possibility of protecting rights on a national and international context. However, the debate presents some possibilities and problematics which are grounded in international law. Concepts like self determination and sovereignty which were important in the formation of the United Nations and international law and in struggles of the Third World over the Western core are still significant in the new debates regarding individual over collective rights and universalism over cultural relativism.

The debate over individual versus collective rights¹ is significant when we talk about the universal application of human rights norms in diverse regions of the world. The dialogue regarding the universal application of rights is built on the idea that since the recognition of particular rights and freedoms, and their observance varied greatly between cultures and over time, the growing interdependence of countries has led to the emergence of a common political objective: the gradual realization of minimum rules and standards of conduct and administration throughout the globe. This idea suggests

¹ Douglas Sanders provides a definition of collective rights which helps in this study. According to him, "groups which advocate collective rights seek to protect and develop their own particular cultural characteristics." Groups that have goals that transcend the ending of discrimination against their members are collectives, since their members are joined together not simply by external discrimination but by an internal cohesiveness. See Douglas Sanders. "Collective Rights" Human Rights Quarterly 13 (1991), pp. 369.

that the universal application of rights works from a general accepted idea of what is a right. Western human rights norms are built upon the concern for individualism. This is the opposite in the Islam community where the idea of rights is based on the collective notion of rights which transcends the individual. The moral and philosophical posture of the western conception of rights projects a parochial view exclusive of the cultural realities and present existential conditions of the Muslim world which comprises thirty-six states, nearly one-fourth of the number of countries of the world.²

This difference in the conception of rights will serve to illustrate the difficulty of implementing universal human rights norms. The practice of human rights in Islamic society is a fine example of how a community (the state) seeks to protect and develop its own particular cultural characteristics.

² Abdul Aziz Said. "Precept and Practice of Human Rights in Islam." Universal Human Rights. Vol. 1, No. 1 (Jan-Mar 1979)., pp. 63.

The status of human rights in the Arab world,³ is subject not just to the external political and economic conditions but also to customs not common in the West such as Islamic culture and Islamic law (Shari'a)⁴. In fact, while reports from human rights organizations such as Amnesty International or Middle East Watch list violations according to International Law, there is a movement in the Middle East consisting of those who argue for the replacement of international human rights norms with an Islamic conception of rights. Muslims who reject the applicability of international human rights law do so on the grounds that the international guarantees exceed the limits of rights and freedoms permitted by Islam.⁵ The other side of the debate suggests that notions of International Human Rights Law should and can be incorporated or merged together with Islamic notions. This, it is argued, will help meet the needs of a modernizing (changing) Islamic society. The various debates will illustrate the difficulty of applying universal norms as well as the tensions in the debate of individual rights over collective rights.

This paper will focus on two Arab states where this problem is evident: Saudi Arabia, and Egypt.

³ Arab community, Islamic community, Muslims refer to the nations listed on the map in appendix I.

⁴ The Shari'a is a legal code used in the Arab nations that is derived from the religious precepts of the Quran.

⁵ Ann Elizabeth Mayer. (1991) Islam and Human Rights: Tradition and Politics. Boulder, Col.: Westview Press., p. 30.

Saudi Arabia was selected for three reasons. First, was that of geography. Saudi Arabia is a state isolated from the traditions and practices of the West. The country, surrounded by Arab states whose laws are dictated by the Shari'a, offers its own ideas regarding a person's relation to the state. Because of this geographical isolation the country is generally homogeneous, meaning that a large percentage of the population, 96% according to some sources, is Muslim. The third consideration for selecting Saudi Arabia is its strict adherence to the shari'a.

Egypt was selected as a comparison and contrast to Saudi Arabia in that it has a close relationship with the West, (i.e., the Camp David Accords). At the same time Egypt is a good friend of Saudi Arabia. However, Egypt like the other Arab nations is struggling internally with the question of rights. Another reason why Egypt was selected for this project was due to the current Islamic Fundamentalist movement against the current government. Egypt is a strange case for political analysis, given its political relationship with the West. From its anti-imperialist activities of 1956, to the Camp David accords in 1977, Egypt represented two extremes in the Cold War from enemy to a friend.

The problems of applying norms of individual civil and political rights will be used in analyzing the debate between collective versus individual rights in the selected countries. Each of these countries represents the extreme ends of the debate, and both are also experiencing internal conflicts with the interpretation of Islamic law and the acceptance and implementation of international human rights norms. It will be

argued that the divisions in the debate over collective and individual rights in the Arab world can only be resolved when there is a happy medium: incorporation of certain human rights norms from international law with Islamic notions. This goes against the supporters of universalism since full compliance will not be the final result.

Unfortunately, this will not be easy since the fundamentalist movement argues for a strict interpretation of Islamic law. Such an interpretation generally dictates that since people are subjects of the state (God) and not citizens there cannot be a conception of individual identity under the shari'a. However, according to Mayer there may be some flexibility on the part of the state regarding rights:

[i]n some cases, one might make tentative projections regarding what shari'a limitations would entail. Despite the great diversity in Islamic doctrine on certain points of pre-modern law there is enough consensus to allow surmises as to how the application of Islamic principles would affect rights. Reliance on the rules of the pre-modern shari'a to determine the permissible scope of modern rights could open the way of nullification of rights in areas where the shari'a calls for restrictions on rights and freedoms, such as the rules relegating women and non-Muslims to subordinate status or prohibiting conversions from Islam. Even on these topics, where there are extensive rules in the shari'a, there is enough diversity and nuance in the relevant legal doctrines to give the state considerable leeway in deciding what rules should be chosen as embodying the official Islamic norms.⁶

WESTERN AND ISLAMIC NOTIONS OF RIGHTS COMPARED

The Western Origins of Rights:

If the concept of human rights is very old, the general recognition of their validity

⁶ Mayer, pp. 77.

is not. Throughout most of history governments failed to accept the notion that people have rights independent of the state. This statism implies the supremacy of the state in all matters pertaining to the lives of subjects. Statism is still a potent concept in the 20th century, i.e., Adolf Hitler of Germany and Joseph Stalin of the Soviet Union.

Human rights are fundamental entitlements that all persons enjoy as protection against state conduct prohibited by international law or custom. Among the forms of mistreatment that are most widely condemned are extrajudicial or summary execution; disappearance (in which people are taken in custody and never heard of again); kidnaping; torture; arbitrary detention or exile; slavery or involuntary servitude; discrimination on racial, ethnic, religious, or sexual grounds; and violation of the rights to due process, free expression, free association, free movement, and peaceable assembly.

Human rights as a distinct component of international law is a modern phenomenon; however, it has deep historical roots. Ancient Greek and Roman thought recognized the existence of immutable, natural laws to which individuals might appeal in defiance of unjust state laws. Later, the secular and humanist strains of thought that appeared during the Renaissance and blossomed fully during the 18th century Enlightenment gave rise to theories of morality grounded in the rights of the individual.

By the time of the American and French revolutions, a complete turnaround had taken place in the relationship of governments to human rights. The point of view elaborated by the American Founding Fathers, as well as by the French revolutionaries,

is that government's purpose is to protect and defend rights, not to dispense or exploit them. Such views of human rights were not without their critics. From the end of the 18th century through the third decade of the 20th, theorists attacked the human-rights concept. For instance, Edmund Burke in England denounced what he called "the monstrous fiction" of human equality.⁷

The critics, however, were going against the tide of history. In the United States and many parts of Europe, there was distinct progress in the development of human rights. This might not have been possible without the human rights abuses that Nazi Germany provided for all the world to see. These crimes against humanity, most evident in the extermination of millions of people in concentration camps, horrified the civilized world and helped bring human rights to their present appreciation.

Modern Assumptions on Rights

⁷ Burke, Edmund. Reflections on the Revolution in France.

Most democratic political systems claim to be founded on prevailing concepts of human dignity and justice. But the interaction between such concepts and political systems is more complex than this. When the United Nations was created in 1948, many in the global community wanted a mechanism that would protect the rights of individuals. While the modern discussion of rights and the established mechanisms are new, the idea of protecting the rights of man is a core part of western liberal history. The western notion of rights is grounded in different cultural, ideological (political), and philosophic views and values from that of other regions of the globe.⁸ In the West such origins can be found in the writings of such philosophers as Locke, Paine, Rousseau, and Jefferson⁹ to name a few. In their writings the notions of rights were discussed in relation to the role of government.

When the United Nations was created the member states created norms that promoted and protected human rights by focusing on the individual. As evident in the debates during the Cold war this effort took a back seat to the political dynamics and

⁸ See Adamantia Pollis essay entitled "Human Rights" in Encyclopedia of Government and Politics (1992) edited by Mary Hawkesworth and Maurice Kogan. Routledge: New York, pp.1324.

⁹ John Locke. (1980) Second Treatise of Government. Indianapolis: Hackett Publishing Company., Thomas Paine (1984) The Rights of Man. New York: Penguin Books., Jean-Jacques Rousseau (1967) The Social Contract and the Discourse on the Origin of Inequality. New York: Washington Square Press., and Thomas Jefferson. (1977) The Portable Thomas Jefferson. New York: Penguin Books., are works reflecting on the concepts of the individual (man) and their relationship to the government (Social Contract Theory).

ideological tensions of the globe.¹⁰

To discern the western conception of rights in theory and in practice one must look at the events following World War II. While much of the theory behind the

¹⁰ In the 1960s, optimists argued that human rights diplomacy turned to indirect protection and promotion efforts through the holding of seminars and the publication of various studies on human problems in general without the naming of countries or specific patterns of behavior. Pessimists saw this period as one of inaction, despite a supposed United Nations action plan on human rights -- the international covenants. A major conflict during this phase in the promotion and protection of human rights concerns the relative importance of civil and political, as opposed to economic and social rights. In the immediate post war period the United States and Great Britain sought to emphasize civil and political rights, and they saw the question of promoting human rights in terms of protecting individual freedoms and creating restraints on the exercise of governmental authority. Western European nations shared this view in many cases. The Soviet Union, on the other hand, placed much greater emphasis on economic and social rights and on the obligation of government to provide for the welfare of its people. Other countries with communist governments sided with the Soviet Union, and most of the newly independent states of Africa and Asia also came to take the position of the Soviets.

western notion of rights is grounded in western liberalism, a great deal came out of the Cold war in debates and documents colored by the glasses of the East and West. In fact, during the Cold war the debates(s) on rights were transformed by the Soviet Union and the United States into a propaganda tool of establishing political agendas not necessarily related to the protection of rights.

The western concept of rights as related to law focuses on the individual and individual identity and their social contract with their respective government.¹¹ The general acceptance of human rights in the west led to a widespread agreement on certain fundamental assumptions about them: First, if a right is affirmed as a human right rather than an economic and social right, it is understood to be universal, something that applies to all human beings everywhere. Second, rights are understood as equal access to political and economic power. Third, it is agreed that human rights are not always absolute: they may be limited or restrained for the sake of the common

¹¹ These rights were best described by the 17th- and 18th-century political theorists--such men as John Locke in England, Montesquieu in France, and Jefferson and others in the United States. They are the rights to life, liberty, privacy, the security of the individual, freedom of speech and press, freedom of worship, the right to own property, freedom from slavery, freedom from torture and inhuman punishment, and similar rights as spelled out in the first ten amendments to the United States Constitution. Basic to individual rights is the concept of government as a shield against encroachment upon the person. Little is demanded from government but the right to be left alone. Government is not asked for anything except vigilance in safeguarding the rights of its citizens.

good or to secure the rights of others. Fourth, human rights are not an umbrella term to cover all personal desires. And fifth, the concept of rights often implies related obligations. Thomas Jefferson noted that eternal vigilance is the price of liberty. Therefore, if individuals would maintain their freedom, their duty is to guard against political, religious, and social activities that may restrict their rights.

Acceptance of fundamental assumptions has not lessened disagreement on which rights can be classified as human rights. Historically the debate has been carried out within about three categories: individual, social, and collective. Individual rights refer to the basic rights to life and liberty mentioned in the Declaration of Independence.

Social rights broadens this concept to include economic, social, and cultural rights. Collective, or solidarity rights has come into prominence since the end of World War II, the collapse of old colonial empires, and the emergence of many new nation-states. These rights as related in U.N. documents refer to those rights enjoyed by a minority within a country for example a religious minority. For example, cultural rights are held by the members of a particular cultural group, but such rights are held by individuals in their capacity as members of protected social groups. These particular forms of rights are best described by the Universal Declaration of Human Rights.

Donnelly in his section on "Subjects of Human Rights," best describes the western notion of rights as related to the individual by saying:

...[o]nly human beings have human rights . . . If human rights are the rights that one has simply as a human being, then by definition one cannot have a human right . . . It is individuals, not groups, that have rights to food, health care, work, social security, due process, freedom of the press, protection against discrimination, and the like . . .¹²

This idea of the individual and the notion of human rights being granted by natural law to the individual is significant in understanding the contrasting of such ideas with the Islamic notion of rights.

One assumption that people make in the west, is that the west has one conception of rights and the rest of the world has an opposing conception. But according to Pollis:

¹² Donnelly, Jack. (1989) Universal Human Rights in Theory and Practice. (Ithaca: Cornell University Press)., pp. 20.

[d]espite ideological differences the East and West universe of discourse is shared, stemming from a common European intellectual heritage . . . By contrast, Asia, Africa, and the Middle East not only diverge markedly among themselves but have no common intellectual history with either eastern or western Europe.¹³

This is very important in understanding the Islamic notion of rights and for comparing such notions to those of the West. It is important because any idea regarding rights, comes from ones history, culture, etc. This supports the cultural relativists argument that every culture follows its own moral precepts, which it perceives to be the best.¹⁴ Questions of statism and individuality are notions totally different in Islamic society from Western notions. In the next section the Islamic notion of rights will be presented in order to further explore this idea.

The Islamic Notion of Rights:

The Islamic community was selected for my analysis since it is an instance of a community that purports collective rights over individual rights. In Islam maintaining the

¹³ Pollis, pp. 1324.

¹⁴ Alison Dundes Rentelin. (1990) International Human Rights: Universalism Versus Relativism. Newbury Park, Ca.: Sage Publications., pp. 13.

community is more important than promoting individual rights. In order to discern the Islamic conception of rights it is crucial to examine the doctrine of collective rights and how it is used in maintaining the Islamic state.

The Islamic concept of rights must be seen in the context of pre-Islamic mores and the prevailing Roman and Persian laws of the period. The Western notion of individual rights came in response to the historical conditions of government encroachment upon the individual; and so to the Islamic notion of rights was a response to historical conditions. According to Arzt:

Islam rejected the then-common infanticide and blood feuds that took place in pre-Islamic times. It improved the relative status of women by limiting polygamy to four wives, and it urged the emancipation of slaves, though allowing non-Muslim slaves. Although by no means approaching the much later Western ideology of individualism, Islam did introduce a measure of individual accountability into a society based primarily on tribalism.¹⁵

¹⁵ Donna E. Arzt. "The Application of International Human Rights Law in Islamic States," Human Rights Quarterly 12 (1990) pp. 209-210.

Islamic law, not separate from the religion, was a way [road] to follow for order. The Islamic religion specifies not only what its adherents must believe, but also how they must behave. The formation of communal obligations and duties was written in Islamic laws in order to maintain order. Adherents following this road of serving the state (God) will be protected. While looking at the historical origins may prove helpful in understanding its development it does not necessarily mean that we can overlook the current internal and global dynamics. For this comparative analysis to have any significance, and to judge Islamic laws and application fairly, it must be subject to comparison with currently prevailing human rights standards, especially where Islamic states have participated in international lawmaking processes and have endorsed human rights instruments.¹⁶

¹⁶ Ibid.

In the literature most of the discussion on collective or group rights refers to a minority group within a nation-state. An example of this is an ethnic minority advocating for political and social rights within a state. My use of the term collective rights is done in the reverse order. In this study the collective unit is the state and not a minority group from within.¹⁷ With the Islamic notion of communal rights the individual is subordinate to the state. There are social and political limits placed by the state on the exercise of all individual rights. The state has the legitimate right under law to constrain human rights in order to maintain order. Collective rights are different from group rights in that the members are joined together not simply by external discrimination but by internal cohesiveness.¹⁸ Further, groups seek to protect and develop their own particular cultural characteristics.¹⁹ According to Sanders:

[c]ollective rights cannot be satisfactorily recognized without the existence of representatives or institutions designed to further a collectivity's goals, and so individual members of the collectivity play subordinate roles. And while group rights organizations have stood to promote the group's interests, collectivity representatives and institutions have almost exclusive legitimacy to assert and

¹⁷ Unfortunately there is not much literature in this area. Most of the works dealing with collective rights use the term when referring to ethnic groups within the state. Tibor Machan's book Individuals and their Rights, talks about the idea of collectivism versus individualism in terms of Marxian economics. His discussion is limited for the purposes of this paper, since he uses the term of "human essence" too loosely. From his analysis some feel that individualism can best lead to human essence, while others feel that collectivism is the best means. More research is needed in order to analyze why certain cultures support collective rights over individual rights.

¹⁸ Sanders, pp. 369.

¹⁹ Ibid.

manage the collective rights.²⁰

In the Islamic community representatives and institutions have the task of maintaining the community as dictated by God. According to Said:

[i]n Islam the state surrenders its sovereignty to God and accepts the position of Caliphate (vice-regency) under God's suzerainty . . . Since the purpose of the individual is service to God, the existence of an organized community of believers requires the establishment of government. Accordingly, the legitimacy of government is its ability to ensure the service of God through counsel (Surah) among the Muslims.²¹

The idea of collective human rights represents a major conceptual problem in application. According to Donnelly:

²⁰ Ibid.

²¹ Abudul Aziz Said. "Human Rights in Islamic Perspectives." in Pollis, Adamantia, and P. Schwab., eds.(1980) Human Rights: Cultural and Ideological Perspectives. New York: Praeger Publishers., pp. 87.

[g]roups, including nations, can and do hold a variety of rights. But these are not rights . . . Whatever their relative importance, (individual) human rights and collective peoples' rights are very different kinds of rights and should be kept distinct. There are legitimate social limits on the exercise of all individual rights. Society does have certain rights, or at least responsibilities, that legitimately constrain the exercise of many human rights . . . Human rights, however, refer to but one side of this balance between rights and duties. Human rights do have to be weighed against social needs, but they should not be confused or conflated with them. It makes no sense to try to conceive of individual duties to society as collective human rights than it does to try to reduce all social duties to obligations correlative to individual human rights. Both rights and duties are important. But they are quite different.²²

²² Donnelly., pp. 145.

While the classical Western liberal notion of human rights emphasizes individual political and civil rights, the Islam community places a greater emphasis on the community based on obligations and duties.²³ Again, some will argue that these duties and obligations are just that “duties and obligations” and not rights; however, for our purposes it is important to understand how the concepts are used in Islamic society.

The sense of community is important when one maintains the idea of collective rights. According to Said, “community is defined as a group of people cooperating together for the sake of the common good and relying upon the utilization of its resources to achieve viability and creativity.”²⁴ Therefore, a community is based on the production required to satisfy its needs. Collectivism embraces the idea that the human essence is the true collectivity of man. The needs of the community are determined by the state. In Easton’s model of the political system stability of the system requires the ability to meet the changing, increasing demands of the citizens; hence alleviate stress.²⁵ In the Islamic political system, Said purports that it:

[m]ust be self-sufficient; it must satisfy the needs of the community. Self-

²³ Collective rights, as stated in the Universal Declaration of 1948, urge the right to political, economic, social, and cultural self-determination; the right to peace; the right to live in a healthful and balanced environment; and the right to share in the Earth's resources. There is also the demand by some Third World nations for a global redistribution of wealth and political power

²⁴ Said (1979)., pp. 64.

²⁵ David Easton. (1965) A Framework for Political Analysis. Englewood Cliffs, N.J.: Prentice-Hall., pp. 119.

sufficiency is achieved when demands equal supplies. When members of the community increase their demand, the system should increase its supply. Members of the community however, must not demand the undesirable or the impossible.²⁶

The needs of the community and the implementation of such needs are prescribed in Islamic law. The collective idea of rights as carried out in Islamic law and culture is being challenged by the global wave of democracy and human rights. Because of this challenge the Arab world like that of other non-western nations are debating the options of tradition, change, or a happy medium. The responses and consequences of Arab nations is not the same as will be illustrated in the next section. In the next section the concept of human rights in the Islamic community will be provided as a means of illustrating the collective nature of rights in comparison to Western notions.

²⁶ Said (1979)., pp. 65.

In much of the literature on Islam and Human Rights it is argued that, "Islam has laid down some universal fundamental rights (obligations) for humanity as a whole, which are to be observed and respected under all circumstances . . . fundamental rights for every man by virtue of his status as a being . . . [t]he basic concepts and principles of human rights have from the very beginning been embodied in Islamic law."²⁷ In Islam, human beings have certain God granted rights. According to Abdul Aziz:

[t]he essential characteristic of human rights in Islam is that they constitute obligations connected with the Divine and derive their force from this connection . . . *Human rights exist only in relation to human obligations*. Individuals possess certain obligations toward God, fellow humans and nature all of which are defined by the Shariah. When individuals meet these obligations, they acquire certain rights and freedoms which are again prescribed by the Shariah.²⁸

Whatever rights exist is a consequence of one's status or actions and not that he or she is a human being. And it is the state's duty to enhance human dignity and

²⁷ Donnelly, (1989) pp. 51, and Ann Elizabeth Mayer. (1991) Islam and Human Rights: Tradition and Politics. Boulder, Co.: Westview Press, pp. 8.

²⁸ Aziz as quoted in Donnelly (1989)., pp. 52 also see Said, Abdul Aziz. (1979) "Precept and Practice of Human Rights in Islam." Universal Human Rights. I (April): pp. 63-80.

alleviate conditions that hinder individuals in their efforts to achieve happiness²⁹ -- this is the state's duty to the community.

In analyzing the Islamic notion of rights two things are important: first, the question of individuality and second the relation one has to the state.

²⁹ Ibid., pp. 52.

The notion of individuality is significant in analyzing human rights both in Islam and in the world community, since it is on that idea that the universal notion of rights is based. In Dwyer's book, Arab Voices, Muhammad Sid Ahmed³⁰ in discussing the issues of democracy and human rights in Egypt argues that:

. . . there is another dimension to the human rights question beyond the idea of what these freedoms are and how they are expressed: there is the problem of identity. Human rights are an expression of identity, of self, and there is a great crisis.

First of all, identity has gone through so many upheavals in so short a time: are we socialist or capitalist? Are we pan-Arab or Egyptian? Are we pro-Israeli or pro-Arab? Are we part of the Islamic circle or the African circle? All these problems are not settled. So there is an identity crisis. No, one knows who he is, and the more you don't know this, the more the identity issue becomes overwhelming . . . And this colors the human rights problem. There is frustration, and a feeling that the West has taken over the issue. This is felt about the peace movement too, because the peace process is identified with Sadat's turn to the west. And the extreme reaction in the other direction is to go back to your roots, to your Islamic roots, leading to the upsurge of radical Islam.

So the identity problem is crucial for human rights. Because first of all, when you start to look for a definition of human rights, you are seeking to identify your identity. But which identity? Is it liberal, modern identity? Then you'll have one definition of human rights. Is it socialist modern identity? That gives you another

³⁰ Muhammad Sid Ahmed is a well-known Egyptian journalist and a leading figure of the leftist National Progressive Unionist Party (Kevin Dwyer. (1991) Arab Voices).

set of values for human rights. Is it an Islamic identity? That has totally different implications for human rights.³¹

³¹ Kevin Dwyer. (1991) Arab Voices: The Human Rights Debate in the Middle East. Berkeley: University of California Press., pp. 61-62.

The problem of identity is tackled by Muhammad Sid Ahmed more on the national scale; for instance, “Are We Egyptian or Arab or Africa.” But such a focus is important in understanding the international context as well, when we talk about the universal application of norms. The characteristic of individualism in western civilization was a fundamental attribute in the development of human rights. However, according to Mayer, “individualism is not an established feature in Muslim societies or culture, nor can one find a historical example of an Islamic school of thought that celebrated individualism as a virtue.”³² Mayer further related this point by arguing that:

[I]slamic doctrines were historically produced in traditional societies, where one would not expect individualism to be prized, irrespective of the formal religious affiliation of the members of such societies. Non-individualistic and even anti-individualistic attitudes are common in traditional societies, where individuals are situated in a given position in a social context and are seen as components of family or community structures, rather than as autonomous, separate persons. Pre-modern Islamic thought naturally reflects these traditional values and priorities. When one says that Islamic doctrines formulated by pre-modern Muslim thinkers, tend to be anti-individualistic, one is making an observation that relates more to the historic context in which these ideas were produced than to Islam as a religion. To describe such doctrines is not to say that Islam is incapable of accommodating principles of individualism. But the absence of any heritage of individualism cannot have been helpful for the development of human rights concepts on an Islamic foundation.³³

The next major idea needed in understanding Islam and human rights is that of the state and a person’s role in it. The concept of individualism as expressed by Mayer will help in contrasting this major difference with western norms and ideas.

³² Mayer., pp. 47.

³³ Ibid., pp. 47.

The aim of Islamic law is to ensure the well-being of the Islamic community. In order to comprehend how complex the “identity of self” is in the Islamic community, one must also look at the nature of the Islamic nation-state, hence focus on community.

According to Said the purpose of the state in Islam is to:

[e]nforce the principles of the Shariah, the laws derived from the Quran . . . In Islam the state surrenders its sovereignty to God and accepts the position of Caliphate (vice-regency) under God’s suzerainty. The power of the Caliphate does not reside in any person or a community, but in those who believe and do good . . . Since sovereignty belongs to God alone, the process of legislation becomes less significant in an Islamic state than it is in its counterpart in the West.³⁴

Since the purpose of the individual in Islamic society is to serve God, the existence of an organized community of believers requires the establishment of government. And in this case the government serves the state much like the church serves God, which in this case is God.

Despite the claims of the Universal Declaration of Human Rights to the establishment of a universal idea of human rights, it focuses on a single logic to the exclusion of all other logics, thus creating only a partial dialogue with the world. For example, the idea that the individual and family are the primary units of society, or that

³⁴ Said, Abdul Aziz. “Human Rights in Islamic Perspectives,” in Pollis, Adamantia, and P. Schwab., eds. (1979) Human Rights: Cultural and Ideological Perspectives. New York: Praeger., pp. 87.

majority rule is the best form of decision-making, denies collective life styles and rights of societies and assumes a particular form of governance. In effect, human rights standards' makers appear to lack any idea about non-western cultural logics. This assumption makes comparative research extremely difficult, since with the single minded approach similarities in two or more systems may be over looked.

Universalism assumes that human rights are concrete in human nature. If this is the case than total acceptance of theory and practice will occur. Donnelly argues that:

[c]ultural relativity is an undeniable fact; moral rules and social institutions evidence an astonishing cultural and historical variability. The doctrine of cultural relativism holds that at least some such variations cannot be legitimately criticized by outsiders. But if human rights are literally the rights everyone has simply as a human being, they would seem to be universal by definition.³⁵

This notion makes the acceptance of a universal definition logical, however, it neglects some very important attributes which are salient in the human rights discourse.

First, supporters of universalism assume that everyone (all the nations of the world) has the same conception of human nature, if any. Further, this idea allows one to assume that there are certain given liberal social contracts between the individual and the state. This over looks the fact that in some regions of the world, people have a relationship to the state where they must serve the state -- not the other way around. In Islamic culture and law the state surrenders its sovereignty to God. Because of this,

³⁵ Donnelly, pp. 109.

individuals must serve the state (God).

Second, not all societies have the same philosophy when it comes to rights. In Islamic culture, religion and law, the concept of individual human rights cannot be translated into their language.³⁶ Literature dealing with Islam does acknowledge that there are fourteen human rights that are recognized and established by Islam.³⁷ However, these are more duties to the state than rights to the citizens. For instance, the right to freedom is merely a duty not to enslave unjustly. These alleged rights are only duties of the rulers and individuals, not rights held by everyone. Also, according to Donnelly:

[h]uman rights in Islam, as prescribed by divine law, are the privilege only of persons of full legal status. A person with full legal capacity is a living human being of mature age, free, and of Muslim faith . . . This would make human rights the privileges of free male Muslims, not the rights of all human beings simply because they are human. Infidels receive only guarantees of life, property, and the freedom of religion; slaves only the right to life; and women enjoy still another set of rights and duties.³⁸

In Islamic society and law, rights do not exist. What you do have are duties of citizens and obligations of the leaders toward preserving the state. If you are not a believer then you are not part of the state, since the power of the Caliphate resides only in those who believe and do well. Said in his discussion of the state talks about the

³⁶ Mayer., pp. 47.

³⁷ Donnelly (1989)., pp. 52. Donnelly offers a partial list that includes: 1) protection of life; 2)the right to justice; 3) the right to freedom; 4) economic rights.

³⁸ Ibid.

Caliphate by relating the following:

[t]he Islamic state combines elements of theocracy with democracy. It is theocratic insofar as it is predicated on the doctrine of sovereignty of God. However, it does delegate the vice-regency of God to a priesthood: the Caliphate is given to believers who are virtuous. The state is democratic since the right to govern derives from counsel among the believers, a form of general will. However, the rights of the people to change the law of the state are limited.³⁹

What is key in understanding human rights in Islamic society is the relationship of the person to the state. It may be more appropriate to say that there is no conception of individual human rights as in the West. Given these problems with a universalist notion (Western notion) of rights one will become aware of the obstacles to comparative research. Mayer argues that there are two major obstacles in researching rights in Islamic culture -- that of assimilation and hypocritical criticisms.

³⁹ Said (1980)., pp. 87.

According to Mayer, "Islamologists and specialists in Middle East studies tend to become acculturated to and socialized by the academic milieus in which they operate in ways that lead them to conclude that such comparisons are objectionable."⁴⁰ Further, she argued that, "[b]ecause many Third World spokespersons reject the idea of universality of human rights and defined local logics of culture-based resistance to global human rights standards, these perspectives may be uncritically assimilated by scholars studying areas of the Third World."⁴¹ Scholars who present researched conclusions as such tend to be cultural relativists. This is the other extreme of universalists. Neither approach is helpful in addressing the similarities which may exist in both logics. This will be illustrated further in the next section when the debate on rights between the traditionalists and the modernists will be highlighted.

⁴⁰ Mayer, pp. 5.

⁴¹ Ibid.

The second obstacle, according to Mayer, is that of hypocritical criticism. Islamic leaders argue that the West, especially the United States, should not criticize Islamic actions toward rights when their very own behavior contradicts their own rhetoric. The Islamic leaders argue that the West has its own history of human rights violations -- torture, religious persecution, racism and more than three centuries of institutionalized slavery. Further, America being the "leader of the free world" supported murders and other acts conducted by dictators in lieu of leaders who wanted to transform their respective countries for the betterment of their people. The United States should not be a judge of other countries since the United States had a foreign policy of "dictators and double standards."⁴²

⁴² Jeane Kirkpatrick, "Dictators and Double Standards," Commentary (November 1979), pp. 34-45. Former UN Ambassador under Reagan, Kirkpatrick based her argument in this article on a sharp distinction between authoritarian and totalitarian governments. Authoritarians sought to preserve traditional societies, she argued, and maintained open capitalist economies. Totalitarians, on the other hand, sought to

The obstacles Mayer presented are not only illustrative of research problems but of political application as well. The two extremes of the debate do not allow us to get very far in suggesting ways on how to study human rights practices and violations across national boundaries nor does it suggests ways of laying acceptable international norms and foundations. Renteln's study International Human Rights: Universalism versus Relativism does offer a proposal leading toward common ground.

control every part of society, including the economy. Good authoritarians included Somoza and the Shah of Iran. Examples of bad totalitarians, according to her, were Stalin and Hitler. These authoritarians maintained capitalist systems that were favorable to the US and not the home people. The Shah and Somoza tortured and killed many people, while being looked upon by the US as a friendly ally. Kirkpatrick also argues that authoritarians can and will change. However, with the fall of the Shah in, 1979 we had a growing anti-West (American) movement in the Middle East which makes it difficult to promote human rights in the region.

Renteln, an anthropologist uses a cross cultural approach in seeking similarities in two or more cultures.⁴³ Here she makes a distinction between universalism and absolutism. For Renteln universalism refers to concrete rights. With universalism there is no flexibility; meaning there are certain rights shared by all because we are all human beings. Absolutism (absolutes) can be different in different societies. The central question for Renteln is whether other cultures have a concept of human rights and if they do -- whether it resembles that of the Universal declaration of human rights

⁴³ Renteln, Alison Dundes, (1990) International Human Rights: Universalism Versus Relativism. Newbury Park, Ca.: Sage Publications. Also see An-Na'im, Abdullahi Ahmed., ed., (1992) Human Rights in Cross Cultural Perspectives: A Quest for Consensus. Philadelphia: University of Pennsylvania Press. An-Na'im goes along the same line as Rentelin by arguing that the cross-cultural approach may be helpful in "deepening our understanding of the underlying causes of the continuing discrepancy between theory and practice of human rights, and in addressing those causes more effectively" (An-Naim, pp. 2). His approach was to explore the possibilities of cultural re-interpretation and reconstruction through internal cultural discourse and cross-cultural dialogue, as a means of enhancing the universal legitimacy of human rights, (ibid., pp. 3).

or any other human rights instrument?⁴⁴

⁴⁴ Renteln, pp. 11.

In order to determine this, one must look at the different moral systems of each culture. Rentlin points out that an expanded understanding of moral systems is needed to buttress whatever consensus for human rights standards already exist, while advancing newer, more informed standards. Furthermore, she purports, that such an expanded understanding allows us to know whether societies are violating their own standards of right and wrong. Rentlin believes that "comparative research greatly strengthens the foundation of human rights and hence by empowering international criticism."⁴⁵ If non Western societies do not express moral concerns in a framework of human rights, they may nevertheless address them in some other conceptional framework. With this approach we can develop an internationalization of rights that is not ethnocentric and that is culturally sensitive.

The cross-cultural approach enhances our ability of finding patterns in moral and cultural behavior that will help in truly establishing universal norms. In the next section we come across another problem in the human rights debate that is internal in nature. In the Islamic community there is a debate between those who adhere to a strict reading of the shari'a and those who want to reform the laws to meet the changing internal and external environments. Any cross-cultural approach must take the internal dynamics into account. Also, this debate illustrates how some in the Islamic community

⁴⁵ Ibid., pp. 139.

are attempting to find a common ground in the human rights debate.

The Modern Debate: Islamic Voices:

During the framing of the United Nations charter and the Universal Declaration on Human Rights (UDHR)⁴⁶ Saudi Arabia was the only Arab nation not to approve this great achievement,⁴⁷ arguing that the UDHR reflected Western culture and was at a variance with the patterns of culture of Eastern states on the grounds that the provisions for religious liberty violated Islamic law.⁴⁸ This was not an agreed upon point by all

⁴⁶ The UDHR was the first international document for the cause of human rights that came out of the workings of the Commission on Human Rights. With its adoption, it became possible to interpret the formerly obscure human rights provisions of the UN charter and thus to substantiate claims of human rights violations. Despite the acceptance of the UDHR there were questions about its legal impact and also value conflicts. In order to deal with these problems the commission drafted the covenant for social, economic, and cultural rights and the covenant for civil and political rights. At first the UN decided to have all the rights incorporated in a single convention. However, in response to western pressure, the Assembly reversed itself, by concluding that it was preferable to draft two separate covenants. The division which led to the creation of the two covenants reflected the ideological spheres of the globe at the time; the Soviet Union favoring social, economic, and cultural rights while the United States could avoid economic rights for the most part by supporting civil and political rights. In 1966 the covenants were presented to the General assembly. However, it took ten years before both covenants had received the required thirty-five ratifications needed to enter them into force. The delay was attributed to the ideological diversity in the UN.

⁴⁷ Kuwait, Pakistan, Saudi Arabia, Turkey, and the United Arab Emirates did not ratify the International Covenant on Civil and Political Rights (1966) nor the International Covenant on Economic, Social and Cultural Rights (1966). However, on the other hand, Afghanistan, Egypt, Iran (before the Islamic revolution of 1979), Iraq, Jordan, Libya, Morocco, Sudan, Syria, and Tunisia did ratify the two covenants.

⁴⁸ Mayer, pp. 13. Also see Little, David, Kelsay, John, and Abdulaziz A.

Muslim countries. In fact, the representative of Pakistan to the United Nations took the position that, "Islam unequivocally endorsed freedom of conscience."⁴⁹

The debate at that time was whether or not acceptance of universal human rights norms would go against the fundamental teachings of Islam or of Islamic law. With the increasing modernization and the interdependence of the globe, young Muslims are now challenging the traditional teachings of Islamic culture and law as static in meeting the needs of a changing environment.

Sachedina. (1988) Human Rights and the Conflict of Cultures: Western and Islamic Perspectives on Religious Liberty. University of South Carolina Press., pp. 35-36.

⁴⁹ Ibid.

The modern debate consists of three logics: 1) The Traditionalists or Islamic Fundamentalists; 2) The Modernists or "New Traditionalists," and 3) The Radical Left.

The traditionalists argue that Islamization is the triumph against secular order. Islamization refers to the process of preserving Islamic culture, law, and history. It, according to this logic, represents the process leading to a resurgence of Islam. The Iranian revolution of 1979 is an illustration of the power of the resurgence of Islam.⁵⁰

Muslims who support Islamization argue that:

[a]t the heart of the revivalist world view is the belief that the Muslim world is in a state of decline. Its cause is departure from the straight path of Islam; its cure, a return to Islam in personal and public life which will ensure the restoration of Islamic identity, values, and power. For Islamic political activists, Islam is a total comprehensive way of life stipulated in the Quran, God's revelation, mirrored in the example of Muhammad and the nature in the first Muslim community-state, and embodied in the comprehensive nature of the Shari'a, God's revealed law. Thus the revitalization of Muslim governments and societies requires the re-implementation of Islamic law, the blue print for an Islamically guided and socially just state and society.⁵¹

⁵⁰ Afshari, Reza. (1994) "An Essay on Islamic Cultural Relativism in the Discourse of Human Rights." Human Rights Quarterly. 16(1994) 235.

⁵¹ Ibid., pp. 238.

This is a problematic stance given that the world has changed a great deal since the writing of the Quran. The issue of how conflicts between international and national law are to be resolved, according to Arzt, was traditionally never a problem for Islamic law, because Siyar was the law of the conqueror.⁵² Hence, the "notion of conflicting standards was inconceivable because the only standards were Islamic. The shari'a was established for that world and not beyond its boundaries.

Now with the ever changing global environment the traditionalists continue to hold that modernization equals westernization and secularization which are destructive to Islamic history and culture. This calls to question whether Arab nations who signed international human rights documents will implement them. Also, whether they are isolating individuals from the freedoms and rights listed in various international protocols. The traditionalists are adamant in their preservation of Islamic law and culture. They strongly maintain that there is nothing in the UDHR but mechanisms for westernization.

The next logic in the human rights debate suggests that there can be a balance between Islamic law and international norms -- The Modernists. The modernists argue that secularization cannot be reduced to a cast of mind traits, nor should it be

⁵² Arzt., pp. 214.

characterized as a set of abstract principles or an anti-religious ethos.⁵³ The modernists also known as the "new traditionalists" argue that:

⁵³ Afshari., pp. 239.

[w]ere trained along the broad lines of rationalists thought . . . But with the new traditionalists there is a certain common ground for discussion, especially because they are aware of and want to address central issues that lie outside the religious tradition, such as economic development, national goals, and so on. Their argument is that national goals, economic goals, can best be served by solutions developed within a religious perspective, although they do not feel bound by a literal reading of sacred texts. Some will even go so far as to argue that the Islamic notion of democracy actually means the separation of church and state, and the independence of the judiciary.⁵⁴

This logic takes the middle ground in preserving Islamic law while at the same time broadening it (a loose constructionist reading) to meet the needs of a changing society. This is well illustrated in the Charter of the Islamic Conference of 1972 and in the Cairo Declaration on Human Rights in Islam of 1990. According to Mayer, these documents and the formal position of Muslim states in their acceptance of these international and regional documents suggests that the international human rights standards developed by the United Nations are regarded as compatible with Islamic law by the very actors - governments - whose conduct is subject to regulation by international human rights mechanisms of promotion and protection.⁵⁵ In fact, the preamble of the Cairo Declaration on Human Rights in Islam relates the following regarding fundamental rights and universal freedoms:

⁵⁴ Dwyer., pp. 70.

⁵⁵ Mayer., pp. 14.

[w]ishing: to contribute to the efforts of mankind to assert human rights, to protect man from exploitation and persecution, and to affirm his freedom and right to a dignified life in accordance with Islamic law

[b]elieving: that fundamental rights and universal freedoms in Islam are an integral part of the Islamic religion and that no one as a matter of principle has the right to suspend them in whole or in part or violate or ignore them in as much as they are binding divine commandments . . . ⁵⁶

The language in the Cairo Declaration is encouraging in the rhetoric of rights in Egypt, as Mayer would agree, yet in practice that same document under article one, is juxtaposed with the concern for obligations and responsibilities for the person who is true in their faith.⁵⁷ What you have in this document is a balance in language to meet the challenges of the various positions regarding human rights in Islam.

Like the research interests and debate with using the cross-cultural approach, the new traditionalists, in meeting the demands of a changing society, are also trying to find commonalities between international and Islamic norms. This action suggests a stronger commitment to the promotion and protection of rights within the Islamic community.

The third logic in the human rights debate consists of those who believe in a complete movement away from tradition. According to this group:

[e]stablishing human rights in Islam as individual rights seems to be necessary to introduce the concept of rights and to shift away from the concept of duties. To achieve this, drastic religious-cultural reforms are required. In fact, it is not

⁵⁶ The Cairo Declaration on Human Rights in Islam (August 5, 1990).

⁵⁷ Ibid.

simply a reform, but rather the accommodation to modernization. Cultural modernity is an inherent part of the concept of individual human rights, in that it introduces the principle of subjectivity for determining man to be a free individual. This concept underpins the processes of individualization in development of modern civil society.⁵⁸

This extreme logic purports that there is no possibility of incorporating the idea of human rights in Islamic society since there is no concept of individualism. Therefore, it is impossible to accept an Islamocentric framework since such a paradigm cannot incorporate universal norms. Also given that human rights stresses individualism, application of any human rights norms is impossible in a collective environment. For this logic Islamic law is anachronistic and must be greatly modified in order to fully accept, promote, and maintain universal norms.

⁵⁸ Tibi, Bassam. (1994) "Islamic Law/Shari'a, Human Rights, Universal Morality and International Relations." Human Rights Quarterly 16 (1994)., pp. 290.

The radical approach goes against the powerful cultural dynamics stressed by the Islamic fundamentalists in the Middle East. This group along with a large percentage of Muslims has a strong cultural base. Even the most outspoken critics still maintain their cultural identity. For instance, Abdullahi Ahmed An-Na'im, a Muslim scholar of law, equally stresses his Islamic identity and his adherence to international human rights standards; thus, highlighting the interplay between the specifics of the civilization of Islam and the globalization of human rights norms in the global arena.⁵⁹ An-Na'im can take this stand due to his belief in cultural interdependence. Meaning that the enforcement of human rights in the Arab world is the concern of all mankind.⁶⁰ Violations of human rights must be condemned and dealt with globally.

An-Na'im's position relates the struggles of tradition versus modernization. His position is one that comes to terms with the reality of interdependence and independence. Interdependence of a global system that demands international practice in promoting and protecting human rights. And independence where one can still have strong ties to culture while at the same time adjusting to the demands of a changing region and globe.

⁵⁹ Ibid., pp. 284.

⁶⁰ Ibid., pp. 285.

In reviewing the differences of Islamic and Western notions of the state, sovereignty, and the individual the following conclusions are evident from the literature:

- The State
The Islamic state combines elements of theocracy with democracy. The Caliphate is given to believers who are virtuous. In Western democracies there is a degree of separation between church and state (i.e., the United States). Democracy is offered to those who are natural born or otherwise legal citizens.
- Sovereignty
Sovereignty in Islamic society belongs to God alone. In Western state sovereignty is claimed by the state in the name of the people. The process of legislation (change) is very important in West where it is less significant in the Islamic state.
- The Individual
The Islamic religion and Arab social traditions have a history of the rights of individuals within their broader communal context of duties and obligations to the modern state. In the West the protection of rights is based on the need of maintaining individualism (the right to property, the right to fair and just treatment under the law).

In the next section the concept of human rights will be applied to the areas of individual political, and individual civil rights in Islamic society. This application will illustrate the problems of applying international human rights norms within the Islamic community.

ISLAMIC APPLICATION

Individual Political Rights:

International human rights agreements and particularly the international covenant on civil and political rights, requires that state parties take the necessary steps to

implement the international provisions in their legal systems.⁶¹ The modern system of human rights, while formulated in international law, must be translated into rights provisions of state constitutions in order for individuals to fully receive the legal guarantees for the rights involved. The reactions of Muslims to constitutionalism have run the gamut from enthusiastic endorsement to hostile rejection. This struggle is at the core of the human rights debate in the Arab community. The different responses of various Arab leaders to some degree account for the grouping of Arab states as either moderate and traditional or radical and revolutionary. Thus, for instance, Egypt under Nasser chose the radical course by following the path of Arab nationalism, non-Marxist socialism, and a secularism that denied any special role for Islam in political life. In contrast, the ruling dynasty in Saudi Arabia chose the traditional path of hereditary monarchy, fidelity to Islamic law, and rejection of Western modernization. These two responses came up with different outcomes. In Egypt Mubarak spoke of rights, increased opportunities for participation, and freedom of expression. Yet, Egypt has been cited in many reports (i.e., Amnesty International, Middle East Watch) for violating many of the same rights they came to uphold. These violations have occurred by the government in responding to political opposition. In Saudi Arabia the monarchy has stayed in power for close to a hundred years. The monarchy's strict interpretation of the shari'a is the key to its survival against the wave of western modernization. Because of

⁶¹ Arzt., pp. 221.

this the monarchy, has had few attempts against its regime. Egypt, on the other hand, was in a state of emergency for ten years following the assassination of Sadat in 1981. Challenges from the left and the right continue to place Mubarak in a tug of war between tradition and modernization and change. The violations can be understood only by looking carefully at the responses and the positions of the respected governments. Saudi Arabia's and Egypt's divergent path toward incorporation of human rights norms in their own constitutions offers not just contrast but justification, if you will, for their violations of basic human rights norms and practices.

Saudi Arabia is a monarchy without democratically elected institutions or political parties. It is ruled by descendants of its founder, King Abdulaziz Al Saud, known in the West as Ibn Saud, who unified the country in the early part of the 20th century. The concept of separation of religion and state is foreign to Saudi society and governance. The legitimacy of the royal regime depends to a large degree on its perceived adherence to the precepts of a puritanically conservative form of Islam.

There is no written constitution. The legal system is based on Islamic religious law. Traditional practice calls for a consensus in government, internal social cohesion, respect for private property, and private economic enterprise.⁶²

The legal system is based on a strict following of the shari'a. According to Saudi law -- political parties, labor unions, and professional associations are banned (no group

⁶² Arthur Goldschmidt, Jr. (1983) A Concise History of the Middle East. (2nd edition) Boulder, Co.: Westview Press., pp. 205.

formation). Saudi kings institutionalized the Wahhabi tradition based on the strict moral code practiced by the prophet Muhammad in Mecca and Medina. The code is still the basis for Saudi law and social behavior.⁶³

⁶³ A fundamentalists Muslim sect, founded by Muhammad ibn Abd al-Wahhab (d. 1787), now dominant in Saudi Arabia. The Wahhabis were a group of highly puritanical Muslims, growing out of the Hanbali rite of Sunni Islam, who seized power in central Arabia during the 18th century. Led by a family name Saud, these Wahhabis wanted to conquer the whole Arabian peninsula and to purify Islam from practices they deemed corrupt. Traditionalist or fundamentalists use the ideas of the Wahhabis as a basis for Islamization.

The hold of traditional Islamic doctrines, which supports the maintenance of the existing order and that stress the duties of the individual rather than individual rights, started to weaken as some Muslim elites, particularly economic elites, became familiar with western ideas of governance in the 19th century. The interdependence of the globe (i.e.: the information highway, and other technologies in communication and information gathering) the influence of western ideas of governance and culture is now placing traditional Islamic doctrines, values and norms at odds with the process of change. However, Muslims who advocate constitutionalism often find that conservative 'ulama,⁶⁴ are among their most determined foes. The 'ulama often fights against constitutionalism in the name of preserving Islam, since they are convinced that constitutional principles conflict with the Shari'a. This pattern of resistance by the 'ulama still persists strongly in Saudi Arabia, where they have maintained the greatest political influence in the press, education, and artistic expression. Because of such opposition there is still no constitution, despite the efforts of liberal members of the country.

Legislative changes announced in March 1992, however, granted the King the exclusive power to name the Crown Prince.⁶⁵ They also called for the establishment of

⁶⁴ 'Ulama is a term meaning learned men of religion.

⁶⁵ State Department Country Report on Human Rights Violations in Saudi Arabia -- 1993. From the Human Rights Web of Internet. America On Line [June 1, 1995].

an appointed Consultative Council (Majlis Ash-Shura) and for similar provincial assemblies. A 60-member Council has been formed and was formally inaugurated on September 29, 1992. Political parties continued not to be permitted in Saudi Arabia. Political expression that is unfavorable to the regime is forbidden and there are no elected assemblies. Police and border forces under the Interior Ministry are responsible for internal security.

Human rights continued to be pervasively abused.⁶⁶ Principal human rights problems include torture and other abuse of prisoners and incommunicado detention; prohibitions or severe restrictions on the freedom of speech and press, peaceful assembly and association, and religion; the denial of the right of citizens to change their government; and systematic discrimination against women and ethnic and religious minorities and suppression of workers' rights.⁶⁷ The Mutawwa'in, Saudi Arabia's official proctors of proper moral behavior, and other religious zealots acting as vigilantes continued to harass and abuse Saudis and foreigners of both sexes.

Freedom of participation, peace assembly and expression in Saudi Arabia, given the efforts of the liberal wing in the country, is still curtailed. The rights of peaceful assembly and association are strictly limited. Political parties are prohibited, but nonpolitical clubs and professional groups may be organized with the permission of the

⁶⁶ Ibid.

⁶⁷ Ibid.

authorities. The few existing professional groups are permitted to maintain contacts with their recognized international counterparts. Foreign members of groups seeking to hold unsegregated meetings risk arrest, incarceration, and deportation unless these meetings are sponsored by diplomatic missions.⁶⁸

Freedom of expression⁶⁹ is controlled by the government as evident in the following violations offered by the U.S. State Department.

⁶⁸ Ibid.

⁶⁹ Ibid.

First, freedom of speech and press is severely limited by law (Article 39 of the basic Law in Saudi Arabia) and in practice. Criticism of Islam, the ruling family, or the Government is not allowed. Since 1991 clandestine audio tapes and petitions signed by dozens of religious figures calling for closer government adherence to Islam have been circulated widely through informal channels.⁷⁰ King Fahd, in a public speech in December 1992, stressed the right of all Saudis to confront senior officials directly to offer advice but criticized the authors of the petitions for what he called their improper use of the pulpit.

The press is privately owned. However, it is effectively controlled by a 1982-media policy statement and a 1965 national security law which expressly prohibits the dissemination of public criticism of the Government in any print or broadcast medium. The media policy statement enjoins the press⁷¹ to uphold Islam, oppose atheism,

⁷⁰ This listing of violations in freedom of speech and press and political participation are from the State Department Country Report on Human Rights Violations in Saudi Arabia as provided on the Human Rights web of Internet 1994.

⁷¹ Note: Newspapers receive guidelines issued by the Information Ministry on government positions on sensitive issues, and the government-owned Saudi Press

promote Arab interests, and preserve the cultural heritage of Saudi Arabia.⁷² Editors in chief are appointed with the explicit approval of the Ministry of Information, and the Government has the power to have them removed.

Domestic news concerning sensitive subjects, such as crime or terrorism, is often published only after the perpetrators have been arrested, convicted, and sentenced.

Academic freedom is also constrained; for example, the study of evolution, Freud, Marx, and Western philosophy is proscribed. Some professors believe that classroom comments that could be taken as anti-regime will be reported to the authorities. There continues to be an injunction against the study of music in educational institutions through the university level.

Agency (SPA) expresses the official viewpoint on such issues.

⁷² Ibid.

Finally, artistic activities in schools and universities and in society in general continue to be limited and subjected to arbitrary closure. There are a few private art galleries, principally in Jeddah and Dhahran. Abstract and representational artists as well as photographers in general are allowed to work. However, in 1993 an exhibit of photographs prepared by a Saudi woman and sponsored by the French Embassy was closed hours before the opening, allegedly because the invitation card depicted the image of a woman, although she was completely veiled.⁷³ Cinemas and public musical or theatrical performances, other than those that are strictly folkloric, are prohibited.

Saudi Arabia's lack of effort toward the promotion of human rights is pretty much predictable given its strict interpretation of Islamic law. But how is it that Saudi Arabia, given all the global movements toward change, can continue this policy? The answer to this is wealth. Oil wealth is the key to Saudi Arabia's stability according to Palmer:

⁷³ State Department Country Report on Human Rights Violations in Saudi Arabia
-- 1993.

Saudi Arabia and the oil sheikdoms are unique. They can pursue a policy of buying political support by distributing the vast wealth derived from their oil reserves. At the same time, there is enough wealth to support both massive royal families in luxury and a reasonable distribution of the state's wealth to the masses. Indeed, a trade off exists in which the citizens of the state prosper economically but are denied political rights. Few states, however, can afford this luxury.⁷⁴

While wealth is not a virtue in Islam, neither is poverty; for according to Said, "extreme poverty leads to non-belief."⁷⁵ This may explain some of the problems that Egypt is facing from the Islamic fundamentalists and from the leftists with their westernization of their political system. The fundamentalists who question the current administration's westernization and the leftists who feel that Mubarak is not doing enough to meet the challenges that come with the wave of globalization attributes these problems either by moving away from tradition or not moving at all.

The experience in Saudi Arabia is not common throughout the Muslim community. For instance, there are many 'ulama who works closely with liberal and reformist movements in favor of the adoption of western constitutionalism as in the case of Egypt. But while Saudi Arabia's human rights violations are predictable, Egypt's,

⁷⁴ Monte Palmer. (1989) Dilemmas of Political Development. Itasca, Ill.: Peacock., pp. 314.

⁷⁵ Said, "Human rights in Islamic Persepctives," pp. 90.

given the rhetoric coming out of the country, are not as predictable on the surface.

The Egyptian constitution provides for various human rights, including a multiparty political system and other freedoms associated with democratic participation.

However, the human rights situation continued to deteriorate in 1993 as a result of actions by terrorist groups, the government, and nonviolent Islamic activists. Egypt is a country at odds with tradition and modernization (westernization) and as such, the Egyptian case provides a case study of the dynamics of change, tradition, and human rights.

In Egypt the liberals and reformist sects see no conflict between constitutionalism and fidelity to Islam or between political freedoms and the Shari'a. However, the process has not been an easy one, since there is strong ambivalence by the fundamentalists.

The Arab Republic of Egypt is governed under the 1971 constitution. Islam is the state religion and Islamic jurisprudence is the basis of Egyptian law. The constitution provides for a strong presidency and a unicameral, or one-house, legislature--the People's Assembly. About half of the members of the assembly must be farmers and workers. Members are elected for five-year terms by direct universal suffrage. The president has extensive executive powers. The executive is nominated by at least one third of the members of the People's Assembly, approved by at least two thirds of them, and elected by popular referendum.

From 1962 to 1977 the Arab Socialist Union was the only legal political

organization in Egypt. Political parties had been abolished in 1953. In 1976, however, groups within the union were allowed to support different candidates. Political parties were legalized in 1977. The National Democratic party replaced the Arab Socialist party as the majority, and the Socialist Labor party formed the official opposition.

In 1979 the People's Assembly was expanded from 350 to 392 members, ten of whom the president appointed. In the 1984 elections new laws required parties to receive at least 8 percent of the vote in order to be represented. The number of seats was increased from 392 to 458. Members are elected from 48 constituencies. From three to 12 members are elected from each, and an extra member, who must be a woman, is added to the elected members of the majority party in 31 constituencies.

The Constitution provides for various human rights, including a multiparty political system, regular elections, the rule of law, an independent judiciary, freedom of opinion, and the right to peaceable assembly. In addition to expanding the voting electorate Egyptians submitted reports to the UN Committee on the Elimination of Racial Discrimination; stating that "racial discrimination is alien to Egyptian society."⁷⁶ But the rise of Islamic fundamentalism has challenged Egypt's political system. Three reasons for this are clear. First, in 1952, Nasser led a secular and nationalist revolution bent on modernizing the country. He was contemptuous of Islamic law and tradition. Anwar Sadat was no less confrontational in dealing with Islamic fundamentalism. Thus, Egypt

⁷⁶ Arzt., pp. 222.

was a natural target for groups ranging from the Muslim brotherhood to the followers of the Ayatollah, who viewed Sadat as a traitor. Second, former President Sadat made peace with its long time enemy, Israel. This move was risky because it offended both Arab nationalists and Islamic zealots. And third, economic conditions are extremely poor and many of the fundamentalists have responded by suggesting that Mubarak's reforms and westernization were not helping.

President Mubarak's strategy for dealing with the Islamic tumult has been subtle whereas Sadat's was crude:

[b]y gradually shifting its posture toward the religious opposition from indiscriminate confrontation to selective accommodation, the Mubarak government has . . . isolated and discredited the extremist fringes of the Islamic movement, allowing the state security forces to hunt down and crush remaining pockets of armed resistance. It has also allowed the moderate main stream of the Islamic movement to compete more openly in the political system and in the economy. Several groups that Sadat claimed were trying to tear the country apart has already developed a strong interest in expanding Egypt's multiparty capitalism.⁷⁷

Mubarak has made concessions both to modernization (constitutionalism) and to tradition (Islam). Although his democratic reforms have been largely symbolic,⁷⁸ they

⁷⁷ Bianchi, Robert. "Islam and Democracy in Egypt," Current History. (February 1989)., pp. 94.

⁷⁸ When Mubarak assumed the presidency upon the assassination of Sadat in 1981, he declared a year-long state of emergency, clamped tight controls on universities and the press, and arrested revolutionaries (but he also freed some of the political and religious leaders whom Sadat had jailed, bussing them directly from prison to a reception in his office); yet, he restored some public trust in the government by stressing economic and social reforms. He also linked himself with Nasser's legacy and

uphold the principle of pluralism as embodied in competing parties and free elections with choices. He, however, still continues to fit the Egyptian (and Arab) model of a quasi-civilian strongman. Recently, the president, given an assassination attempt and increased political unrest, has become more of a typical authoritarian figure.

minimized his ties with Sadat.

In Egypt, the human rights situation continues to be poor in the 1990s as a result of actions by terrorist groups, the government, and nonviolent Islamic activists. Egypt's security services and terrorist groups continued to be locked in a cycle of violence. Terrorist groups attacked government officials, security forces, Egyptian Christians, and foreign tourists. The government also perpetrated many abuses, including the arbitrary arrest and torture of hundreds of detainees, the use of military courts to try accused terrorists, the failure to punish officials responsible for torture, infractions committed under the Emergency Law, the harassment of journalists, and the government's attempt to gain greater control over civil society.⁷⁹ Although most of the arbitrary arrests, detentions without trial, and torture were perpetrated on suspected members of terrorist groups, the police also victimized nonviolent Islamic activists and ordinary citizens.

The National Democratic Party (NDP) dominates the political scene to such an extent that, as a practical matter, Egyptians do not have a meaningful ability to change their government. Women and religious minorities continue to face discrimination based on tradition and some aspects of the law.⁸⁰

⁷⁹ State Department Report on Egypt.

⁸⁰ Ibid.

In conclusion, given the movements toward western constitutionalism, the traditional views toward civil and political rights continue to have the upper hand in Egypt. In Islamic law, “only mature, non-slave Muslim males enjoy full access to government.”⁸¹ Speech continues to be suppressed, as we saw in Saudi Arabia and Egypt. Speech is subject to the condition of being a right that is exercised for the righteousness of all and this is referred to as the common good (national good), rather than a restraint. Dissenting views are punishable in many cases by death. An-Na’im argues that such sanctions “dampen freedom of speech and create a sense of intellectual political impotence.”⁸²

In Saudi Arabia the monarchy was able to maintain its strict control because of its wealth. Egypt does not have such a luxury. In fact, the Islamic fundamentalist movement blames Mubarak’s political and economic decisions for the current economic situation. Egypt has a mixed economy dominated by an inefficient public sector. Under an ongoing economic structural adjustment program, Egypt has reduced or eliminated subsidies on consumer goods, agricultural inputs, energy, and services and has liberalized the currency and capital markets. The government is moving toward

⁸¹ Arzt., pp. 207.

⁸² Ibid., pp. 207.

restructuring or privatizing many state-owned companies. But, low economic growth rates and a growing population have contributed to a decline in real per capita income in each year since 1988. Politically, Egypt has made gestures toward democracy, while Saudi Arabia continues to maintain its strong hold on tradition by not providing political freedom. The human rights violations in Saudi Arabia are predictable given its authoritarian and undemocratic character of its political system. In Egypt inclusion of human rights into law has been in increments with set backs when the state is threatened from groups from within.

In the next section, a review of individual civil rights, will continue to illustrate the difficulty of implementing of human rights norms in the Islamic community.

Individual Civil Rights:

Civil rights as used in this paper refer to the rights of the accused (including political prisoners) to receive fair treatment of justice and punishment. Criminal defense rights as used in this paper refers to the fair and just treatment under the law and humane treatment of prisoners. Islamic law provides penalties not to promote rehabilitation of the criminal but as a retaliation, either by financial extraction or bodily mutilation.⁸³ Mutilation punishments are on the decline, except in Saudi Arabia and

⁸³ Ibid., pp. 208.

possibly Iran, where they are still ordered frequently.⁸⁴ According to Artz Islamic Law provides:

[f]or penalties not to promote rehabilitation of the criminal but as a retaliation (qisas), either by financial extraction or bodily mutilation. However, punishment is supposed to be proportional to the harm wrongfully inflicted.⁸⁵

Islam also recognizes discretionary penalties for purposes of deterrence, a function espoused more frequently in the west as rehabilitation theories wane in popularity. Islamic justice is moving away from extraction and mutilation as forms of punishments. However, there are exceptions. According to 1993 Amnesty International report:

⁸⁴ Ibid.

⁸⁵ Ibid.

[I]n Egypt thousands of suspected opponents of the government, including possible prisoners of conscience, were arrested and detained without charge or trial under a state of emergency legislation. Political detainees were reportedly tortured in security police custody. At least 45 people were sentenced to death and at least five, sentenced to death in previous years, were executed. At the end of the year dozens of prisoners remained under a sentence of death.⁸⁶

The state of emergency, reintroduced in 1981 still remains in force in Egypt.

The criminal procedure code, gives the police additional powers of arrest and the code increases the length of time a detainee may be held by the police before referral to procuracy.⁸⁷

Under Sadat the use of torture subsided greatly.⁸⁸ However, since the assassination of Sadat the use of torture has increased. According to Egyptian lawyer

⁸⁶ Amnesty International. (1993) The 1993 Report on Human Rights Around the World. New York: Hunter House., pp. 118.

⁸⁷ Ibid.

⁸⁸ Middle East Watch. (1992) Behind Closed Doors: Torture and Detention in Egypt. Human Rights Watch: New York., pp. 3.

and human rights activist Nabeel el-Hilaly, the change from Sadat to Mubarak has been great:

[i]n 1959, I was subjected to torture and ill-treatment in Abu Za'bal prison. Throughout the 1960s, the practice of torture against political detainees, especially Muslim brothers and communists, was widespread. But since the end of the 1960s the brutality of the security forces began to lessen to a large extent. One must admit that throughout the 1970s torture did not occur but occasionally.

Unfortunately, after Sadat's assassination, torture of political detainees is once again taking place on a large scale, against religious and leftist elements. Defendants in the Jihad case⁸⁹ were subject to massive torture. About 80 reports of medical examinations came out on these detainees and presented to the court, have proved that torture really occurred. It is well known that eight of the detainees in this case have been tortured to death or died from ill-

⁸⁹ "Five men were executed in April 1982 for direct involvement in the Sadat assassination. In addition, hundreds of suspected Islamic radicals were arrested by security forces and put on trial in what became known as the al-Jihad case. In September 1984, 174 of the 302 people arrested in connection with Sadat's killing were acquitted of plotting to overthrow the government; 16 were sentenced to hard labor for life; and the remainder received prison sentences ranging from 2 to 15 years." Regional Surveys of the World. (1992) The Middle East and North Africa. 38th edition (Europa Publications Ltd.: London)., pp. 393. Also see Middle East Watch. (1992) Behind Closed Doors: Torture and Detention in Egypt. Human Rights Watch: New York., pp. 4.

treatment.⁹⁰

Mr. el-Hilaly made these statements some 13 years ago but conditions of torture and ill treatment still hold true today according to Human Rights Watch and Amnesty International.

⁹⁰ Middle East Watch, Behind Closed Doors., pp. 6.

In Saudi Arabia conditions regarding the criminal justice system and prison conditions is the worse in the Arab region. The system of criminal justice used in Saudi Arabia was founded upon the Shari'a, particularly the Hanbal school⁹¹ of Sunni Islam, in accordance with a ruling by King Abd al Aziz in 1926.⁹² According to the system there are two categories of crimes: those that are carefully defined and those that are implicit in the requirements and prohibitions of the Shari'a, (see page 52 for examples). For the first category, there are specific penalties; for the second, punishment can be prescribed by a judge (qadi) of a Shari'a court. The International Committee for Human Rights issued a "public statement advising the Saudis that the government and criminal justice system had promised consistently for thirty years to establish a consultive council but never fulfilled these promises."⁹³ In fact, in spite of calls after the Persian Gulf war for modernization of laws and relief from the influence of strict Islamism in the

⁹¹ The fourth canonical rite of the Sunni legal system was that from the jurist and theologian Ahmad ibn Hanbal (d. 855), who rejected analogy, consensus, and judicial opinion as sources. Because of its strictness, the Hanbali rite has tended to have a smaller following, though its adherents have included the thinkers who inspired the modern reform movement within Islam. It is also the official legal system in present day Saudi Arabia. Other Sunni rites used to exist but have died out. The five rites that have survived are: Hanafi, Maliki, Shafi'i, and the Hanbali. The Hanafi rite is the largest of the four. The differences among the four rites are minor except in matters of ritual, and each (except at times the Hanbali rite) has regarded the others as legitimate. Dr. Salah Malik, my former professor at the State University of New York College at Brockport department of History was very helpful over the summer in explaining the origins of Sunni Legal systems and other Arabic terms referred to in this paper.

⁹² Metz, Helen Chapin, ed. (1992) Saudi Arabia: A Country Study. Federal Research Division - Library of Congress: Washington, D.C., pp. 201.

imposition of punishment, the royal family showed little interest in liberalizing the criminal justice system.⁹⁴

⁹³ Ibid., pp. 286-287.

⁹⁴ Saudi Arabia has been cited by several international human rights monitoring groups for its alleged failure to respect a number of basic rights. Amnesty International (1993) reported receiving credible testimony from political prisoners who alleged they were arbitrarily arrested held in prolonged detention without trial and routinely tortured during interrogations. Torture methods in the Secret police prisons included months in solitary confinement, sleep deprivation, beatings to the soles of the feet, suspension by the wrists from the ceilings or high windows, and the application of electric shock to all parts of the body.

It is difficult to view practices outside of a general context. In other words it is difficult to view the practice as torture outside of the cultural domain. Torture⁹⁵ should be studied not just as an aspect of rights of the accused but within the cultural domain of the Muslim community. Despite the reports submitted by NGOs such as Amnesty International, there has been some progress, including legal reforms, incorporated into state constitutions (i.e.: Egypt and Iran) in the area of prisoners' rights. For instance, Article 42 of Egypt's 1980 constitution forbid "physical or moral harm" to arrested persons, prohibit coerced confessions, and require that detained persons "be treated in the manner concomitant with the preservation of his liberties."⁹⁶ But as mentioned, Egypt continues to use torture. This suggests that Egypt's reforms are more symbolic,

⁹⁵ See the following regarding the theories and practice of torture: Amnesty International, Torture in the Eighties (1984); Nightingale, E. O., and Stover, Eric, eds., The Breaking of Bodies and Minds: Torture, Psychiatric Abuse and the Health Professions (1985); Peters, Edward, Torture (1985); Ruthven, Malise, Torture: The Grand Conspiracy (1978).

⁹⁶ Arzt., pp. 225.

especially when it comes to political detainees.⁹⁷

⁹⁷ Amnesty International 1993 Report., pp. 118.

In Saudi Arabia there is no habeas corpus writ and punishments ordered under the Shari'a, including the death penalty for murder, kidnaping, armed robbery, rape, and adultery are still employed there.⁹⁸

In summary, a comparison of Egypt and Saudi Arabia illustrates the difficulty of incorporating human rights norms into Islamic society. The following realities as reported in the U.S. State Department Country Study on Human Rights Violations in Saudi Arabia and Egypt further illustrate this concern:

A) Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment:

In 1992, there continued to be reports that Saudi authorities tortured and abused

⁹⁸ Arzt., pp. 225.

detainees, both Saudi citizens and foreigners.⁹⁹

⁹⁹ Following a March 9, 1992 riot at the Rafha refugee camp in which eight people were killed, including four Saudis, there were reports that some refugees had been beaten during the investigation into the cause of the riot. Responding to the United Nations High Commissioner for Refugees (UNHCR), Saudi authorities promptly relieved the responsible guards from duty at the camp, but there was no indication the guards were otherwise reprimanded. The UNHCR reported that Saudi soldiers responding to the riot did so with minimum force and that documented cases of torture and abuse of refugees by Saudi guards had dropped significantly. Agents of the Interior Ministry were alleged to be responsible for most incidents of torture. The Government's failure to punish human rights abusers is a salient factor in the climate of impunity that prevails. While it is general government practice not to respond to reports of abuse, the Saudi Government has been responsive to diplomatic inquiries in some specific cases. The Mutawwa'in sometimes physically abused detainees while seeking to elicit confessions for supposed social misconduct. They often used switch like sticks to harass those they perceived as violating religiously mandated standards of behavior and sometimes hit or slapped persons for alleged infractions of proper behavior.

The Saudis rigorously observe criminal punishments prescribed in their interpretation of Islamic law, including execution by beheading and stoning, and amputation for reported theft. All of the eighty-five capital sentences in 1993 were carried out by beheading. An Amnesty International report noted the increased number of executions in Saudi Arabia in 1993, which government officials explain is due to the rise in drug trafficking, a capital offense in the Kingdom.¹⁰⁰ Death by firing squad is imposed for capital sentences for women instead of beheading. Repeated thievery is punishable by amputation of the right hand as prescribed by Shari'a law. For less severe crimes, such as drunkenness or publicly flouting Islamic precepts, the Shari'a punishment of flogging with a cane is often imposed.

In Egypt, while the Penal Code prohibits the use of torture to obtain a confession, there is convincing evidence that police and security forces systematically practice torture.

The government generally investigates torture complaints in cases involving persons arrested for common crimes and has punished offending officers. However, the government does not adequately investigate torture complaints in cases involving detainees in political or religious cases. This illustrates the struggle Egypt has with

¹⁰⁰ Amnesty International: The 1993 Report on Human Rights Around the World., pp. 251-252.

tradition and the modern human rights wave.

B) Arbitrary Arrest, Detention, or Exile

Saudi law prohibits arbitrary arrest. A person may be arrested and charged with a crime or on the basis of an investigation of a crime. Investigations often take weeks or months to complete.

Criminal procedure and the grounds for arrest have generally been determined at the discretion of the arresting officer, which has led, despite the law, to arbitrary arrest and detention. In October of 1993, King Fahd issued a decree providing for a new office of investigation and public prosecution. According to its provisions, the public prosecutor is to receive all evidence and investigate all alleged criminal activity prior to any decision to prosecute, thereby assuming the limited prosecutorial powers currently enjoyed by a number of agencies.¹⁰¹ Despite regulations issued by the Ministry of Interior in 1985 to eliminate lengthy pretrial detention without charge, prisoners have been held for long periods before they are charged or released. The Mutawwa'in sometimes exceeded their legal mandate by detaining suspects for periods exceeding 24 hours before turning them over to the civil authorities. Most arrestees have been held no longer than three days before being formally charged.

¹⁰¹ State Department Report on Saudi Arabia.

In Egypt, officers of the Interior Ministry's GDSSI are known to practice torture on both alleged terrorists and nonviolent Islamists. Torture, which takes place in police stations, at GDSSI offices, and at CSF camps, is used to extract information, coerce the victims to end their antigovernment activities, and deter others from such activities.¹⁰²

¹⁰² ibid.

Torture victims are usually taken to GDSSI offices where they are handcuffed, blindfolded, and questioned about their associations, religious beliefs, and political views. Victims have reported the following torture methods: During interrogation, detainees are frequently stripped to their underwear; hung by their wrists with their feet touching the floor, hung upside down, or forced to stand for prolonged periods; doused with hot and cold water; beaten; forced to stand outdoors in cold weather; and subjected to electric shock.¹⁰³ Some victims in 1993, including female detainees, reported that they were threatened with rape.¹⁰⁴ As many as 10 days may elapse from the date of arrest until detainees enter the penal system. During that period, detainees are usually held at GDSSI offices where they are questioned and often tortured. The lack of written records during the early days of arrest invites the abuse of detainees and frustrates investigations into torture complaints. The government denies that such "temporary disappearances" occur and maintains that all arrests are conducted with warrants and that written records are always kept on the whereabouts of detainees.¹⁰⁵

¹⁰³ ibid.

¹⁰⁴ ibid.

¹⁰⁵ ibid.

C. Denial of Fair Public Trial

In Saudi Arabia the judicial system is based on Islamic jurisprudence (the Shari'a). Regular Shari'a courts exercise jurisdiction over common criminal cases and civil suits regarding marriage, divorce, child custody, and inheritance of real or personal property. In Saudi courts, the defendant appears before a judge who determines guilt or innocence in accordance with Shari'a standards and, if warranted, imposes sentence. Although Saudi law requires that trials be public, almost all trials are closed and are held without legal counsel present. The advice of lawyers is available before trial, and lawyers may act as court interpreters for those unfamiliar with Arabic. However, trials occur in which the defendant does not understand Arabic and does not have a translator. Sentencing is not uniform and may vary according to the nationality of the defendant.

In Egypt, arbitrary arrest and detention are widely practiced against alleged terrorists and others thought to threaten national security. However, in some mass arrest operations, security forces have subjected villages to collective punishments, so that many persons with no association with terrorist groups have been taken into custody. Such arrests and detentions are conducted under the State of Emergency, which has been in effect since President Anwar Sadat's assassination in 1981. Under the Emergency Law, the Interior Minister may detain a person without indictment for 90

days.¹⁰⁶ Detention orders are issued by public prosecutors who have limited powers to commit individuals to confinement. In theory, those arrested under the Emergency Law should be indicted or released within 90 days. In practice, the Government often simply writes a new detention order for those whose release has been ordered by a court--in effect continuing to detain them without due process for prolonged periods. However, most detainees are released much sooner, after interrogation. Under the Emergency Law, there is a continuous flow of new arrests and releases from detention. Under ordinary criminal procedure, arrested persons charged with violations of specific laws, have the right to a judicial determination of the legality of arrest, and should be formally charged within 48 hours of arrest or be released.¹⁰⁷ Arrests under this procedure occur openly and with warrants issued by a district prosecutor or a judge. However, the regular Penal Code also gives the State wide detention powers. State prosecutors may obtain court orders to detain persons for 45 days and to confine them for up to six months to complete investigations.

¹⁰⁶ Ibid.

¹⁰⁷ Arzt., pp. 225.

Although the judiciary¹⁰⁸ in recent years has exercised considerable independence and has sometimes upheld defendants' constitutional rights against acts of abuse by executive branch officials, the Government has used its powers under the Emergency Law to use military courts to create "emergency" state security courts (civilian and military) to try suspected terrorists, thus circumventing the regular courts.

Trials in such state

Security courts do not meet international standards for fair trial.¹⁰⁹

Conclusion

¹⁰⁸ There are three levels of regular civilian criminal courts: primary courts, appeals courts, and the Court of Cassation, the final stage of criminal appeal. There is also a Supreme Constitutional Court, but its jurisdiction is limited to constitutional challenges. It does not hear criminal appeals. There are no juries. Criminal cases are heard by panels of three judges. Most trials are public. (Information on the Judicial system in Egypt was obtained from the Microsoft Encarta Encyclopedia 1994 edition)

¹⁰⁹ In 1993 the Government used military state security courts to try civilian defendants accused of terrorist acts or of belonging to terrorist organizations, claiming that civilian trials were too lengthy and civilian judges too susceptible to intimidation under the current "exceptional circumstances." These courts are comprised of three military officers. The presiding judge usually has general officer rank. In January the Supreme Constitutional Court upheld the use of military courts to try civilian cases. It ruled that the President of the Republic, acting under powers in the Emergency Law, is authorized to refer any crime to a military court. According to Egyptian military sources, at least 446 civilian defendants accused of committing terrorist acts, or belonging to terrorist organizations, have been tried in military courts since late 1992.

While most Muslim nations have ratified some or all of the International human rights documents, this does not suggest full compliance. It is easy to report that these nations are in violation of certain human rights. However, such reporting overlooks important internal struggles. When one says the "Islamic" or "Arab" perspective on rights, the generalization assumes that there is a clear position. That is not the case in the Islamic world. The Middle East is now coming to terms with international human rights norms and their own laws. In order to understand the problems of applying International human rights norms in the Middle East one must remember this point. By doing so three things are evident.

First, the internal debate between the Islamic fundamentalists and the Modernists illustrates that the question of rights is very important in the region. The middle of the road approach, the "new traditionalists" are trying to incorporate aspects of international norms with their own laws. By doing this they are offering a new or a re-interpretation of the Shari'a.

Second, before any idea of rights can be incorporated into Islamic society there must also be an incorporation of the concept of identity in society. Individual identity is important in human rights. If international human rights or any concept of rights, for that matter, are to be protected this, is a must. The approach by the universalists is too ethnocentric and that of the cultural relativists too vague in forming methods of hope or change. This is a difficult task, since in Islamic culture and collectiveness the concept of self-identity is just as foreign as the universal (western) norms on rights.

Finally, and related to the second point is that of a person's relationship to the state. In western society the relationship of citizens to the state is part of a social contract. In this arrangement if the citizens are not satisfied with the agreement they can change it. In Islamic law the state gives up its sovereignty to God and people must serve the state (God). This idea is important in Islamic society and one that will be difficult to reform or totally transform.

Most people in the Middle East reject the narrow Anglo-Saxon emphasis on the civil and political rights of individuals, arguing that the Western genesis of human rights as protection for individuals against the tyranny of the state is only partially relevant in the rest of the world. Most developing societies do suffer domestic rights abuses; but the main source of their oppression, exploitation, underdevelopment and even national collapse in the last century and a half has been from foreign (mainly Western) powers -- ironically, the same powers that drive the human rights bandwagon today.

Also, in Islamic society human rights are really duties and obligations to the state. Since state sovereignty is granted to God, Muslims must carry out duties and obligations to the state to maintain the collective under God. Given the increase of global technology (i.e.: access to information) there are liberal sectors through the Arab community who are arguing for an increase in freedoms of expression and participation in government in their every day lives. In Egypt, Mubarak has made concessions both to democracy and to Islam. While his democratic reforms have been largely symbolic, they nevertheless uphold the principle of pluralism as embodied in competing parties

and free elections with some choices. Saudi Arabia has taken a strong divergent path to the past. The monarchy of Saudi Arabia, in maintaining its strong hold on the country, has carefully monitored its economic policy in order to keep labor unions, political parties, and other political manifestations from emerging. Also, Saudi Arabia censors all public information and curtails public assembly. These acts are done in order, of course, to maintain the regime. The country's strict interpretation of Islamic law means that change and basic freedoms are not a reality. Saudi Arabia is able to do this because of its oil wealth.

Finally, not surprisingly, Islamic societies define human rights in a much broader perspective. They believe human rights must also encompass respect for the sovereignty of non-Western states, their people's rights to economic development and the conquest of poverty, and protection from foreign occupation, ethnic cleansing and apartheid. The Islamic religion and Arab social traditions also have a long history of the rights of individuals within their broader communal context -- the modern state. Insistence on this argument comes from recognition that the West's excessive focus on individualism is a main cause of the breakdown of the family and the appalling rise in violence and serious social problems in Western societies themselves. Dialogue is always necessary for change. Lets hope that continued dialogue both internally among groups in the Islamic community and in the international community among organizations and nations will help to make change in the cause of human rights in the Middle East.

This thesis project was an attempt to present some of the contrasting assumptions the western notion of individual rights with the Islamic notion of communal rights to which the individual is subordinate. It is not complete. I hope that the conclusions contained in this paper would offer hypotheses for to further investigation.

Shantih.

BIBLIOGRAPHY

- Afshari, Reza. (1994) "An Essay on Islamic Cultural Relativism in the Discourse of Human Rights." Human Rights Quarterly. 16(1994) 235-276.
- Ahmed, Leila. (1992) Women and Gender in Islam: Historical Roots of a Modern Debate. New Haven, CT: Yale University Press.
- Amnesty International. (1993) The 1993 Report on Human Rights Around the World. New York: Hunter House.
- An-Na'im, Abdullahi Ahmed., ed. (1992) Human Rights in Cross-Cultural Perspectives: A Quest for Consensus. Philadelphia: University of Pennsylvania Press.
- Arzt, Donna E. (1990) "The Application of International Rights Law in Islamic States." Human Rights Quarterly 12 (1990), pp. 202 - 230.
- Bianchi, Robert (February 1989) "Islam and Democracy in Egypt," Current History.
- The Cairo Declaration on Human Rights in Islam [The Members States of the Organization of Islamic Conference] Cairo, Egypt., 5 August 1990.
- Donnelly, Jack. (1989) Universal Human Rights in Theory and Practice. Ithaca, New York: Cornell University Press.
- Forsythe, David P. (1991) The Internationalization of Human Rights. Lexington, Massachusetts: Lexington Books.
- Helen, Chapin Metz., ed. (1992) Saudi Arabia: A Country Study. Washington, D.C.: Federal Research Division - Library of Congress.
- Howard, Rhonda E. "Cultural Absolutism and the Nostalgia for Community," Human Rights Quarterly, 15 (May 1993).
- Kirkpatrick, Jeane. (1979) "Dictatorships and Double Standards," Commentary (November 1979), pp. 34-45.
- Machan, Tibor. (1989) Individuals and their Rights. Lasalle, Ill.: Open Court.
- Little, David, Kelsay, and Abdulaziz A. Sacedina. (1988) Human Rights and the Conflict

of Cultures: Western and Islamic Perspectives on Religious Liberty. Columbia, S.C.: University of South Carolina.

Mansfield, Peter. (1965) Nasser's Egypt. Baltimore, Md.: Penguin Books.

Mayer, Ann Elizabeth. (1991) Islam and Human Rights: Tradition and Politics. Boulder, Co.: Westview Press.

Middle East Watch. (1992) Behind Closed Doors: Torture and Detention in Egypt. New York: Human Rights Watch.

Middle East Watch. (1990) Human Rights in Iraq. New Haven: Yale University Press.

Naim, Abd Allah Ahumad, and Francis M. Deng., eds. (1990) Human Rights in Africa: Cross-Cultural Perspectives. Washington, D.C.: The Brookings Institution.

Nickel, James W. (1987) Making Sense of Human Rights: Philosophical Reflections on the Universal Declaration of Human Rights. Berkeley: University of California Press.

Palmer, Monte. (1989) Dilemmas of Political Development. Itasca, Ill.: Peacock.

Pollis, Adamantia. (1992) "Human Rights" in the Encyclopedia of Government and Politics. (Volume 2), Mary Hawkesworth and Maurice Kogan, eds. New York: Routledge.

Rejali, Darius M. (1994) Torture and Modernity: Self, Society and State in Modern Iran. Boulder: Westview Press.

Renteln, Alison Dundes. (1990) International Human Rights: Universalism Versus Relativism. Newbury Park: Sage Publications.

Said, Abdul Aziz, "Human Rights in Islamic Perspectives" in Adamantia Pollis and Peter., eds. (1980) Human Rights: Cultural and Ideological Perspectives. New York: Praeger Publishers., pp. 86-99.

_____. (1979) "Precept and Practice of Human Rights in Islam." Universal Human Rights. I (April): pp. 63-80.

State Department Country Report on Human Rights Violations in Egypt -- 1992-3. Human Rights Web of Internet. America On Line [June 1, 1995].

State Department Country Report on Human Rights Violations in Saudi Arabia -- 1993.
From the Human Rights Web of Internet. America On Line {June 1, 1995}.

Staunton, Marie, Fenn, Sally, and Amnesty International USA., compiled and edited.
(1991) The Amnesty International Handbook. Claremont, CA: Hunter House.

Tibi, Bassam. (1994) "Islamic Law/Shari'a, Human Rights, Universal Morality and
International Relations." Human Rights Quarterly 16 (1994) 277-299.

Appendix I

* **The Middle East**

* The Map of the Middle East is from the 1994 edition of Microsoft Encarta Encyclopedia.

APPENDIX II

ISLAM* Basic Beliefs

Islam teaches that there is one God, the creator and sustainer of the universe. This God, Allah, is compassionate and just. Because He is compassionate, He calls all people to believe in Him and worship Him. Because He is also just, on the Last Day He will judge every person according to his deeds. On the Last Day, all the dead will be resurrected and either rewarded with heaven or punished with hell.

Mankind is regarded as the crown of creation, entrusted by God with management of the whole created order. Yet humanity is also seen as weak and prone to disbelief in God and to disobedience to His will. Humanity's weakness is pride: It does not realize its limitations and views itself as self-sufficient.

To compensate for this frailty, God has sent prophets to communicate His will. These prophets, all mortal men, were elected messengers to whom God spoke through an angel or by inspiration. Unfortunately for mankind, most of the prophets have been ignored. People, deluded by Satan, or the Devil, continued to disbelieve in Allah. In spite of this, God is always ready to pardon the individual and restore him to the sinless state in which he started life.

The life of each Muslim is always within the community of the faithful: All are declared to be "brothers to each other," with the mission to "enjoin good and forbid evil." Within the community, Muslims are expected to establish social and economic justice. They are also expected to carry their message out to the rest of the world.

In the early Islamic community, this meant the use of force in the form of jihad, or holy war. The intent was not to force conversion on anyone; this was forbidden by the Koran. The object of jihad was to gain political control over societies and run them in accordance with the principles of Islam.

During the decades following the death of Muhammad certain essential principles were singled out from his teachings to serve as anchoring points for the Islamic community. These have come to be called the "five pillars of Islam." Some early, and more fanatical, believers added jihad as a sixth pillar, but it was never accepted by the whole community.

* The Basic beliefs of Islam are taken from the 1994 edition of the [Microsoft Encarta Encyclopedia](#).

Appendix III

Egypt Fact Summary

Official Name: Arab Republic of Egypt.

Capital: Cairo.

NATURAL FEATURES

Prominent Features: Nile Valley, Qattara Depression, the First Cataract, Western Desert, Eastern (Arabian) Desert.

Highest Peak: Jebel Katherina, 8,655 feet (2,638 meters).

Major River: Nile.

Largest Lake: Nasser.

PEOPLE

Population (1989 estimate): 51,748,000; 132.5 persons per square mile (51.2 persons per square kilometer); 43.9 percent urban, 56.1 percent rural.

Major Cities (1986 estimate): Cairo (6,053,000), Alexandria (2,917,000), Giza (1,670,800), Shubra El Kheima (533,300), Port Said (399,000), El Mahalla El Kubra (385,300).

Egypt's population is about 48.5 million. The average annual rate of growth is 1.7 percent. In the delta and valley of the Nile, densities reach 3,243 persons per square mile (1,252 per square kilometer). About 49 percent of the population live in cities. The majority of Egyptians live in rural agricultural villages, some of which have 20,000 or more people.

Egypt's largest cities are Cairo, the capital, and Alexandria. Together they contain about two thirds of the urban population. Cairo and its suburbs occupy both banks of the Nile just south of the delta. It is the largest city in Africa. Greater Cairo was estimated to have 10 million people in the mid-1980s. Giza is its largest suburb. Alexandria, the chief seaport, had about 3 million. Fifteen other cities, most located in

the delta and the valley of the Nile, had populations of 100,000 or more. The Suez Canal cities of Port Said, Ismailia, and Suez, which were abandoned during the 1967 war with Israel, have been rebuilt.

Large-scale migration from rural areas to cities, especially Cairo and Alexandria, has caused urban population growth at twice the average national rate. Both cities have severe housing shortages and lack basic services. Extensive urban redevelopment programs are under way, and new towns are planned near Damietta, Cairo, and Aswan. Land reclamation in the Nile and planned agricultural settlements in the Western Desert are designed to help relieve population pressures.

Most Egyptians are Hamitic Arabs. They are descendants of the Hamites of ancient Egypt and Arabs who migrated to Egypt after the Muslim conquests of the 7th century. The Nubians, who are related to the Berber tribes of North Africa, are located south of Aswan. They were resettled in new villages near Kom Ombo when Lake Nasser flooded their homeland. A few Europeans, primarily Armenians and Greeks, live in cities. Most are in Alexandria.

About 86 percent of the Egyptians, including Nubians, are Sunni Muslims. Islam is the state religion and the basis for Egyptian law. The largest minority is made up of members of the Coptic church, one of the oldest Christian churches. The Copts, who are also descended from the Hamites, number about 6 million, or 13.5 percent of the total population. Egypt also has about 250,000 other Christians, and a small Jewish community remains in Cairo.

Arabic is the official language. Although it is spoken by all Egyptians, there are many dialects. Classical Arabic is used in printed materials and in the schools. Through radio and television the government is attempting to develop a vernacular Arabic as the common language. Educated Egyptians use English and French as second languages. French-language publications have wide circulation in Cairo and Alexandria. The Coptic language, related to ancient Egyptian, is used only in church services. The Nubian dialect, while still spoken, is no longer written.

Major Religion: Islam (official).

Major Language: Arabic (official).

Literacy: 45 percent.

Leading Universities: Ain Shams University (Cairo), Alexandria University, Asyut University, Cairo University, El Azhar University (Cairo), University of Helwan, Zagazig

University.

GOVERNMENT

Form of Government: Republic.

Chief of State: President.

Head of Government: Prime Minister.

Legislature: People's Assembly; one legislative house of 448 members elected to 5-year terms and 10 appointed by the president.

Voting Qualification: Age 18 with identification card.

Political Divisions: 26 governorates.

The National Democratic party continued to dominate Egyptian politics. Its strongest opposition since Egypt became a republic came from the New Wafd party. The other independent parties were forced to form a coalition in order to gain more than 8 percent of the vote.

ECONOMY

Chief Agricultural Products: Crops--sugarcane, tomatoes, corn (maize), wheat, rice, vegetables. Livestock--buffalo, cattle, goats, sheep.

Chief Mined Products: Coal, iron ore, salt, natural gas, petroleum, phosphates.

Chief Manufactured Products: Iron and steel, petroleum, prepared foods, textiles.

Chief Exports: Cotton and cotton products, fruits, petroleum, rice, vegetables.

Chief Imports: Cement, chemicals, iron and steel, machinery and transportation equipment, wheat and flour.

Monetary Unit: 1 Egyptian pound = 1,000 millie`mes = 100 piastres.

Appendix IV

Saudi Arabia Fact Summary

Official Name: Kingdom of Saudi Arabia.

Capital: Riyadh.

NATURAL FEATURES

Principal Physical Features: Plateau regions, deserts, mountains.

Mountain Ranges: Asir Mountains, Hejaz Mountains, Jebel Tuwayq.

PEOPLE

Population (1988 estimate): 12,972,000; 15 persons per square mile (5.8 persons per square kilometer); 73 percent urban, 27 percent rural.

The size of Saudi Arabia's population is not known with any certainty, but most estimates put it at about 12.5 million. With an estimated 3-percent rate of natural increase annually, the kingdom's population is growing rapidly and may double within 25 years. A Saudi woman will have an average of 7.2 children during her childbearing years, one of the world's highest fertility rates.

Saudi Arabia's population is being redistributed geographically. In the early 1970s a quarter of the population lived in urban areas. By the mid-1980s more than 70 percent did so. Riyadh, the capital city, was a small village when the kingdom was established in 1932. Today it has roughly 1.3 million inhabitants. The other major cities--Jiddah, Mecca, and Medina--have also experienced tremendous growth since the 1960s.

Tribes still play a crucial role in the kingdom's life. Almost all Saudi Arabians, from urban dwellers to nomads, belong to a tribe. Tribal membership remains one of the principal ways in which people identify themselves culturally and socially. The rise of the central state has undermined the autonomy of the tribes, but they remain a focus of

political identity. Tribal leaders still play a pivotal role between individuals and the central government.

Although the nomadic existence has always been glorified in Saudi Arabia, the majority of the population are, and probably always have been, settled. Nomadism as a way of life is declining, though a substantial number of Saudis still herd camels, goats, and sheep. Often one section of a tribe is engaged in pastoralism while another farms crops.

Culturally, Saudi Arabia's indigenous population is relatively homogeneous. Virtually all native-born Saudi Arabians are Arabic-speaking Muslims. Islam has an elevated status because Saudi Arabia is the birthplace of the prophet Muhammad and the guardian of Islam's most sacred shrines in Mecca and Medina. Each year 2 million Muslims from every corner of the globe make a pilgrimage to Mecca, one of their five major religious obligations.

Most Saudi Arabians also follow the teachings of Muhammad ibn Abdal-Wahhab, an 18th-century Muslim reformer who advocated a strict, puritanical Islam. As a result Saudi Arabia is among the world's most conservative Islamic states. Not all Saudis, however, belong to the same sect of Islam. A large majority of the population are Sunnite Muslims, but there are an estimated 500,000 Shiite Muslims living in eastern Saudi Arabia in the vicinity of the Al Hasa and Al Qatif oases. Approximately a third of the Eastern Province's population is Shiite. Relations between Sunnites and Shiites have sometimes been tense. Historically Shiites experienced discrimination and were excluded from top positions. The Saudi government has been worried about rising discontent among the Shiites since the 1979 revolution in Iran, a Shiite country.

Saudi Arabia has a large foreign population. No precise statistics exist, but the number of foreigners living in the kingdom is thought to exceed 2 million. Many foreign Muslims settled in the region after completing their pilgrimages to Mecca. Thus Mecca has large Indian and Indonesian communities; Medina many Syrians and Egyptians; and Jiddah many Persians, Yemenis, and Africans.

Of far greater significance are the foreigners who entered the country to work in the late-20th-century petroleum boom. Foreign workers outnumber native Saudis in the labor force by nearly two to one. They are vital to the petroleum, construction, commerce, finance, and health sectors and hold jobs at all levels. Without these expatriate workers, Saudi Arabia's economy could not function. More than 50 percent of these workers come from neighboring Arab countries, particularly Yemen, but a growing number come from Pakistan, Korea, the Philippines, and other Asian countries. Many Americans also work in the kingdom, especially in the petroleum industry. Saudi Arabia

hopes to reduce its reliance on foreign workers and to that end has made the education of its population a high priority.

Major Cities (1980 estimate): Riyadh (1,308,000 [1981 estimate]), Jiddah (1,500,000 [1983 estimate]), Mecca (550,000), Taif (300,000).

Major Religion: Islam (official).

Major Language: Arabic (official).

Literacy: 57.2 percent.

Leading Universities: Islamic University, Medina; Islamic University of Imam Muhammad Ibn Saud, King Saud University, Riyadh; King Abdul Aziz University, Jiddah; King Faisal University, Dammam; University of Petroleum and Minerals, Dhahran.

GOVERNMENT

Form of Government: Monarchy.

Chief of State and Head of Government: King.

Head of Government: Prime Minister.

Legislature: None.

Political Divisions: 14 administrative districts: Asir, Al Bahah, Hail, Al Hudud Ash Shamaliyah, Al Jawf, Qizan, Medina, Mecca, Najran, Al Qasim, Al Qurayyat, Riyadh, Ash Sharqiyah, Tebuk.

History and Politics: The first known Arabian civilizations were coastal settlements. Dilmun, which was a major trading link between Mesopotamia and the Indus River valley, dominated 250 miles (400 kilometers) of the eastern coast of the Arabian Peninsula from 4000 to 2000 BC. The interior had few people. Another major civilization evolved in southern Arabia, or Arabia Felix, where a confederation of states was formed in the 1st millennium BC. These states established a huge, complex commercial

network with extensive trade routes and served as middlemen between India and Africa. Arabia Felix was self-sufficient agriculturally and developed a sophisticated irrigation system, including the famous Marib Dam.

In the 4th century AD Arabia Felix began to decline. The centuries-old overland caravan trade to Egypt, however, had given rise to trading cities in the Hejaz region. Mecca, the most important of these, was the birthplace of the prophet Muhammad in about AD 570. By the time of his death in 632, most of the Arabian Peninsula was united under Islamic rule. At the beginning of the 16th century, the Arabian Peninsula came under the nominal suzerainty of the Ottoman sultans in Istanbul, but Ottoman control was never very strong.

In the mid-18th century Muhammad ibn Abd al-Wahhab, who preached a return to the orthodox practices of Muhammad's day, formed a mutually beneficial alliance with the Saud clan, which rules the country today. Together they set out to purify Islam. The strict, puritanical Wahhabi movement quickly grew in strength and expanded far beyond its base in Najd to Mecca and Medina and to parts of Iraq and Syria as well. This expansion concerned the Ottomans, who dispatched Muhammad Ali Pasha of Egypt to defeat the movement in 1811-18 and 1838. But the Wahhabi Sauds continued to rule the interior until 1890, when the rival Turkish-backed Rashid clan seized control of Riyadh.

Ibn Saud, a member of the deposed Saud family, regained control of Riyadh in 1902, expelled the Rashids, and proclaimed himself ruler of Najd. By the start of World War I, he controlled central Arabia and the Al Hasa coast. But in the Hejaz Husayn ibn Ali still acknowledged Ottoman suzerainty. With British encouragement Husayn proclaimed Arab independence, declared war on the Turks, and claimed the title King of the Hejaz in 1916. After Husayn proclaimed himself the new caliph of Islam in 1924, Ibn Saud invaded the Hejaz and took control of Mecca and Jiddah by 1926. At first Najd and Hejaz formed a dual kingdom, but in 1932 Ibn Saud merged them to form the Kingdom of Saudi Arabia.

When king Ibn Saud died in 1953, he was succeeded by his eldest son Saud. Saud's reign was characterized by lavish spending and wastefulness. In 1964 the royal family withdrew their support for Saud, who went into exile, in favor of his brother Faisal. Faisal was assassinated by a nephew in 1975 and was succeeded by Khalid, a half brother, who steered the country along the same path. Khalid died in 1982 and was succeeded by his younger brother Fahd.

Saudi Arabia is a monarchy in which Islamic law serves as the constitution. The king, in order to rule, must obtain the support of the royal family, which is believed to

have several thousand members. Royal princes hold all the key national security positions, though a growing number of technocrats from outside the family operate government departments concerned with economic and social development.

Saudi Arabia's influence has grown enormously since the explosion of petroleum prices after 1973. Revenues from petroleum have provided the means to assist and influence former adversaries.

The monarchy has been shaken, however, by several events. In 1979 some 200 fundamentalist Muslims seized control of the al-Haram, or Great Mosque, in Mecca, the most sacred site in Islam. During a two-week siege more than 200 people were killed. The incident emphasized that there are many Saudi Arabians who are critical of the royal family's power and great wealth.

The 1979 revolution in Iran, which brought an Islamic theocracy to power, also caused concern. Iran's rulers have openly called for the overthrow of the Saudi and other monarchies in the gulf region. The Soviet invasion of Afghanistan in 1979 accentuated Saudi fears about the possible spread of Communism in the region, particularly in view of the strong ties of the neighboring People's Democratic Republic of Yemen with the Eastern bloc.

The Iran-Iraq war, which raged from 1980 until 1988, was a major preoccupation in the region. Saudi Arabia's fears of an Iranian victory moved the country to help Iraq financially. In doing so it antagonized Iran and risked becoming more deeply involved in the gulf war. Concerns about security led Saudi Arabia to build up its armed forces and to purchase a huge quantity of arms from the United States. Saudi Arabia also played a leading role in the creation of the Gulf Cooperation Council, whose goal was to foster closer economic and military ties between the Arab monarchies of the Arabian Peninsula in the face of the perceived threats.

ECONOMY

Chief Agricultural Products: Crops--wheat, sorghum, corn, millet, barley, alfalfa. Livestock--camels, fat-tailed sheep, long-eared goats, salukis, donkeys, chickens.

Chief Mined Products: Petroleum, natural gas, limestone, gypsum, marble, clay, salt.

Chief Manufactured Products: Processed petroleum and petroleum products, petrochemicals, iron and steel, electrical equipment, rubber, plastics, processed foods, soft drinks, fertilizers.

Chief Exports: Petroleum.

Chief Imports: Manufactured goods, rice, flour, sugar, tea.

Monetary Unit: 1 Saudi riyal = 100 halalah.

Citations for the Appendixs:

Appendix I Map is from: Bill, James A., and Carl Leiden. (1984) Politics in the Middle East. (2nd edition) Boston: Little, Brown and Company., pp. xiv-xv.

All information for Appendixs II and III are from the

Compton's Encyclopedia, Online Edition.
Downloaded from [America Online] [August 15, 1994].

