[A] Human Rights and Islam

Let us look at the United Nations Universal Declaration of Human Rights of 1948 and compare it to Islamic law and doctrine.

Article 1 " All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood ".

Article 2 " Everyone is entitled to all rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status ".

Article 3 " Everyone has the right to life, liberty and security of person "

Article 4 No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms "

Comments: (1) Women are inferior under Islamic law; their testimony in a court of law is worth half that of a man; their movement is strictly restricted, they cannot marry a non-Muslim

(2) Non - Muslims living in Muslim countries have inferior status under Islamic law, they may not testify against a Muslim. In Saudi Arabia, following a tradition of Muhammed who said " Two religions cannot exist in the country of Arabia ", non _ Muslims are forbidden to practice their religion, build churches, possess Bibles etc.

(3) Non-believers -- atheists (surely the most neglected minority in history) -- in Muslim countries do not have "the right to life ". They are to be killed. Muslim doctors of law generally divide sins into great sins and little sins. Of the seventeen great sins, unbelief is the greatest, more heinous than murder, theft, adultery etc..

(4) Slavery is recognised in the Koran. Muslims are allowed to cohabit with any of their female slaves (Sura iv.3); they are allowed to take possession of married women if they are slaves (Sura iv.28); the helpless position of the slave as regard his master illustrates the helpless position of the false gods of Arabia in the presence of their Creator (Sura xvi.77).

Article 5 No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Comments (1) We have seen what punishments are in store for the transgressers of the Holy Law: amputations, crucifixion, stoning to death, floggings. I suppose a Muslim could argue that these were not unusual for a Muslim country, but what of their inhumanity? Again a Muslim could contend that they are of divine origin and must not be judged by human criteria. By human standards, they ARE inhuman.

Article 6 Everyone has the right to recognition everywhere as a person before the law.

The whole notion of a person who can make choice, and can be held morally responsible is lacking in Islam; as is the entire notion of human rights.

Articles 7, 8, 9, 10, 11 deal with the rights of an accused person to a fair trial.

Comments (1) As Schacht has shown under the Sharia considerations of good faith, fairness, justice, truth, and so on play only a subordinate role. The idea of criminal guilt is lacking.

(2) Revenge for a killing is officially sanctioned, though a money recompense is also possible.

(3) The legal procedure, under Islam, can hardly be called impartial or fair, for in the matter of witnesses all sorts of injustices emerge. A non _Muslim may not testify against a Muslim. For example, a Muslim may rob a non _Muslim in his home with impunity if there are no witnesses except the non_ Muslim himself. The evidence of Muslim women is admitted only very exceptionally and then only from twice the number required of men.

Article 16 deals with the rights of marriage of men and women

Comment (1) As we shall see in our chapter on women, women under Islam do not have equal rights: they are not free to marry whom they wish, the rights of divorce are not equal.

Article 18 " Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance ".

Comments (1) Quite clearly under Islam, one does not have the right to change one's religion, if one is born into a Muslim family. Applying double standards, Muslims are quite happy to accept converts to their religion, but a Muslim may not convert to another religion, this would be apostasy which is punishable by death. Here is how the great commentator Baydawi (c.1291) sees the matter:

" Whosoever turns back from his belief, openly or secretly, take him and kill him wheresoever you find him, like any other infidel. Separate yourself from him altogether. Do not accept intercession in his regard ".

Comment (2) Statistics on conversions from Islam to Christianity, and therefore apostasy, are hard to establish for obvious reasons. There is, however, a myth that Muslims are impossible to convert. On the contrary we do have enough evidence of literally thousands of Muslims abandoning Islam for Christ from the Middle Ages to Modern Times; the most spectacular cases being, amongst others, those of Moroccan and Tunisian princes in the 17th century, of the monk Constantin the African. Count Rudt - Collenberg has found evidence at the Casa dei Catecumeni at Rome of 1087 conversions between 1614 and 1798.According to A.T. Willis and others between two or three million Muslims converted to Christianity after the massacres of the

communists in Indonesia, in 1965, described earlier [chapter x] In France alone, in the 1990s, there are two or three hundred converts to Christianity from Islam, EACH YEAR. According to Ann Mayer, in Egypt conversions have been " occurring with enough frequency to anger Muslim clerics and to mobilize conservative Muslim opinion behind proposals to enact a law imposing the death penalty for apostasy "[Mayer177]. Ms. Mayer points out that, in the past, many women have been to tempted to convert from Islam to ameliorate their lot.

Comment (3) Those who convert to Christianity and choose to stay in the Muslim country do so at great personal danger. The convert has most of his rights denied him, identity papers are often refused him, so that he has difficulties leaving his country; his marriage is declared null and void, his children are taken away from him to be brought up by Muslims, and he forfeits his rights of inheritance. Often the family will take matters into their own hands and simply assassinate the apostate; the family are, of course, not punished. [Gaudeul]

Article 19 " Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinion without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers ".

Comments (1) The rights enshrined in articles 18 and 19 have been consistently violated in Iran, Pakistan and Saudi Arabia. In all three countries, the rights of their Bahai, Ahmadi and Shia minorities respectively have been denied. All three countries justify their actions by reference to Sharia. Christians in these countries are frequently arrested on charges of blasphemy and their rights denied.

Here is how Amnesty International describes the scene in Saudi Arabia: " Hundreds of Christians, including women and children have been arrested and detained over the past three years, most without charge or trial, solely for the peaceful expression of their religious beliefs. Scores have been tortured, some by flogging, while in detention... The possession of non_ Islamic religious objects - including Bibles, rosary beads, crosses and pictures of Jesus Christ __ is prohibited and such items may be confiscated. " AINO 62 JUly / Aug 1993

Similarly scores of Shia Muslims have been harassed, arrested, tortured and in some cases, beheaded. For example, on September 3, 1992 Sadiq Abdul Karim Malallah was publicly beheaded in al- Qatif after being convicted of apostasy and blasphemy. Sadiq, a Shia Muslim, was arrested in 1988 and charged with throwing stones at a police station, then of smuggling a Bible into the country. He was kept in solitary confinement, where he was tortured.

The situation of Ahmadis in Pakistan is somewhat similar. The Ahmadiyya movement was founded by Mirza Ghulam Ahmed (died 1908), who is regarded as a prophet by his followers Amnesty International [ASA / 33 / 15 / 91] summed up their situation in this manner:

"Ahmadis consider themselves to be Muslims but they are regarded by orthodox Muslims as heretical because they call the founder of the movement al- Masih [the Messiah]: this is taken to imply that Mohammad is not the final seal of the prophets as orthodox Islam holds, i.e. the prophet who carried the final message from God to humanity. According to Ahmadis their faith does not involve the denial of the Prophet Mohammad's status because Mirza Ghulam Ahmed

did not claim to bring a new revelation of divine law which could add to, replace or supersede the Koran. Mirza Ghulam Ahmed considered himself a mahdi, a reappearance of the Prophet Mohammad, and thought it his task to revive Islam. As a result of these divergences, Ahmadis have been subjected to discrimination and persecution in some Islamic countries. In the mid-1970s, the Saudi Arabia-based World Muslim League called on Muslim governments worldwide to take action against Ahmadis. Ahmadis are since then banned in Saudi Arabia."

Throughout Pakistan's history, the Ahmadis have been subjected to harassment, which has, on occasion, led to serious bloodshed. Things got worse for them, when President Zia - ul Haq came to power in 1977 after a military coup. He introduced a policy of Islamization, and imposed severe restrictions on the Ahmadis. In 1984, further legislation was introduced aimed explicitly at these so - called heretics. Henceforth, the Ahmadis could no longer call themselves Muslims. Since then, scores of Ahmadis have been charged and sentenced severely under sections of the Pakistan Penal Code. Thus Ahmadis can be imprisoned and even sentenced to death solely for the exercise of their right to freedom of religion including the right to express their religion. Again, it is important to realise that such attitudes to " heretics " is a logical consequence of the orthodox Muslim position that Muhammad is the seal of the Prophets, that Islam is the most perfect and final expression of God's purpose for all mankind, and that salvation outside Islam is not possible.

Comment (2) Blasphemy towards God and the Prophet are punishable by death under Islam. In modern times, blasphemy has simply become a tool for Muslim governments to silence opposition; or for individuals to settle personal scores; or, as we saw earlier, to seek out and punish " heresy ". A report in the Economist points out the manipulation of "blasphemy " in Pakistan: " A judgment by the High Court in Lahore is worrying Pakistan's Christians. The court decided recently that Pakistan's blasphemy laws are applicable to all the prophets of Islam. Jesus is a prophet in Islamic teaching. By worshipping Jesus as the son of God, Christians are, it could be argued, committing a blasphemy....There are about 1.2 [million] Christians in Pakistan, out of a population of 120 [million]. Many of them are of low caste, doing menial jobs. Some have suffered for their beliefs. Tahir Iqbal, a mechanic in the air force who converted to Christianity and was charged with blasphemy, mysteriously died in prison while awaiting trial. Manzoor Masih was accused of blasphemy, given bail and shot dead in the street.... Human -rights watchers say there is often sectarian and political rivalry, a dispute over property or competition for jobs " [May 7, 1994]

Article 23.1 Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

Comment (1) Women are not free to choose their work under Islam, certain jobs are forbidden to them, even in so - called liberal Muslim countries. Orthodox Islam forbids women from working outside the home. [see Chapter x]

Comment (2) Non - Muslims are not free to choose their work in Muslim countries, or rather certain posts are not permitted them. A recent example from Saudi Arabia makes the point. A group of Muslims working in a company owned by a Muslim were shocked when the Muslim owner appointed a new manager, who was a Christian. The Muslims demanded a religious ruling

asking whether it was permissible under Islam to have a Christian in authority over them. Sheikh Mannaa K. Al Qubtan at the Islamic Law College of Riyadh declared that it was intolerable under Islam that a non - Muslim should wield authority over Muslims. He pointed to two verses from the Koran to back up his argument: Sura iv. 141: " Allah will not give the disbelievers triumph over the believers " Sura lxxiii.8: Force and power belong to God, and to His Prophet, and to believers "

Article 26 deals with the right of education.

Comment (1) Again certain fields of learning are denied to women (see chapter x)

Conclusion: It is clear that Islamic militants are quite aware of the incompatibility of Islam and The 1948 Declaration of Human Rights. For these militants met in Paris in 1981 to draw up an Islamic Declaration of Human Rights which left out all freedoms that contradicted Islamic law. Even more worrying is the fact that under pressure from Muslim countries in November 1981, the United Nations Declaration on the elimination of religious discrimination was revised, and references to the right "to adopt "(Article 18, above) and, therefore to " change " one's religion were deleted, and only the right " to have " a religion was retained [FI Spring 1984 p 22].

[B] Democracy and Islam

" Western ideas of individualism, liberalism, constitutionalism, human rights, equality, liberty, the rule of law, democracy, free markets, the separation of church and state often have little resonance in Islamic, Confucian, Japanese, Hindu, Buddhist or Orthodox cultures "
Samuel P. Huntington, " The Clash of Civilisations? "

The values and principles of Democracy are defined and enshrined in the British and American Constitutions, and both the British (1688) and American Bill of Rights (proposed 1789 and ratified 1791).

Separation of Church and State

One of the fundamental principles of Democracy is the separation of church and state (Amendment I of the American Bill of Rights: " Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...").We have seen, that in Islam there is no such separation, instead, we have, what Thomas Paine calls, the adulterous connection of church and state. Why is this separation so essential? If Muslims are sincere in espousing the cause of Democracy in their own countries, then they must learn the profound reasons underlying the adoption of this separation. They must then decide whether these underlying principles are at all compatible with Islam, or whether they entail too many compromises with the orthodox tenets of their creed. This is not the time for moral, intellectual and doctrinal evasiveness.

[1] The idea of a separation of church and state has been formulated by many Western philosophers: Locke, Spinoza and the "philosophes" of the Enlightenment. In his " A Letter Concerning Toleration ", Locke gives three reasons for adopting this principle:

(1) " First, because the care of souls is not committed to the civil magistrate [i.e. the state], any more than to other men. It is not committed unto him, I say, by God; because it appears not that God has ever given any such authority to one man over another, as to compel any one to his religion. Nor can any such power be vested in the magistrate [state] by the consent of the people; because no man can so far abandon the care of his own salvation as blindly to leave it to the choice of any other, whether prince or subject, to prescribe to him what faith or worship he shall embrace. For no man can, if he would, conform his faith to the dictates of another. All the life and power of true religion consists in the inward and full persuasion of the mind; and faith is not faith without believing. "

(2) " In the second place, the care of souls cannot belong to the civil magistrate , because his power consists only in outward force: but true and saving religion consists in the inward persuasion of the mind, without which nothing can be acceptable to God. And such is the nature of the understanding, that it cannot be compelled to the belief of anything by outward force.... It may indeed be alleged that the magistrate may make use of arguments... But it is one thing to persuade, another to command; one thing to press with arguments, another with penalties... The magistrate's power extends not to the establishing of any articles of faith, or forms of worship, by the force of his laws."

(3) "... There being but one truth, one way to heaven; what hope is there that more men would be led into it, if they had no other rule to follow but the religion of the court, and were put under a necessity to quit the light of their own reason, to oppose the dictates of their own consciences, and blindly to resign up themselves to the will of their governors, and to the religion, which either ignorance, ambition, or superstition had chanced to establish in the countries where they were born? In the variety and contradiction of opinions in religion, wherein the princes of the world are as much divided as in their secular interests, the narrow way would be much straitened; one country alone would be in the right, and the rest of the world put under an obligation of following their princes in the ways that lead to destruction..."

In other words, it is not the business of the state to interfere with the freedom of conscience and thought of its citizens, it cannot make people religious by force; at best, there may be outward observance, but at the cost of sincerity of belief. Locke 's third point above, a point also made by Kant, is that by behaving in the above manner one is cutting one self and an entire age or generation off from further enlightenment and progress. As Kant put it:

"... To unite in a permanent religious institution which is not to be subject to doubt before the public -- that is absolutely forbidden ". That is to abdicate reason, renounce enlightenment and trample on the rights of mankind. Locke further argues that we must get away from the notion that we are " born Muslims" or " born Christians " and that we cannot do anything about it. We should be free to enter or leave any particular creed, otherwise there would be no progress, freedom or reform. Once the principle of the separation of church and state is admitted, there should follow a free discussion of religion without fear of torture. However, of course, this is

precisely what theocratic governments or religious autocrats fear -- free-thought. As Paine put it, " The adulterous connection of church and state, wherever it has taken place, whether Jewish, Christian or Turkish [Muslim], has so effectually prohibited by pains and penalties every discussion upon established creeds, and upon first principles of religion, that until the system of government should be changed, those subjects could not be brought fairly and openly before the world; but that whenever this should be done, a revolution in the system of religion would follow. Human inventions and priestcraft would be detected; and man would return to the pure, unmixed and unadulterated belief of one God, and no more ". 04.03

Following the example set by Locke, the Founding Fathers of the American Constitution, especially Madison, defended religious freedom by adopting the Bill of Rights, which, of course, includes the separation of state and church. It has played such an important role in safeguarding the rights of religious minorities, dissenters and heretics. Hitherto, the latter had suffered persecution, intolerance, disenfranchisement and discrimination.

In his " Memorial and Remonstrance Against Religious Assessments " of 1785, Madison wrote: " The Religion...of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate. The same authority which can establish Christianity, in exclusion of all other religions, may establish with the same ease any particular sect of Christianity in exclusion of all other Sects. Whilst we assert for ourselves a freedom to embrace, to profess and to have the Religion which we believe to be of divine origin, we cannot deny an equal freedom to those whose minds have not yet yielded to the evidence which has convinced us ".

Madison's greatness can be seen in his generous attitude to non-believers. Even the great Locke was intolerant of atheists. Madison's words written at the occasion of the Virginia Ratification Convention of 1788 are even more relevant in this age of multifaith and multi-ethnic societies: Is a bill of rights security for religion,...If there were a majority of one sect, a bill of rights would be a poor protection for liberty. Happily for the states, they enjoy the utmost freedom of religion. This freedom arises from the multiplicity of sects, which pervades America, and which is the best and only security for religious liberty in any society. For where there is such a variety of sects, there cannot be a majority of any one sect to oppress and persecute the rest... There is not a shadow of right in the general government to intermeddle with religion. Its least interference with it would be a most flagrant usurpation. I can appeal to my uniform on this subject, that I have warmly supported religious freedom."

What the separation of church and state means in modern terms was clearly explained by the Supreme Court Justice Hugo Black in the 1947 Everson ruling:

"The 'establishment of religion' clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever

form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organisations or groups and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect 'a wall of separation between Church and State.'"

Authoritarianism, Democracy, and Islam

As soon as you have an established religious institution which is beyond doubt, then, as Kant and Paine (quoted above) showed, you have tyranny, thought police, an absence of the critical sense that hinders intellectual and moral progress. In the Islamic theocracy, God is the absolute ruler whose words must be obeyed absolutely, without discussion, without doubt, without questions; we cannot plea bargain with God; nor can we override God's veto. The Islamic God is not a Democrat; we cannot get rid of Him as we can a human representative elected by the people in a Representative Democracy. If power corrupts, then absolute power corrupts absolutely.

While one historian of religion, writing in 1942, finds the fact that the career of Muhammad, the Prophet, presents " certain analogies to that of a nationalist leader nearer to our own day ", disturbing, so many others in the West find this very absoluteness, self-confidence and authoritarianism of Islam appealing.. For example in a remarkable passage from a book written in about 1910, J. M. Kennedy first deplores the quietism of the Buddhists and the theosophists, castigates the Jews for being too soft, and then accuses Christianity of

" inoculating as much of the world as it can reach with the degenerate principles of humanitarianism, let us be thankful that there are many millions of Moslems to show us a religion which is not afraid to acknowledge the manly virtues of war, courage, strength, and daring __ a religion which does not seek new followers by means of cunning dialectics, but which boldly makes converts with the sword."

In recent years, Western apologists of Islam have also argued for " principled autocracy ", as exemplified by Franco in Spain. In terms similar to Kennedy, Martin Lings shows his essential contempt for democracy and his advocacy for a kind of Islamic theocracy in such works as " The Eleventh Hour: the Spiritual Crisis of the Modern World in The Light of Tradition and Prophecy, " 1987.

Indeed autocracy and Islam are far more natural bedfellows than Islam and democracy. Democracy depends on freedom of thought and free discussion, whereas Islamic Law explicitly forbids the discussions of decisions arrived at by the infallible consensus of the ulama. The whole notion of infallibility whether of a " Book " or a group of people is profoundly undemocratic and unscientific. Democracy functions by critical discussion, rational thought, by listening to another point of view, by compromise, by changing one's mind, by tentative proposals which are submitted to criticism, by testing of theories by trying to refute them. Islamic law is not legislated but divinely revealed and infallible, and, as T.H. Huxley noted (see motto to chapter x), the notion of infallibility, in all shapes, lay or clerical, has done endless mischief, and has been responsible for bigotry, cruelty and superstition.

Why Islam is Incompatible With Democracy and Human Rights:

A Summary:

(1) Islamic law tries to legislate for every single aspect of an individual's life, the individual is not at liberty to think or decide for himself, he has but to accept God's rulings as interpreted infallibly by the doctors of law. The fact is we do not have, nor can such a complete ethical code exist in a liberal democracy; we do not and cannot have an all -embracing, all-inclusive scale of values.

(2) The measure of any culture's level of democracy is the the rights and position it accords to women and its minorities. Islamic law denies the rights of women, and non- Muslim religious minorities. Pagans or non-believers are shown no tolerance: death or conversion. Jews and Christians are treated as second class citizens. Because of the Islamic doctrine of Muhammad being the last of the true prophets and Islam being the final and most complete word of God, " Muslim sects " such as the Ahmadis are persecuted, harassed and physically attacked. Muslims have yet to appreciate that democracy is not " majority rule ", that the tyranny of the majority must be guarded against, every democratic society must be wary of imposing "its own ideas and practices as rules of conduct on those who dissent from them ".

As I discuss both the case of women and non-Muslims under Islam elsewhere, I shall only summarise their legal status here.

Women are considered inferior to men, and they have less rights and duties from the religious point of view. As regards blood-money, evidence, and inheritance, a woman is counted as half a man; equally in regard to marriage and divorce her position is less advantageous than that of the man; her husband may even beat her, in certain cases. [Schacht 126 127].

Here is Schacht ' s summary of the legal position of non-Muslims: " The basis of the Islamic attitude towards unbelievers is the law of war; they must be either converted or subjugated or killed (excepting women, children, and slaves); the third alternative, in general, occurs only if the first two are refused. As an exception, the Arab pagans are given the choice only between conversion to Islam or death. Apart from this, prisoners of war are either made slaves or killed or left alive as free dhimmis or exchanged for Muslim prisoners of war...". Under a treaty of surrender, the non-Muslim is given protection and called a dhimmi. " This treaty necessarily provides for the surrender of the non_ Muslims with all duties deriving from it, in particular the payment of tribute, i.e. the fixed poll-tax (jizya) and the land tax (kharaj)...The non-Muslim must wear distinctive clothing and must mark their houses, which must not be built higher than those of the Muslims, by distinctive signs; they must not ride horses or bear arms, and they must yield the way to Muslims; they must not scandalize the Muslims by openly performing their worship or their distinctive customs, such as drinking wine; they must not build new churches, synagogues, and hermitages; they must pay the poll-tax under humiliating conditions. It goes without saying that they are excluded from the specifically Muslim privileges...". The dhimmi cannot be a witness against a Muslim, he cannot be the guardian of his child who is a Muslim. [Schacht 130-132] In the U.S. Constitution, the Fourteenth Amendment says:"...no State shall...deny to any person within its jurisdiction the equal protection of the laws". Originally

intended to end discrimination against black Americans, it was later extended to provide protection against discrimination on other criteria than race, and many minorities felt protected for the first time.

(3) Islam continuously manifests hostility towards human reason, rationality, critical discussion without which democracy, and scientific and moral progress are not possible. Again, I treat this subject elsewhere.

(4) The notion of an individual -- a moral person -- who is capable of taking rational decisions and accepting moral responsibility for his free acts is lacking in Islam. Ethics is reduced to obeying orders. Of course, there is the notion of an individual who has legal obligations, but not in the sense of an individual who may freely set the goals and contents of his life, of the individual who may decide what meaning he wants to give to his life. Under Islam, it is God and the Holy Law which set limits as to the possible agenda of your life.

It is worth emphasizing that the American Bill of Rights is essential for safeguarding the civil and political rights of an individual against the government, as Jefferson put it: "... A bill of rights is what the people are entitled to against every government on earth, general or particular, and what no just government should refuse, or rest on inference ". Individuals have rights that no mythical or mystical collective goal or will can justifiably deny. To quote Von Hayek: " individual freedom cannot be reconciled with the supremacy of one single purpose to which the whole society must be entirely and permanently subordinated ".The First Ten Amendments, and the 14th Amendment of the U.S. Constitution limit the power of the governments, they protect individuals from unfair actions by the government, they protect individuals' rights of freedom of religion, speech, press, petition, and peaceful assembly, and the rights of persons accused of crimes against state abuses. They prevent a state from depriving anyone of civil liberties. Liberal democracy extends the sphere of individual freedom and attaches all possible value to each man or woman. Individualism is not a recognisable feature of Islam, instead the collective will of the Muslim people is constantly emphasised, there is certainly no notion of individual rights which only developed in the West, especially during the 18th century. The constant injunction to obey the Caliph who is God's Shadow on Earth is hardly inducive to creating a rights based individualist philosophy. The hostility to individual rights is manifest in this excerpt from a recent Muslim thinker who has written on human rights from an Islamic perspective, A.K.Brohi, a former Minister of Law and Religious Affairs in Pakistan:

" Human duties and rights have been vigorously defined and their orderly enforcement is the duty of the whole of organized communities and the task is specifically entrusted to the law enforcement organs of the state.The individual if necessary has to be sacrificed in order that the life of the organism be saved. Collectivity has a special sanctity attached to it in Islam.

"[In Islam] there are no "human rights or "freedoms" admissible to man in the sense in which modern man's thought, belief and practice understand them: in essence, the believer owes obligation or duties to God if only because he is called upon to obey the Divine Law and such Human rights as he is made to acknowledge seem to stem from his primary duty to obey God."

The totalitarian nature of this philosophy is evident, and further underlined by the line, " By accepting to live in Bondage to this Divine Law, man learns to be free ", which frighteningly reminds one of Orwell's " Freedom is Slavery ".

Another Muslim thinker wrote in 1979:

"The Western liberal emphasis upon freedom from restraint is alien to Islam....Personal freedom [in Islam] lies in surrendering to the Divine Will....It cannot be realized through liberation from external sources of restraint... individual freedom ends where the freedom of the community begins.... Human rights exist only in relation to human obligations....Those individuals who do not accept these obligations have no rights... Much of Muslim theology tends toward a totalitarian voluntarism ".

Here, at least, the author admits the totalitarian nature of Islam.

(5) The notion of the infallibility of a group and a "book" are impediments to moral, political and scientific progress

(6) A Muslim doesnot have the right to change his religion. Apostasy is punishable by death.

(7) Freedom of thought is discouraged in various forms and guises, any innovation is likely to be branded " blasphemy" which is punishable by death. Perhaps one of the greatest obstacles in Islam to a progress towards a liberal democracy is its emphasis that it is the final word of God, the ultimate code of conduct: ISLAM NEVER ALLOWS THE POSSIBILITY OF ALTERNATIVES.By contrast, in a liberal democracy,what is meant by the freedom of thought, speech and press is the right to argue, the freedom to present another side of an argument, anyone may present an alternative philosophy, the majority do not have the right to prevent a minority from expressing its dissent, criticism or difference.

(8) Human Rights

The idea that there is good reason for ascribing rights to human beings simply because they are human beings is something which developed in Western civilisation. Some would trace the idea back to Plato and Aristotle, others to at least, the Stoics who maintained that there was a natural law, distinct from the laws of Athens or Rome, a law binding upon all men in such a manner that " whoever is disobedient is fleeing from himself and denying his human nature ". [quoted in Melden 1] Some philosophers have tried to ground these rights in human nature or the nature of man; while others, not happy with talk of human nature, since what we sometimes take to be human nature turns out to be a particularity of one specific culture or civilisation, prefer to talk of human rights in consequentialist terms. However, modern discussions by western philosophers of human rights nowhere appeal to God or Divine Will, but only to human reason, rational arguments and critical thought.

Most philosophers would agree that the notion of human rights involves the accompanying ideas of self-respect, moral dignity, free-agents, moral choice, person, the right to equal concern and respect. Since Locke's further development of the idea of human rights in the 17th century,

modern advocates claim at least three things: (1) " that these rights are fundamental in the sense that without them there could not be any of the specific rights that are grounded in the specific social circumstances in which individuals live, (2) that just these rights cannot be relinquished, transferred, or forfeited (i.e., they cannot be alienated from them by anything that they or anyone else may do), since (3) they are rights that human beings have simply because they are human beings, and quite independently of their varying social circumstances and degrees of merit " [Melden 3].In other words, they are universal and not culturally bound or relative.

Under Islam, nothing like the above ideas has ever developed. Human beings have duties, duties towards God; only God has rights. Under Islam, there is no such thing as " the equal right of all men to be free ". Nowhere in modern Muslim discussions is there a clear account as to how " human rights " can be derived from " human duties" as described in the Sharia.

Lewis on "Islam and Liberal Democracy."

In an important article, " Islam and Liberal Democracy ", Bernard Lewis explains very well why Liberal Democracy never developed in Islam. Like many scholars of Islam, Lewis deplores the use of the term " Islamic Fundamentalist " as being inappropriate. I agree. I have already pointed out that, unlike Protestants, who have moved away from the literal interpretation of the Bible, Muslims, all Muslims, still take The Koran literally. Hence, in my view, there IS NO DIFFERENCE BETWEEN ISLAM AND ISLAMIC FUNDAMENTALISM Islam is deeply embedded in every Muslim society, and "fundamentalism" is simply the excess of this culture.

Lewis himself tells us that the Islamic fundamentalists intend " to govern by Islamic rules if they gain power ".The Islamic fundamentalists will apply Islam -- the Islam of Islamic Law, and all that it entails. Lewis also tells us that " their creed and political program are not compatible with liberal democracy ". I also agree. But now we see immediately why Lewis and Islamic apologists, in fact, find this term," Islamic fundamentalist ", so convenient, while, at the same time, deploring it. It is an extremely useful and face-saving device for those unable to face up to the fact that Islam itself is incompatible with democracy, and not just something we call " Islamic fundamentalism ". To repeat, Lewis himself says the latter will apply " Islamic rules ", now if their creed is incompatible with democracy, then these " Islamic rules " themselves must be incompatible with democracy. Thus " Islamic fundamentalist " enables the apologists to set up a specious distinction, a distinction without any justification.

The curious fact is that Lewis himself shows in his article why, by its very nature, Islam is incompatible with liberal democracy. The West developed certain characteristic institutions which were essential for the emergence of democracy. One such institution was the council or representative assembly, whose effective functioning was made possible by the principle embodied in Roman Law, that of the legal person -- a corporate entity that for legal purposes is treated as an individual, able to buy and sell, enter into contracts, appear as a defendant etc. There was no Islamic equivalent of the Roman senate or assembly or parliament. Islam simply lacked the legal recognition of corporate persons. (As Schacht put it, " Islam does not recognize juristic persons; not even the public treasury is construed as an institution... " [Schacht 125])

One of the major functions of these Western assemblies was legislative. But there was no legislative function in the Islamic state, and thus no need for legislative institutions. The Islamic state was a theocracy, in the literal sense of a polity ruled by God. For pious Muslims, legitimate authority comes from God alone, and the ruler derives his power from God and the holy law, and not from the people. Rulers were merely applying or interpreting God's law as revealed to Muhammad. Lacking legislative bodies, Islam did not develop any principle of representation, any procedure for choosing representatives, any definition of the franchise or any electoral system. Therefore it is not surprising, concludes Lewis, if the history of the Islamic states is " one of unrelieved autocracy. The Muslim subject owed obedience to a legitimate Muslim ruler as a religious duty. That is to say, disobedience was a sin as well as a crime ".

Having clearly shown that Islam is incompatible with Liberal Democracy, Lewis then tries to show that there might, after all, be elements in the Islamic tradition which are not hostile to democracy. He particularly leans heavily on the the elective and contractual element in the Islamic institution of the Caliphate. Lewis himself admits that the Islamic caliphate was an " autocracy ", but he also insists that it was not a " despotism ".

Lewis waxes lyrical about the caliph, insisting that the relationship between the Caliph and his subjects is contractual: " The bay'a [denoting the ceremony at the inauguration of a new caliph] was thus conceived as a contract by which the subjects undertook to obey and the Caliph in return undertook to perform certain duties specified by the jurists. If a Caliph failed in those duties -- and Islamic history shows that this was by no means a purely theoretical point -- he could, subject to certain conditions, be removed from office."

First, an autocracy is not a democracy; the distinction between autocracy and despotism is a dangerous and bogus one, often used in the past to legitimise undemocratic rule, indeed T.W. Arnold calls the power of the Caliph " despotic " (see below). Second, as it was originally elaborated, the orthodox doctrine emphasised two essential characteristics: that the caliph must be of the tribe of the Kuraish, and that he must receive unhesitating obedience, for anyone who rebels against the Caliph rebels against God. This duty to obedience to the established authorities is constantly emphasised in the Koran, e.g. Sura iv.59: " O you who believe ! Obey God, and obey the messenger and those of you who are in authority " [See also Sura iv.83]

As T.W. Arnold says, " This claim on obedience to the DESPOTIC [my emphases] power of the Khalifa as a religious duty was impressed upon the faithful by the designations that were applied to him from an early date, -- Khalifa of God, and Shadow of God upon earth ". Neither of the above "essential characteristics is democratic. Third," the elective " characteristic of the institution was purely " theoretical ", for the office, in fact, became hereditary in the families of the Ummayad and the Abbasid, from the reign of Mu'awiya (661 _680) almost every caliph had nominated his successor. As Arnold says," the FICTION of election was preserved in the practice of bai'a (or bay'a)".

Finally the functions of the Caliph clearly emphasise the undemocratic nature of the office. Al Mawardi (died 1058) and Ibn Khaldun define these functions as follows: the defence of the religion and the application of the divinely inspired law or Sharia, to sort out legal disputes, appointment of officials, various administrative duties, the waging of holy war or jihad against

those who refuse to accept Islam or submit to Muslim rule. According to Ibn Khaldun he must belong to the tribe of Kuraish, and be of the male sex, again, not a democratic principle. Much has also been made of the Islamic principle of "consultation ". But Lewis dismisses this fairly briskly: " This principle has never been institutionalized, nor even formulated in the treaties of the holy law, though naturally rulers have from time to time consulted with their senior officials, more particularly in Ottoman times ".

Lewis lays a great store by Islamic pluralism and tolerance. But as I show in the next chapter, there never was an inter- faith utopia (to use Lewis' own phrase). Lewis also says: " Sectarian strife and religious persecution are not unknown in Islamic history, but they are rare and atypical..." And yet, earlier in the same article Lewis himself tells us: " But Islamic fundamentalism is just one stream among many.

In the fourteen centuries that have passed since the mission of the Prophet, there have been several such movements -- fanatical, intolerant, aggressive, and violent ". If Lewis is not formally contradicting himself, he is certainly seen to be wanting it both ways -- "several such movements" as opposed to "rare and atypical".

Conclusion:

The truth of the matter is that Islam will never achieve democracy and human rights if it insists on the application of the Sharia; and so long as there is no separation of church and state. But as Muir put it: " A reformed faith that should question the divine authority on which they [the institutions of Islam] rest, or attempt by rationalistic selection or abatement to effect a change, would be Islam no longer ".

Many Islamic reformers wanting to adopt Western institutions have pretended to find Islamic antecedents for them in order to make these foreign institutions palatable to their own people. But this strategy has led to much intellectual dishonesty and has left the problem where it was __ " the real Islam treats women as equals ", the real Islam is democratic " etc.. The real problem, whether the Sharia is any longer acceptable, has been left untouched.

Nor is it necessary to invent Islamic antecedents to accept the principles of democracy, human rights, the separation of church and state. India adopted democracy in 1947, and it has lasted to this day; and as far as I am aware, no one wasted time looking through the copious holy literature to justify the decision to adopt a parliamentary system at independence. The only country in the Islamic world which can be said to be a democracy is Turkey; and, significantly, it is the only Muslim country which has formally adopted the separation of religion and state as law. Islam has been removed from the Constitution, and the Sharia is no longer a part of the law of the country.

Ann Elizabeth Mayer: Islam & Human Rights

I propose to examine Ms Mayer's very important book on Islam and Human Rights. Even though I have one fundamental reservation about her book, and to which I shall refer later, I find her analysis excellent and very persuasive. Ms. Mayer shows with the utmost clarity how in various Islamic Human Rights schemes, " distinctive ISLAMIC [my emphasis] criteria " have been used to cut back on the freedoms guaranteed in international law, how for many Muslims the international guarantees exceed the limits of rights and freedoms permitted in Islam.

Ms Mayer also shows how the official Islamization programmes in, especially, the Sudan, Pakistan and Iran, have led to serious violations of the human rights of women, non- Muslims, the Bahai, the Ahmadis and other religious minorities. In these countries Islamization, " did much to eliminate due process, to erode the independence of the judiciary, to place legal proceedings under the control of political leaders, and to convert courts into instruments of repression and intimidation. Thus, in all three countries Islamization became associated with a decline in the quality of the administration of justice." [35]

Ms. Mayer is refreshingly free of inhibitions when attacking the various Islamic Human Rights schemes from the perspective of International Human Rights, which she takes to be universally valid.(" The way governments of countries treat those they govern should not be ruled off-limits to critical scholarly inquiry, and judging Islamic schemes of human rights by the standards of the international human rights norms that they seek to replace is entirely appropriate " [21]

Rejecting cultural relativism (without giving any philosophical arguments), Ms Mayer points out that, as a matter of empirical fact, there are many Muslims throughout the world who have and are risking their lives to " stand up for the same human rights principles that cultural relativists would maintain are not suited for application in the Muslim because of its dissimilar culture. Cultural relativists may fail to perceive how rapid urbanization, industrialisation, and factors like the growing power of the state are creating awareness of the need for human rights guarantees in non-Western cultures ". [While writing this chapter, I heard the news of the murder of Youcef Fathallah, president of the Algerian League for Human Rights, by Islamicists, (Le Monde 21 June 1994)]

Ms. Mayer compares the Universal Declaration of Human Rights [UDHR] of 1948 with the 1981 Universal Islamic Declaration of Human Rights [UIDHR]. The latter was prepared by several Muslim countries under the auspices of the Islamic Council, a private, London -based organization affiliated with the Muslim World League, an international, nongovernmental organization " that tends to represent the interests and views of conservative Muslims ". Other Islamic human rights schemes examined are the Azhar Draft Constitution, prepared by the Islamic Research Academy of Cairo, which is affiliated with Al - Azhar University, " the most internationally prestigious institution of higher education in Sunni Islam, and a center of conservative Islamic thought ", and the 1979 Iranian Constitution, and the works of Muslim thinkers such as Mawdudi and Tabandeh.[27]

Her conclusion is that " Islam is viewed in these schemes as a device for restricting individual freedoms and keeping the individual in a subordinate place vis-à-vis the government and society ".[91]

Ms Mayer shows how, using the Sharia as their justification, Muslim conservatives have refused to recognize women as full, equal human beings, who deserve the same rights and freedoms as men. Women under these Islamic schemes are expected to marry, obey their husbands, bring up their children, stay at home, and stay out of public life altogether. She is not permitted to develop as an individual in her own right, acquire an education or get a job. These Islamic schemes provide no real protection for the rights of religious minorities. " In fact, to the extent that they deal with question of the rights of religious minorities, they seem to endorse premodern Sharia rules that call for non-Muslims to be relegated to an inferior status if they qualify as members of the ahl al-kitab [the People of the Book] and for them to be treated as nonpersons if they do not qualify for such inclusion " [160].

These Islamic schemes afford no real protections for freedom of religion:

"The failure of a single one of these Islamic human rights schemes to take a position against the application of the shar'ia death penalty for apostasy means that the authors of these schemes have neglected to confront and resolve the main issues involved in harmonizing international human rights and sharia standards....The authors' unwillingness to repudiate the rule that a person should be executed over a question of religious belief reveals the enormous gap that exists between their mentalities and the modern philosophy of human rights." [187]

One Fundamental Objection to Ms. Mayer's Analysis

Like practically every single book and article published since February 1989, especially for the non-specialist reader, Ms Mayer's book is at pains to point out that

(1) " Islam " is not monolithic, that there is no such thing as THE Islamic tradition, or just "one correct Islam " or one correct interpretation;

(2) that, in the Islamic Human Rights schemes examined and found wanting in terms of International norms, it is not Islam which is at fault, it is, at most, one particular interpretation of it by traditionalists or Muslim conservatives;

(3) that there is no such thing as THE sharia, i.e. Islamic law did not freeze at some arbitrary point in the past

(4) that, deep-down, Islam may not be hostile to rights and democracy, after all.

The above four points are not really argued for, that is not the purpose of her book. She explicitly states that the " core doctrines of Islam " are not being subjected to critical assessment. However, a close reading of Ms Mayer's book reveals that she is only, after all, paying lip-service, for ecumenical harmony, to the notion that there is no such thing as "Islam" about which we can make valid generalisations. In reality, Ms Mayer is as prone to sweeping negative statements and huge unflattering generalisations about " Islam " as any writer who does believe that there are clearly identifiable ISLAMIC DOCTRINES, which are independent of any capricious or dubious interpretations of the Koran or the Hadith, and, furthermore, that these recognisable doctrines are inimical to human rights and their development.

Here are some such generalisations, all of them true, in my view, about Islam, Islamic civilisation, Islamic tradition, Islamic orthodoxy, Islamic law that contradict Ms Mayer's pious hopes set forth above, points (1) _ (4):

Quote 1 " As we have seen, the individualism characteristic of Western civilisation was a fundamental ingredient in the development of human rights concepts. Individualism, however, is not an established feature of Muslim societies or of Islamic culture, nor can one find a historical example of an Islamic school of thought that celebrated individualism as a virtue. Islamic civilisation did not create an intellectual climate that was conducive to according priority to the protection of individual rights and freedoms ".[47]

We might point out that while Ms. Mayer accuses many westerners of taking Islam as a monolithic system, she herself is quite happy to generalise in the above manner both about Islam, AND the West. Is there such a thing as " the West "?

Quote 2 " Orthodox theologians in Sunni Islam were generally suspicious of human reason, fearing that it would lead Muslims to stray from the truth of Revelation. The prevailing view in the Sunni world...has been that because of their divine inspiration, sharia laws supercede reason.... Given the dominance of this mainstream Islamic view, it naturally became difficult to realize an Islamic version of the Age of Reason " [49]

Quote 4 " The analysis will show how Islamic rights schemes express and confirm the premodern values and priorities that have predominated in orthodox Islamic thought for more than a millennium ". [58]

Quote 5 " In such a scheme any challenges that might be made to Islamic law on the grounds that it denies basic rights guaranteed under constitutions or international law are ruled out ab initio; human reason is deemed inadequate to criticise what are treated as divine edicts.This affirms the traditional orthodox view, that the tenets of the shari'a are perfect and just, because they represent the will of the Creator, being derived from divinely inspired sources." [58]

Quote 6 " One notes that Brohi is sometimes speaking of subordination to God and Islamic law, which is clearly required in the Islamic tradition ".[62]

Quote 7 " Since there was no human rights tradition in Islamic civilisation... " [73]

Quote 8 " Although in Islamic law one can discern elements that in some ways anticipate modern notions of equality, one does not find any counterpart of the principle of equal protection under the law." [98]

Quote 9 "...But Islamic clerics and Islamic institutions have by and large manifested strong opposition to allowing women to escape from their cloistered, subordinate, domestic roles " [112]

Occasionally, Ms Mayer's desperate attempts to exonerate Islam lead her to bad arguments and contradictions. In her preface, she writes:

" Even without studying the question of how Islam relates to human rights issues, my experience in work on behalf of the cause of human rights would have sufficed to convince me that Islam is not the cause of the human rights problems endemic to the Middle East. Human rights abuses are every bit as prevalent and just as severe in countries where Islamic law is in abeyance or consciously violated as in countries where it is, at least officially, the legal norm. "