

An Essay on Islamic Cultural Relativism in the Discourse of Human Rights

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The sublime image of a Muslim I have carried with me since childhood is of a man standing in the stark simplicity of solitude, praying amid a serene expanse of wheat fields that reaches to the horizon. Then came the volcanic-like eruption of Islamist fundamentalism whose ashes have poisoned the religiopolitical landscape of many Iranians. The original image began to fade, or rather to be overlaid by a violent one. Nothing is more disturbing than the image, now often with me, of prison guards of the Islamic Republic of Iran raping a very young woman before her execution. In their perverted, patriarchal imagination, the Islamist executioners were resolving God's dilemma in the case of an "enemy of Islam" who happened to be a virgin (it is believed that virgins go to heaven).

The challenge facing human rights advocates has always been formidable: to scale the seemingly insurmountable walls of the sovereign state, to reach into its dark and cloistered "domestic" domains, and to lend a helping hand to courageous but lonely women and men in the clutches of its security apparatus. When the state is fanatically guided by a sacrosanct ideology, the barriers of deception thicken and the task becomes infinitely more difficult.

Before the rise of the Islamist movements, the ideology and political disposition of nationalism contributed to the failure of democracy. The Arab elites placed the liberation of the nation over individual liberties, the creation of Arab unity over the defense of the individual Arab's human rights, and the strength of the state over the protection of civil society from state abuses. The running sore in Palestine and the indifferent-to-hostile attitudes of the West have always added urgency to the nationalistic

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rhetoric. The situation is not much different for Iran or Pakistan. The region suffers from a chronic deficiency in understanding and respecting the precepts of individual dignity and equality. No ideological synthesis was developed between nationalism and democracy. One is struck by the passionate avowal of love for the collectivity (nation) and the cold-blooded disregard for the lives of individual members of the nation.

Today, the debates over Islamization have complicated the task of human rights. Forceful voices are being raised against the universality of the Universal Declaration of Human Rights (UDHR). They have engaged the imagination and energy of progressive thinkers. This essay critically looks at the issues of Islamization, cultural relativism, and human rights. My comments are organized around a number of interrelated areas in the current debates: the often-assumed failure of secularism and the triumph of Islamization, especially in Iran; the primacy of the modern nation-state subsuming traditional culture; cultural authenticity of women and intellectuals; the Islamists and democracy; the attempt to reconcile Islam and the UDHR; the impossibility of ascertaining which Islam is the true Islam; and a final plea on behalf of secularism and sociopolitical and ideological complexities.

I write from a secular and universalist perspective as a non-religious Middle Easterner,¹ and this essay is not, in a strict sense of the term, an academic paper. I want to implicitly reflect my Iranian odyssey, my sense of outrage, my self-imposed exile from a country and culture that I love but that, I am told, are no longer mine. In a sense it is a defense of my own human right not to be branded an alien in my own culture because I am secular.

My critique will mainly focus on the contradictions, ironies, and paradoxes created by a variety of Islamic discourses, especially the one which employs a cultural paradigm based on *shari'a* (the articulated code governing Islamic laws and behavior). It seems to me that the most perplexing paradox lies in the efforts of those Muslim writers who try to advance human rights by locating Islamic cultural roots for them, hoping to resolve the problem of human rights by recourse to the more entangled problem of a cultural discourse, which is marked by dissension and conflicts. To escape the state's political siege, they propose to maneuver

1. As with any discussion of human rights, the Islamic cultural relativist discourse has become internationalized, engaging practicing Muslims, secular Middle Easterners, Western academics, and human rights professionals. Abdullahi Ahmed An-Na'im, perhaps the most articulate Muslim defender of Islamic roots for human rights, writes in English. Even the most conservative Muslims who have written human rights schemes have them translated into English and French. The Islamic Republic has organized a number of "international" conferences on the issue.

human rights through the pathways of cultural habitat, itself under siege by highly politicized intellectuals and strewn with cultural field mines.

POLITICAL CULTURE: ISLAMIZATION OR SECULARIZATION?

Following the Iranian Revolution of 1979, sympathetic observers began to celebrate the Islamic triumph against the secular order. We have often heard that Islamization enjoys overwhelming popular support in Islamic countries and that *shari'a* and its principles provide solidarity and sociopolitical motivation to Muslims who demand "the immediate application of historical *shari'a*."² We are also told that "real secularism is unlikely to receive broad and lasting support in the Muslim world" and that secularism "is actually receding."³ John Esposito, a sympathetic American observer, notes:

Modernization as Westernization and secularization remained primarily the preserve of a small minority elite of society. Most important, the secularization of processes and institutions did not easily translate into the secularization of minds and culture. While a minority accepted and implemented a Western secular worldview, the majority of most Muslim populations did not internalize a secular outlook and values.⁴

Many Islamists have praised those previously misguided intellectuals who have, thanks to "the insight of the masses, rediscovered the truth of Islam."⁵ We often fail to appreciate that these assertions are more like political positions supportive of an agenda than objective assessments of the religiopolitical conditions of our time.

John Esposito writes that the Iranian Revolution of 1978–1979 "demonstrated more dramatically the power of a resurgent Islam."⁶ He goes on to delineate the most frequently made assertions made by the Islamists with regard to Islamization:

At the heart of the revivalist worldview 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

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2. Abdullahi Ahmed An-Na'im, "Islamic Law, International Relations, and Human Rights: Challenge and Response," *Cornell International Law Journal* 20 (1987): 319. Similar assertions are repeated throughout An-Na'im's works.
 3. Abdullahi Ahmed An-Na'im, *Toward an Islamic Reformation: Civil Liberties, Human Rights, and International Law* (Syracuse, NY: Syracuse University Press, 1990), 62.
 4. John L. Esposito, *The Islamic Threat: Myth or Reality?* (New York and Oxford: Oxford University Press, 1992), 9.
 5. Al-Sadiq Al-Mahdi, "Islam—Society and Change," in *Voices of Resurgent Islam*, ed. John L. Esposito (New York: Oxford University Press, 1983), 231–32.
 6. Esposito, *The Islamic Threat*, note 4 above, 18.

Islamic identity, values, and power. For Islamic political activists, Islam is a total or comprehensive way of life as stipulated in the Quran, God's revelation, mirrored in the example of Muhammad and the nature of 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 reimplementation of Islamic law, the blueprint for an Islamically guided and socially just state and society.⁷

Immobilized in bewilderment, we all sat in anticipation of the cataclysmic battle between Islamism and secularism, leading to a crushing theocratic victory. But this struggle has proven much more complex than the singular image of a receding secularism projected by the Islamists and their sympathizers. The hallowed assertions appear hollow when one remembers that the Islamists rule coercively. In the Islamic Republic of Iran, these Islamist assertions have proven substantively empty, except for their perceived political mobilization values. Islamization programs, imposing Islamic limits on rights, became repressive instruments in the hands of the clerics who showed no qualms in using them to eliminate their political opponents.⁸ The ayatollahs presided over repressive initiatives, changing the language of public discourse, rearranging cultural symbols, and redirecting the state distributive channels from the old elite to the aspiring lower middle-class men. They quickly learned how to use the Islamist rhetoric as a weapon of empowerment, forcing the old elite out and preventing moderate and liberal Muslims from sharing power.

The state has changed its masters, but the complex socioeconomic and political realities of the country have failed to lend themselves to the Islamist blueprint, to the promised departure toward the straight path. Nor did they support a reordering of priorities in critical areas of the economy, the administrative norms, and the popular culture of Tehran. In two areas of visible change, coercion is used to impose the Islamic *hijab* (dress code) on women in public and the consumption of "vices" is driven underground.

Today, as the Islamic Republic is failing to deliver on its promises and as a new "clergy capitalism" is emerging,⁹ a political reversal is taking place, decoupling class struggle from the religiocultural reaction against modernism. The issue of culture in politics has begun to lose its potency as an agent of mass mobilization. As a recent report from Tehran stated, "Bread and butter have replaced fire and brimstone in the consciousness of many working-class Iranians."¹⁰ It was premature for the Islamists to recite the

7. Ibid., 19.

8. Ann Elizabeth Mayer, *Islam and Human Rights: Tradition and Politics* (Boulder, CO: Westview Press, 1991), 82–83.

9. Peter Waldman, "Mullahs Keep Control of Iranian Economy with an Iron Hand," *The Wall Street Journal*, 5 May 1992, sec. A, 1, col. 1.

10. Stephen Hubbell, "Iran Without Illusions," *The Nation*, 26 July–2 Aug. 1993.

obituary of secularism in the region. Nor was it proper to make such a sweeping historical extrapolation based only on a brief transitional era (1978–1993).¹¹

In the praxis of life in a changing world, secularization cannot be reduced to a cast of mind or a mental trait, nor should it be characterized as a set of abstract principles or an anti-religious ethos. The success or failure of Muslims to internalize a secular outlook and values should be determined by what they actually do. The culture demonstrates internal confusion, and statements about itself cannot be trusted. The secular and the traditional are intertwined in such a way that it is hard to distinguish one from the other. The preconceived locale of the sacred and the profane constantly shifts, and, as in Salman Rushdie's famous novel, devils descend on us when we expect angels, profanity when we await reverence, and doubt when we desire faith. Life has become a *mélange* in the disjunction, so characteristic of the Third World neopatriarchy,¹² between theory and practice, between words and deeds, between the claim to ideological purity and the hybrid reality of everyday actions.

No one has remained immune from this universal cultural conversion, not even the Islamists. Commenting on the constructed "Islamic Ideology" in Iran, Hamid Dabashi observed:

That no Islamic ideologue noted the thunderous contradiction in terms of "the Islamic Ideology" is a clear indication of how deeply and convincingly secular ideas, with the almost magical touch of "The West," has penetrated and shaped the very constitution of "the Islamic Ideology."¹³

If one juxtaposes traditional values with "a secular outlook and values," as Esposito does, one must also note that the weight of tradition is a heavier burden on a Muslim's mind than on his or her actions. The latter are often far more responsive to the practical needs of a changing society than the mind is willing or able to recognize.

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11. A similar objection has been made by an Arab scholar who argues "that it may be prudent for those who now stress the successes of re-Islamization movements in marginalizing their political rivals to benefit from the experience of those who asserted earlier that the ascendancy of secular nationalism during the 1950s had left Islamic political forces entirely powerless." Ibrahim A. Karawan, "ReIslamization Movement' According to Kepel: On Striking Back and Striking Out," *Contention* 2 (Fall 1992): 162–63.
 12. For Hisham Sharabi, neopatriarchy results from pseudo-modernity developed under imperialist domination. It is the condition between the traditional patriarchy and modernity, where tradition is corrupted and modernity is distorted. Hisham Sharabi, *Neopatriarchy: A Theory of Distorted Change in Arab Society* (New York and Oxford: Oxford University Press, 1988).
 13. Hamid Dabashi, *Theology of Discontent: The Ideological Foundation of the Islamic Revolution in Iran* (New York and London: New York University Press, 1993), 7.

In this fifteenth anniversary of the Islamic Republic of Iran, I am more convinced than ever that secularism has in fact become the dominant way of life, the converging phenomenon of the contemporary civilization. On its fringes, the traditionalists and fundamentalists of all persuasions have been making noises (at times powerful roars) since the advent of modernity.

Secularism manifests itself abundantly at the level of human conduct in Iran, in the profane and practical attitude toward contemporary life, ultimately rejecting the permanency of anything that claims legitimacy beyond its rendered value. Values converge as all people increasingly share in a global community of needs, desires, aspirations, and frustrations. The Tunisian Alya Baffoun writes that:

The profit economy, competition, extraction of a surplus, and love of a property which is increasingly more private and individual, all these tend to replace the ancient superstructure of honour, purity, virginity (at whose pivotal center is the wife or sister). They replace it with the cult of money and the accumulation of riches as the new source of honour and prestige these days.¹⁴

Individualized, atomistic, and competitive, the society that cultural conservatives have dreaded has arrived, and religiocultural incantations will not dispel it. Universalized human rights, with their focus on the individual, are not responsible for its arrival; they offer protection for individuals. When one attempts to reconstruct the state to conform with an "organicist and vitalist model of body politics,"¹⁵ i.e., an Islamist model, then the individual in such a society becomes totally defenseless.

Secular habits have become habitual, and small truths are discovered which cumulatively replace the Truth of tradition. Already they have proved more tenacious than the zealotry of the Islamist revivalists. As the Islamist storm blows overland, raising a whirlwind of collective hysteria and fear, shrouding women in the dark *hijab*, and hiding Islamist radicals in the veil of their own ignorance, the secular undercurrent continues to flow under the vast swathes of Iranian life. It seeps through cultural fissures, nourishing

14. Alya Baffoun, "Women and Social Change in the Muslim Arab World," in *Women and Islam*, ed. Azizah al-Hirbi (Oxford: Pergamon Press, 1982), 241.

15. This phrase is borrowed from Aziz al-Azmeh, who commenting on Islamist revivalism at the turn of the century, argues the following:

This theory is very decidedly anti-Enlightenment both in its tenor and its content, and has been implicitly or explicitly embraced by all revivalist movements. The prime category in this notion of society is that of unity An organicist and vitalist model of body politic is proffered. A society in health is one in which its various components—individual and corporate—are functionally interdependent and in accord regarding the purpose, or the teleological terminus, of that society, which is to be a polity; and no polity is consummate until it has proved capable of subjugating others.

Aziz Al-Azmeh, "Islamist Revivalism and Western Ideologies," *History Workshop* 32 (Autumn 1991): 48.

habits that conform more with the this-worldly and chaotic ethos of contemporary civilization than with the wisdom of tradition or the revealed word of God. Life on the streets of Tehran is a bewildering hybrid spectacle. As the dust of Islamization has begun to settle, new habits are taking hold, pragmatically motivating people to essential socioeconomic actions. In their worldly experiences they are worldly despite the misleading exhibitionist religious moods of the officially-sanctioned culture. Here the Islamists behave in a way remarkably similar to their *bête noire*, the large urban bourgeoisie and petty-bourgeoisie. It becomes somehow surrealistic to speak of Islamic community (*umma*) and of the lack of individualism, where the individual sits in a private office, engages in specialized work, and leaves the office behind the wheels of a private car selected according to the individual's taste. Even the iron-lunged Islamist rulers of Iran, whose denunciations of Western individualism were the loudest, are daily chauffeured from the plush houses once belonging to the previous elite to their downtown offices and mosques to attend to the affairs of the *umma*.¹⁶

The ghost of the late Monarch has been reincarnated in the turbaned president. With the social and economic processes still grounded in an enormous bureaucracy fueled by oil money, all avenues to an individual's "life chance" are as consumption-oriented and money-driven as were the fast tracks under the Shah.

At the state level, Iran has struggled with two realities since 1979. One is the shadowy state that is formed by the power-centers. Suffused with revolutionary incantations, it is maintained by adherents of Khomeini's legacy, "the *Imam* path." The Islamist rulers attempted, at the outset of the revolution, to create intermediary institutions with sufficient Islamist identity and revolutionary credentials. Largely funded through confiscation of state-owned and private properties, the Islamist Foundations (*Bonyads*) mushroomed and remained under the control of the petty-bourgeois Islamists. Khomeini protected them by standing between them and the state. The second is the Pahlavi state, with a more enduring legacy of an immense bureaucracy and a bloated public sector. For a few years the state was severely jolted, almost thrown off its prorevolutionary frame of reference by the shadowy power-centers that vied for the distribution of power and the spoils of the rentier state.

Since Khomeini's death, his successor, Mohammed Ali Khamenei, has failed to sustain the *Imam* path with its prior intensity, since he could only

16. Ali Akbar Nateq-Noori, an influential clerical leader and the Speaker of the Majlis (Parliament), is reported to have four residences to accommodate his eight children and twenty-four bodyguards. Elaine Sciolino, "Call is Out to Iran's Rich: Cut Excess," *New York Times* 12 April 1992, sec. A, 12, col. 1.

claim the *Imam's* mantle by straining the imagination of the faithful. The regime has been caught between these two states, vacillating between the shadowy state and the demands of the well-established state apparatus. Khamenei has tried to provide support for this shadowy state and to use its revolutionary organs in his power struggle against President Rafsanjani who has opted to support the old state. In the post Iran-Iraq war, as the country stood on the verge of exhaustion and national despair, the people called for compromises and ideological surrender. The Islamists' desire to transform society has been greatly tempered by their even stronger desire to stay in power in the face of middle class hostility. This hostility, largely passive but unmistakable, was clearly heard.

Bureaucratic and technocratic institutions have begun to reassert their commanding position in society, and the clerical rulers have been increasingly compelled to rely on them for formulation and implementation of policy. The presence of the new middle class within the apparatus of bureaucracy continues to be the most visible feature of the Iranian state. Anxious to normalize life the way they understood it, the commercial and bureaucratic bourgeoisie and the large new middle classes have succeeded, to a considerable degree, in containing the Islamization project to a rhetorical, largely exhibitionist and often superficial Islamic facade. The new rulers quickly learned to use their political ascendancy to create socioeconomic ascendancy. This was a source of constant resentment and friction between the Islamist *nouveaux riches* and the older bourgeoisie. At the same time, the new rulers have realized that their political longevity can be better served by gaining the economic trust of the bourgeoisie. Thus, Hashimi Rafsanjani's new language tries to downplay the rhetoric of the Islamic revolution and stress science, technology, middle class professionalism, and administrative efficiency.

In state institutions, one can still find shadowy groupings whose allegiance reaches beyond the recognized individuals in charge. The final outcome of this process is still unclear, but the state has largely succeeded in mustering its resources to preempt the total consolidation of the intermediary Islamist institutions. Many have been incorporated into the structure of the state, thereby blunting the Islamist agenda of alternative centers of political-economic powers. The largest of these foundations, the *Bonyad Mostaz'afin* (Foundation of the Dispossessed), although still mainly accountable to itself, has become a corporate entity investing, like a capitalist venture, in everything from aviation to the oil industry.¹⁷

17. One source has estimated that the foundation's assets included "one thousand companies; land and sea transportation lines; 357 factories (of which one hundred were large operations); farms, hospitals, dairy farms; lands and various real estate (100,000

Many of the Shah's rules and practices that the clerical rulers denounced as un-Islamic when they took power are returning, and the Islamic government is readopting them. Even some of the measures that the Shah's Family Protection Law (1967–1975) had provided for women are being reintroduced—with modifications, to be sure, and new justifications.¹⁸ Ingrained secular habits are largely restored in the economic and administrative domains. Unchanged are the arbitrary power of the state, the habit of private consumption, military ambitions, and armaments. Only another layer of deception, this time under an Islamic cloak, is added to camouflage the state-driven practices.

Critical decisions are often made more in accordance with economic imperatives and political expediencies to serve the new rulers than out of consideration for Islamic belief and values or any other ideological dictums. No doubt the ideological edifice of a reconstructed Islam remains in place, and staunch Islamists continue to warn and decry the creeping *coup d'état* against Islamic and revolutionary values. Functioning in a bourgeois-dominated global system, the modern nation-state temporalizes everything. Under the crown or turban, dependency has become a fact of life. If the Shah's regime was a bad blend of Asiatic Despotism and modernization, the Ayatollah's is a perishable amalgam of the *Imami* tradition and modernization. As the Shah's bureaucrats appeared shallow in their ostentatious "Westernness," so too are the Ayatollah's technocrats in their contrived "Islamicness."

Having scoffed at and disparaged the westernized intellectuals and having driven many of the highly trained, but socially irresponsible, professionals into exile, the Islamic Republic is facing a dilemma in its developmental quest, not dissimilar to the one faced by Mao's cultural revolution (expert and red): How to create an intellectual class that is both expert in modern ways and correct in Islamic attitudes and sentiments. The state is left with no option but to reengage the modern-educated, secular professionals and intellectuals on their own terms, while hoping to create its own Islamically-committed groups. As Navid Mohseni writes:

It is here that we can see the push for attracting experts from abroad, lifting censorship of books and delegating it to the publishers themselves, organizing various seminars and cultural events, and allowing the publication of western-

houses, apartments, and hotels); and, finally, a treasure of jewelry, antiques, carpets, and expensive paintings." Quoted in Mansoor Moaddel, *Class, Politics, and Ideology in the Iranian Revolution* (New York: Columbia University Press, 1993), 249–50.

18. Afsaneh Najmabadi, "Fazāyi Tang-i Nāsāzigāri, Zan-i Irānī dar Dah'a-i Inqilāb (The enclosed space of nonconformity, Iranian woman ten years after the revolution), *Nimeye Digar* 11 (Spring 1990): 26–28.

style journals and screening movies whose audiences are mainly the western educated intellectuals of the old regime.¹⁹

Indulged with these luxuries, this class is unlikely to be transformed from its essentially secular disposition into a state-sponsored Islamic identity. Once the secular intellectuals are out in the openness of public life, the diverse cultural package they offer to the younger generation will prove more attractive than the authentic sociocultural identity that the hegemonic state offers. Cultural habits denounced as un-Islamic dazzle and seduce; the *mullahs*, now endowed with guns and prisons, are not likely to offer an attractive alternative. Even if the contents of the two cultural packages were equal in their intrinsic attractiveness, the one that is forced upon the country will most likely be the loser. This much we have learned from the twentieth century.

As for entertainment, disjointed cultural impulses make the World Cup competition the most widely-shared experience and turn "Dances with the Wolves" into a scandal for the Islamic government, as thousands of Tehranis defiantly lined up to view the American-made film, leading to the resignation of the minister who allowed the movie's release.

The attempt to turn Islam into a political ideology has paradoxically led to an increased subjective secularization of its discourse. The inherent limitation of the Islamic discourse in coming to grips with complex, contemporary, socioeconomic, and political problems has pushed it toward accommodating concepts, styles of government, and institutional modes that are essentially modern and secular.²⁰ The more traditional ayatollahs, who opposed the proposed clerical reconstruction of the state, had warned that Khomeini's project would reduce, in the eyes of Iranian Muslims, the religious credibility of the *ulema*, and even diminish Islam.

The experience of the last fourteen years shows that no grand paradigmatic reconstruction will substantially impact the present realities; in their messiness and fluidity, they do not lend themselves to any systemic ordering. Despite great cost and immense sacrifices, the civil society has refused to be molded, rebuilt, or remade by the power of an absolutist, totalist master plan. The nation moves on in its zest for life, its keen sense of nationality, its crass desire for material gains, and its graceful endurance. Modernist intellectuals and technocrats will not emerge unaffected from this traumatic national experience. I am already looking beyond the present

19. Navid Moshiri, "Towards an Understanding of Intellectuals," *Critique: Journal of Critical Studies of Iran and the Middle East* (Fall 1992): 51.

20. M. Tiwa, "Mawanih wa Chashmandaz-i Rushd-i Jama'a-yi Madani wa Ma'rifat-i 'urfi dar Iran" (Obstacles and Prospect for the Development of Civil Society and Secular Thought in Iran) *Kankash* 8 (Spring 1992).

untenable conditions into the future, when Iranians of many classes and political persuasions, having experienced both cultural disgrace under the Shah's regime and cultural suffocation under the ayatollahs, will reach a new plateau of national consciousness, rejecting any simple, monolithic cultural definition for Iran. Future generations then may look back at Iran's experience with religious rule as a powerful spastic resistance to modernity and a major throwback to the bygone visions of an Islamic order.

The foregoing arguments reject the assumption that the future success of secularism in the region depends on the ability of the secularists to resolve the problems of the project at an intellectual level.²¹ The intellectuals in Islamic countries tend to fall for grand models and to place an inordinate emphasis on the importance of systemic ideas—correct ideas—as the prime movers of history. One may argue that the ways of the future will appear through the exigencies of sociopolitical praxis and not necessarily by means of persuasive theory.

Similarly, support for Islamization is hardly the position of a majority of population in many Islamic countries. Cultural circumstances conducive to political expression of Islamization vary greatly from one country to another. Whereas in Sudan there might be deeper historical roots for political Islamization, the cultural patterns that might lend support in such major metropolitan areas as Baghdad or Tehran are far more complex. For one thing, they are often hostile to the imposition of *shari'a* rules, especially the canonical *hudud* punishments (stoning and amputation of limbs). Ann Mayer has observed that "Popular support for groups calling for 'Islamization' in situations where undemocratic and corrupt secular governments stubbornly cling to power may signal more a repudiation of their policies than the intent to support the specifics of Islamization programs. . . ."²² Above all, those who argue that Islamic countries are suffused with faith or assert the failure of secularism tend to underestimate the magnitude of the variety, differences, and contradictions within Islamic cultures, in the past or the present. Modern ideologies might have been put on the defensive or today's balance of ideological ingredients might be different, but the enduring ideological configuration of the future has hardly appeared over the horizon. There is no political-cultural monolith; issues continue to exhibit the full spectrum of opinions from ultra-conservatism to cultural iconoclasm.

21. An-Na'im quotes Fazlur Rahman with approval that "the difficulty before the real secularist [in the Muslim world] is to have to prove the impossible, namely that Muhammad, when he acted as a law giver or political leader, acted extra-religiously and secularly." An-Na'im, *Toward an Islamic Reformation*, note 3 above, 44.

22. Mayer, *Islam and Human Rights*, note 8 above, 18.

THE STATE: CULTURAL RELATIVISM OR CULTURAL CRITIQUE?

When socialism was still enshrined in the state doctrine of the USSR, China, and Cuba and dissident intellectuals were largely influenced by the Marxian discourses in the 1950s to 1970s, the strenuous objections one often heard against universalized human rights standards came from leftist and collectivist political orientations. They assaulted the West's imperialistic agenda in the Third World and rejected the liberal approach of the UDHR that emphasized political and civil and not economic and national rights. Today a version of the old socialist argument is still held by authoritarian states, asserting the right of African and Asian countries to development and Western assistance. The loudest objections, however, originate today from the right, espousing a conservative communalism that promotes the view that different cultures understand human life and construct its essential properties in totally different ways. The argument urges recognition of the internal cultural values, integrative membership of men in the community, who govern the pattern of daily life of non-Western peoples, and respect for their subjectively expressed desires and needs. The latter, we are told, do not correspond with human rights standards that create alienating, individualistic effects in the community.²³

Cultural relativists advance divergent positions. They all share the view that human rights do not constitute the cultural ideal adhered to by world's ethical systems, with the exception of the West. The most uncompromising is "the position according to which local cultural traditions (including religious, political, and legal practices) properly determine the existence and scope of civil and political rights enjoyed by individuals in a given society."²⁴ This position espouses the view that "culture is the supreme ethical value, more important than any other. Human rights, in particular, should not be promoted if their implementation might result in a change in a particular culture."²⁵

As will be shown, the views of most conservative Islamists (the "old traditionalists") are in harmony with this approach. They reject, explicitly or implicitly, the universal applicability of the UDHR. When a conservative Islamist speaks of cultural rights, the focus of the debates is shifted from the central issue of the political and legal rights of the individual to larger categories of rights, to cultural autonomy, to one's way of life, and to Islamic cultural renewal in order to protect the culture against the Western cultural

23. For a full discussion of communalism and cultural relativism see Rhoda E. Howard's excellent critique, "Cultural Absolutism and the Nostalgia for Community," *Human Rights Quarterly*, 15 (May 1993): 315.

24. Ibid., 319 (quoting Fernando R. Tesón, "International Human Rights Relativism," *Virginia Journal of International Law*, 25 (Summer 1985): 870).

25. Ibid.

onslaught. Moreover, through highly reactive rhetoric, the old traditionalists shift from human rights as an individual's entitlement asserted against the state to a right asserted by the state against the West.

A more accommodating relativist argument, however, has gained respectability among many human rights commentators and scholars. In a recent study on universalism versus relativism, Alison Dundes Renteln distinguishes among a set of cultural relativist theories and adopts a version that is sensitive to today's intellectual-political climate and that is most relevant to human rights. She argues that the issue of human rights is best discussed within the concept of "ethical relativism, a subset of cultural relativism."²⁶ Quoting Schmidt, she writes that "[T]here are or there can be no value judgments that are true, that is, objectively justifiable independent of specific cultures."²⁷ Renteln states that relativists can in fact criticize non-Western peoples for their behaviors and beliefs; "But relativists will acknowledge that the criticism is based on their own ethnocentric standards and realize also that the condemnation may be a form of cultural imperialism."²⁸ This much is shared by all cultural relativists. Renteln maintains, however, that cross-cultural study reveals that values exist, which all cultures share. In her view a set of truly universal human rights norms might be reconstructed based on values shared by all cultures. The theory relies on the convergence of moral systems on some essential values, and it seeks a global consensus that could support universalized human rights standards.²⁹ She wishes to ascertain through empirical research the existence of local values in non-Western cultures. These are demonstrably the ethical equivalents in all cultures and will validate the true universal standards by creating cross-cultural foundations for them.

This approach aims at a discovery of a cross-cultural foundation for human rights. It accepts the UDHR but seeks to enhance its global adherence by discovering local values compatible with its assumed universal standards. Other human rights scholars and advocates, not content with a mere discovery, recommend a reconstruction of the world's illiberal cultures. Professor Richard Falk points out "that virtually any cultural heritage is morally rich enough that it can, if appropriately constructed, under some circumstances make inspirational contributions to the struggle for human rights, democracy, and social justice."³⁰

26. Alison Dundes Renteln, *International Human Rights: Universalism Versus Relativism* (Newbury Park, California: Sage, 1990), 69.

27. *Ibid.*, 71.

28. *Ibid.*, 77.

29. *Ibid.*, 86.

30. Richard Falk, "Cultural Foundations for the International Protection of Human Rights," in *Human Rights in Cross-Cultural Perspectives*, ed. Abdullahi Ahmed An-Na'im (Philadelphia: University of Pennsylvania Press, 1992), 54.

Renteln, in her book, hardly mentions the modern state or the exercise of political power therein. Her discoverist approach will have to demonstrate its analytical relevancy for cultures whose traditional values and morals have been substantially distorted by the adaptation of modern state and the subsequent formation of the state classes, who control societal institutions. Rhoda Howard writes, "One can certainly accept Renteln's view that international human rights standards have a better chance of being put into practice if they reflect cultural ideas."³¹ Howard seems to believe that this is easier said than done. Hence in this section, I will argue that problems magnify when one actually tries to locate or construct roots for human rights standards in local cultures.

I defend the position of those human rights scholars who maintain that the universality of human rights is not an abstract philosophical (Western) notion. It is a response to the almost universality of the modern state as a globally convergent mode of governance. Insisting that the modern state must be the analytical focus, Rhoda Howard shows that even in emerging Western states human rights concepts were formed despite hostile moral precepts then prevailing in Western culture (Judaism and Christianity). "The society that actively protects rights both in law and in practice is a radical departure for most known human societies."³² Moreover, Donnelly notes that:

The modern economy, with its complex division of labor and extensive role-segmentation, necessarily produces economically and therefore socially distinct individuals. Likewise, modern state bureaucracies are structured to deal (only) with (anonymous or interchangeable) individuals.³³

No amount of communal social-engineering or Islamist cultural incantations can dislodge these contemporary global realities.

The UDHR and the other human rights covenants define what is needed to protect a life of dignity and equality in a modern state. Although they originated in the West, their particular substantive foundation belongs to a moral vision that was the result of accumulated experiences in dealing with the abuses of the modern state and market economies. Through human rights standards we scrutinize "a person's or persons' relation to public authority—and indeed to the rest of society."³⁴ On the most pressing issues

31. Howard, "Cultural Relativism," note 23 above, 320.

32. Rhoda E. Howard, "Dignity, Community, and Human Rights," in *Human Rights in Cross-Cultural Perspectives*, note 30 above, 87, 91. This article most effectively argues for the universal applicability of the UDHR's standards.

33. Jack Donnelly, *Universal Human Rights in Theory and Practice* (Ithaca and London: Cornell University Press, 1989), 78.

34. David P. Forsythe, *The Internationalization of Human Rights* (Lexington, KY: Lexington Books, 1991), 1.

of rights violations, a syndrome of political, social, and economic factors induces the rulers to violate rights. Violations of this nature are political violations committed by these states. Ann Mayer agrees with Howard that one effect of the cultural relativist argument is to shift the focus of human rights from national legislation and governmental policies to "the realms of anthropology and moral philosophy."³⁵ For a Muslim country, as for all complex state societies, the most pressing human rights issue is not local cultural preferences or religious-cultural authenticity; it is the protection of individuals from a state that violates human rights, regardless of its cultural-ideological facade.

The insistence on the universality of human rights standards is a political demand for the protection of individuals in the contemporary world of the modern states and capitalist, market economies. The experience of Iran shows the political contingency of the human rights violations. Under Islamist dictatorship in Iran, the drive for Islamization of culture has become a considerable smoke screen for the exclusionary (political and economic) strategy of the state. At the same time, it is a reflection of an intra-elite struggle and a cover for semi-official theft. Above all, the cultural rationalization, which justifies repression, reflects regime maintenance.

The paradoxical and contradictory practices of the Islamist rulers of Iran emanate from the fact that they reject the practical necessity of the universal human rights standards, while retaining both of these modern aspects of a complex urban society. The Islamic Republic of Iran has failed to alter these modern characteristics. At the same time, they have advanced an alternative set of Islamic standards. The problem is that these standards purport to protect human and communal rights in an imagined social order that has yet to be politically created. Universal safeguards for the protection of individuals faced with abusive modern realities are rejected in the name of a premodern ideology that reformulates alternative standards for a society that the same ideology has failed to recreate. The individual is left unprotected by a state that uses contrived, religiously-sanctioned, political rationales for a reincorporation of the individual into an imagined communitarian society. Paradoxically, the enormous capacity of the modern state's apparatus is used to create a communitarian society, and the community is left with more of an authoritarian state.

Analysts who advocate cultural reconstruction in Islamic societies tend to read too much cultural significance into the state's political practices. Political-legal behaviors in Iran under the ayatollahs are often explained as based on a cultural foundation different from that of the West. For example, Bassam Tibi observes that "legal notion within 'Islamic intellectual tradition'

35. Mayer, *Islam and Human Rights*, note 8 above, 10.

differs considerably from the European one" and that international law lacks "a substantive cultural consensus" needed for an international legal order.³⁶ "Events in Iran (as when Iranian students held hostages in the US Embassy in 1979) have been only one variant of this phenomenon."³⁷ A political insider, however, in the midst of the intense post-revolutionary infighting was more likely to conclude that the political factions responsible for the hostage-taking were driven by the political advantage they gained from the entire episode. Khomeini himself contemplated his options and made decisions based on his own political interest, not the least of which was his newly acquired international status. Khomeini emerged bigger than life on the global stage, the subject of much serious punditry abroad, which brought him intense adulation from his admirers and vilification from those who loathed him. Notwithstanding his aloof and other-worldly posturing, he desired world recognition and gloated when placed at the center of power, intrigues, and international attention.

The unrealized Islamic expectations in Iran indicate the problems of a discourse that assumes cultural primacy for a legal foundation for human rights in the modern state. Whatever authentic ethical and legal claims have been offered for an Islamic legal foundation or for the newly created Islamic constitutional rights and obligations of citizens, they have been readily violated, amended, or ignored. Why so many violations of their own authentic legal edifice? The question brings us back to the dynamics of the state and the same kind of political expediencies that compel other secular regimes to undermine their constitutional and legal structures. This seems to be the argument of professor Ann Mayer.³⁸ She does not say, as Tibi

36. Bassam Tibi, *Islam and the Cultural Accommodation of Social Change* (Boulder, CO: Westview Press, 1991), 61.

37. Ibid. Bassam Tibi is not an Islamist thinker but a secular scholar, who advocates not cultural relativism but cultural pluralism within the emerging global civilization. Building upon the Geertzian approach to culture, Tibi's discourse emphasizes the need for "the cultural accommodation of social change," leading to his advocacy of Islamic roots for human rights. Tibi rejects the Islamist notion of "a cohesive Islamic political community" and "an immutable and universal Islamic identity upholding it." He maintains, however, that there still exists a localized Islamic religiocultural identity specific to each Muslim society where "identity is locally and socially produced." Bassam Tibi, "The Iranian Revolution and the Arabs: The Quest for Islamic Identity and Search for an Islamic System of Government," *Arab Studies Quarterly*, 8 (Winter 1986): 37, 42.

38. Mayer illustrates such abuse by a critique of the policies adopted by the regimes in the Islamic Republic of Iran, Sudan, and Pakistan. She shows that state-supported Islamization strengthens the status quo. Mayer points out that in Iran "the human rights violations that followed the revolution were probably not more heinous than the abuses perpetrated under the late Shah . . . , but often the new Islamic rationales for government conduct correlated with shifts in the patterns of violations, the targeting of new groups for persecution, and reorientation of repressive tactics." Mayer, *Islam and Human Rights*, note 8 above, 35. Mayer concludes that the Islamic Republic "did not

attributes to her, that "all human rights violations in the world of Islam 'smack of politically inspired attempts to manipulate and exploit cultural loyalties.'" ³⁹

My view is that the search for an indigenous legal foundation for human rights becomes paradoxical in that it has to "be erected" (Tibi's term) within the confines of the state, whose alien and transplanted, but essentially unalterable, structures have rendered the local tradition impotent as a source of authentically traditional, political assertions. The neopatriarchal state confines tradition, subjects it to its *modus operandi*, and subverts its authenticity. The question remains whose authenticity are we asked to restore, who would make this judgment, for what political purpose, and at what cost? No one disputes the existence of a psychological repository of cultural influences from the past. The state, however, selectively garners support from traditional culture. It also compels the aspiring Islamist counter-elites to function within the same confines, as they also politically select an alternative ensemble of cultural symbols. Within the centralized state, culture is not free from the exigencies of power. Which cultural changes will be recognized and accommodated and what will be denied by the existing rulers and the oppositional forces seeking counterlegitimacy is decided politically within the confines of the state. It is at this intersection of politically determined selectiveness, where culture and politics emerge, that culture acquires its present significance. Not the mere existence of the psychological inventory, but how it is politically tapped should concern human rights advocates. We should be concerned with the immediate question of why this premodern Islamic psyche has exhibited such contradictory sociopolitical manifestations. Why is it that it conceives "of each person as an individual, free subject" in one place yet "fails to conceive" of the same individual as such where she refuses to conform to the standard of what is proper as defined by the male authority in control of the state or by the aspiring counter-elite?

To his credit Tibi recognizes that the cultural system is constantly changing. In contrast, cultural relativists tend to see a coherent logic in the

lay great store by principles of legality, irrespective of whether these were religious or secular, and that it was even quite prepared to indulge in violations of basic tenets of Islamic law where the latter stood in the way of its political objectives." *Ibid.*, 86.

39. Bassam Tibi, "Universality of Human Rights and Authenticity of Non-Western Cultures: Islam and the Western Concept of Human Rights," *Harvard Human Rights Journal* 5 (1992): 226. Professor Tibi's preoccupation with his broader scholarly discourse on "the cultural accommodation of social change" is shown in his review of Mayer's book. He devotes almost two-thirds of a six-page article not to what Mayer intended to do in her book, but to what she "failed" to do in light of Tibi's cultural discourse. Although Tibi praises Mayer's book as a major contribution, he is ultimately disappointed that Mayer has not written a book he should have written himself.

cultural patterns and to assume considerable integrity in an Islamic system of cultural symbols, a system in which actions are viewed as meaningful and can be understood in terms of symbols. It is as if the Muslims' imaginative universe within which a Muslim's acts are signs has remained immune from the societal chaos of the historical transition which has overwhelmed both acts and signs. Confusion has also been the plight of the symbolic terrain, where social actors engage in contradictory discourses that often subvert one another and interact simultaneously with a multiplicity of signs. We can no longer say with certainty what is signifier and what is being signified, what is sign and what is referent, and what is symbol, what is meaning. To make matters worse, in this world of skewed cultural patterns and a hybrid fusion of cultural symbols, considerable ingenuity has been used to obscure real motives and intentions. Are people becoming, Muhammad Guessous wonders,

more individualist, more egotistic, more opportunistic, dealing with social rules not as compelling, not as obligations, not as integral parts of their own identity, but only as tools? You use religious norms when it suits you; you use some moral rules when they suit you and break them when it suits you; you call upon family solidarity, tribal solidarity, neighborhood solidarity, when it suits you and break them when it suits you.⁴⁰

CULTURAL AUTHENTICITY: WOMEN AND INTELLECTUALS

Muslims have ostensibly rejected secularism because of its Western and inauthentically Islamic origins. The Islamic Republic was to rescue the Iranians from cultural alienation. Since then, the issue of authenticity has become a central concern as self/other has become the headiest intellectual dichotomy. Assuming the total failure of modern ideologies in Islamic countries, Muslim thinkers have, in the words of a sympathetic scholar, "advocated a more authentic, Islamic framework for Muslim society."⁴¹

In recent years some sympathetic observers have argued that women's adoption of Islamic dress is an authentic expression of cultural conformity. It indicates, they argue, that women feel more comfortable appearing in public in clothing congenial to the culture of villages and small provincial towns where they have lived before moving into the strange environment of large cities. We often read that Muslim women, by adopting the Islamic *hijab*, regain their female autonomy and are able to display their chastity,

40. Kevin Dwyer, *Arab Voices, The Human Rights Debate in the Middle East* (Berkeley, CA: University of California Press, 1991), 29.

41. John L. Esposito, *Islam and Politics* (Syracuse, NY: Syracuse University Press, 1984), 213.

dignity, and modesty. It is said to be the affirmation of the female in Islamic terms, "enabling women to negotiate in the new world while affirming the traditional values of their upbringing."⁴² Islamic women are also assumed to be contributing to the national struggle by reasserting the authenticity of Muslim men who are under attack by Western cultural imperialism. As Leila Ahmed writes,

Essentially, the adoption of Islamic dress and the affiliation with Islamism express an affirmation of ethical and social customs—particularly with regard to mixing with the opposite sex—that those adopting the dress and affiliation are comfortable with and accustomed to The dress also protects them from male harassment. In responding to a questionnaire, women stated that wearing Islamic dress resulted in a marked difference in the way they were treated in public places.⁴³

This argument shifts the focus of analysis from the issues of power and patriarchal dominance to the individual woman's cultural self-assertion. The floodlight of social critique no longer directly illuminates the dark cloisters of patriarchal violence, intimidation, and fear. It may in fact add a new veneer of remystification to the sociopolitical conditions that severely restrict women's options, especially to those sanctioned practices that permit harassment of women in public, forcing them to comply with repressive norms and rewarding them by according them a marked difference in the ways men treat women in public. Under influence of Islamist arguments, this neofeminist discourse accords cultural and social authenticity to lower classes while denying them to Westernized intellectuals—a feminist version of that highly romanticized image of the popular masses found in the writings of the Islamists. It is also similar to the way a Marxist-Leninist used to glorify the proletariat. Leila Ahmed writes that:

The pursuit of these goals [of female autonomy and subjectivity] in terms of the language of Western dress, secularism, and explicit "feminism" was evidently typical predominantly of the urban middle classes—and consequently "feminism" as a political movement may perhaps justly be described as "elitist or sectional, and cut off from the grass roots of society"—whereas women's pursuit of those goals in the language of Islamism and the veil appears to represent the quest for autonomy at the grass-roots level.⁴⁴

42. While critical of radical Islamist politics, the neofeminist discourse is characterized by its somehow positive portrayal of Islamist "cultural renewal," and for its sympathy toward "Muslim feminists." Leila Ahmed, *Women and Gender in Islam: Historical Roots of a Modern Debate* (New Haven, CT: Yale University Press, 1992), 223; see also Azizah Al-Hibri ed., *Women and Islam* (New York: Pergamon Press, 1982).

43. Ahmed, note 42 above, 223.

44. Ibid., 225.

Many women may voluntarily adopt the *hijab* as a practical necessity if they are to function in a public space, whose rules are set by the patriarchy. As an "affirmation of female autonomy and subjectivity," it is perhaps illusory, more a symptom of a deeply rooted sociocultural malady than a sign of female autonomy. It is illusory because the precondition that necessitates the adoption of the *hijab* is set by the patriarchal reinvigoration of control and dominance, a new *bay'a* (oath of allegiance) to male autonomy and subjectivity. It is illusory because the wearer's notions of propriety and modesty have internalized the androcentric norms of the culture.⁴⁵ It may legitimize a woman's presence outside the home, as Professor Ahmed asserts, but it does so in male terms. Hammed Shahidian writes the following:

The experience of the past fourteen years [in Iran] has shown that sex-segregation is not a matter of choice, but one of imposition. It is *the men, not the "Islamic feminists,"* who decide who should be confined to which quarter. The cultural relativist approach, which wanted to avoid an imperialistic imposition of values ended up apologizing for the abhorrent treatment of women⁴⁶

If no longer an individual's choice, the *hijab* becomes a banner of a political movement, rewarding a crowd mentality in the service of an updated version of the ideology of *ta'a*, obedience to the traditional male authority, and bestowing referential authority to a past model. Moreover, when it is imposed by the state, or by the male-induced climate of violent intimidation and fear, it undergoes several additional stages of objectification and degradation, serving the interests of political power in a system of inequality and domination.⁴⁷

45. The line of argument I present here will be rejected as elitist by the neofeminists. The Jordanian Lama Abu Odeh observes the following: "Unless I engaged in intellectual elitism by accusing these women of false consciousness and not knowing their own good, there was no way that I could point to instances of the disempowerment of the veil." Lama Abu Odeh, "Post-colonial Feminism and the Veil: Thinking the Difference," *Feminist Review* 43 (Spring 1993): 30. My argument is that one is not engaged in "intellectual elitism" if one places the "adoption" of the veil within its proper context, i.e., the modern nation-state and the ideologically-sanctioned discourses of power. In the absence of such a perspective, the analyst sees no "instances of disempowerment" in the veil.

46. Hammed Shahidian, "National and International Aspects of Feminist Movement: The Example of Iranian Revolution of 1978-79," *Critique, Journal of Critical Studies of Iran and the Middle East* 1 (Spring 1993): 46.

47. The infatuation with anti-imperialist rhetoric is intellectually titillating. The harsh reality descends when an Islamic Republic, à la Khomeini, takes over and imposes, despite the opposition of many women and men, a forceful segregation of all public places in the name of cultural authenticity. M. Kousha writes the following:

Appearing without the veil in public was an act against the Law, and women without the veil were not permitted to board a bus, get a taxi, enter any shop, department store, or government office.

We should resist all impulses to mythologize authenticity. Authenticity is not the central issue behind political liberty and human rights in any Islamic country that harbors a majority Muslim population, which suffers under a dominating state. Power, domination, and inequality are the issues.

Regarding the issue of authenticity, human rights advocates must insist that the choice be left to the individual citizens. Martha Nussbaum argues that "one of the most central capabilities," without which one cannot consider a life as a human life, is "the capability of choosing itself, which is made among the most fundamental elements of the human essence."⁴⁸

The state should not block access to information that enables citizens to examine alternative ways of life and to make informed choices among the possibilities open to them. Nor should it permit organized political groups to engage in violent actions which eliminate people's options. The angry young men of fundamentalism have turned the streets of Tehran into a veritable cultural war zone, harassing and attacking women in modern dresses. The situation in Cairo is only less drastic. Thus, women are at the center of the debate over culture and authenticity. They are also central to the issue of the control and exercise of power in Muslim societies.

The Islamists in Iran are unlikely to win the battle of the veil, and the secular, progressive, and educated women are seeing to this by holding up their badly veiled heads in beautiful defiance. In Iran, the discourse on women is in fact no longer constructed mainly in terms of culture and authenticity; even some Islamist women in governmental circles have begun to speak in terms of power and gender inequality. As Eliz Sanasarian has shown, the debate has been turned into an argument for equality. The unintended consequences of the actions and words of the Islamist rulers have forced attention back to the proper issues of male domination and violation of women's basic rights. Sanasarian's concluding remarks are worth quoting:

Every time they [Islamist rulers] compared Muslim women to Western women and argued that women have been oppressed in the West but not in Islam, they raised awareness. Every time they reasserted female equality [in Islam] and praised women's abilities, they raised expectations. Every time they admitted that oppression of women is ongoing in Iranian society, they raised demands. Every time they met with women's groups, they gave them recognition . . .

In a country like Iran, where the reproduction of daily life is the basic responsibility of women, there were enormous consequences for those who decided not to adopt the veil.

Mahnaz Kousha, "Women, History and Politics of Gender in Iran," *Critique* (Fall 1992): 31.

48. Martha C. Nussbaum, "Human Functioning and Social Justice: In Defense of Aristotelian Essentialism," *Political Theory* (May 1992): 225.

In an overwhelming majority of cases, equality was nowhere to be seen. Therefore, women raised fundamental questions: Where is this equality? It is not in education? It is not in family laws? It is not in the workplace? And, it is not in the numbers of female elected officials? There has been no protection in the private sphere but also no visible presence in the public sphere; this regime has failed to fulfill the Islamic principles on women and has worsened their situation.⁴⁹

Moral discourses of human rights and feminism are being universalized. The issue here is their considerable educational value and liberating potential for traditional societies. Middle Eastern progressive intellectuals must choose to counter cultural conservatism by acknowledging, in Rhoda Howard's words, "the legitimacy of abstract, philosophical consideration of ethical questions that is transcultural and denies the preemptive claim of cultures to a superior moral status."⁵⁰

The claim to authenticity in a male-dominated culture, if left unchallenged by universal human rights, will accord dignity to women only if they conform to their proper role as defined by Muslim men, themselves in the grips of a misogynistic tradition. Rhoda Howard has observed that "[d]ignity frequently means acceptance of social rules and norms; human rights implies challenge to precisely those norms."⁵¹ She adds that "[h]uman rights challenge the basis on which people in nonliberal societies accord each other respect."⁵² Moreover, they enable "ordinary citizens within a society to transcend culture-boundedness or to make ethical judgments on their own customs."⁵³ Human rights reject the argument that the woman's right to choose her style of dress and public behavior stands in opposition to the society's collective rights to Islamic dignity. Human rights underscore the fact that Islamic dignity, as defined by the Islamists, countenances inequality of the sexes.

Authenticity as an intellectual discourse, encompassing a range of ideas, values, and human experiences, should be distinguished from authenticity as a discourse of political legitimation. The latter often subsumes the former; that is to say, if raised within the dynamics of the modern nation-state, it subsumes the larger intellectual discourse into a much narrower and more focused issue of political legitimation. It becomes a discourse of hegemonic politics within the confines of the state.

49. Eliz Sanasarian, "The Politics of Gender and Development in the Islamic Republic of Iran," *Women and Development in the Middle East and North Africa*, eds. Joseph G. Jabbra and Nancy W. Jabbra (Leiden: E.J. Brill, 1992), 65–66.

50. Howard, "Cultural Absolutism," note 23 above, 321.

51. Howard, "Dignity, Community, and Human Rights," note 32 above, 94.

52. Ibid.

53. Howard, "Cultural Absolutism," note 23 above, 321.

The hegemony of the dominant Islamist polity places women at the center of Islamist discourse. Manipulating the sacred symbolism, the Islamist discourse claims an extrapolitical sanctity, while its consecrated language empowers its speakers. I am referring to the Foucauldian sense of discourse, designating a materialization of language through which Islamist views have been positioned in absolute opposition to those of secularists. The Iranian Islamists trumpet their political legitimacy, playing Islamic tones no one else is said to be qualified to play. Their religious idiom is no longer as effective as when it was delivered from outside as a language of political dissent and discontent. In today's political marketplace, however, the issues for which the Islamist discourse could claim exclusive Islamic priorities and solutions have been diminished, as the hard-pressed ruling elite falls back on the familiar secular formulas of the past for administration and economic growth. As the state's dominant discourse, Islamism is left with only one major mark of distinction: its drive against moral impurities resulting from the "un-Islamic" appearance and behavior of women in public. Being placed on the edge of what seems to be the sole slippery terrain for deviation from the true path of Islam, women have become the *raison d'être* of Islamism, the reluctant bestowers of its legitimacy. The sight of a bareheaded woman is a challenge to that legitimacy. Other vices like alcohol, Western and Iranian popular music, videos, and films are produced locally, smuggled, distributed, and consumed in homes whose morality the Islamic Republic has failed to "Islamitize." Unlike women's dress, these are hidden vices in which men, Islamist or otherwise, partake without feeling threatened in their public domination.

After more than a decade, Iran's Islamist regime has failed to bring about any fundamental change in the economic direction, in Iran's entrapment in the global economy, and in its position as consumer of the developed world's goods and services. The new rulers have learned that there is no Islamic way to build and run an industrial plant, produce goods and services, or create monetary stability. What has remained of the Islamic version of the dependency theory is a skeleton of cultural rhetoric that will increasingly sound cranky to the swelling middle and lower-middle classes. As the Islamists have increasingly entangled themselves in other discourses (capitalist market economy, state capitalism, socialism, etc.), over which they can lay no exclusive, divinely-sanctioned claims, they will feel compelled to wage their power struggle in cultural terms. Thus, women have become the signifier of the anti-Western credentials of the Islamists, the veiled ones as a positive testimony and the badly-veiled ones as the evidence for Islamist vigilance against the collaborators of the West. At the same time, reinforcing the *hijab* is not only a vocation for Islamist men who are sent out to the streets in sorties but an avocation for some of them who

seem to enjoy the new opportunity to abuse women in "bad *hijab*" and gain satisfaction for their frustrated sexual fantasies.

The debate on authenticity has turned the critique of westernized intellectuals into demonology. Intellectuals, political activists, and technocrats have been denounced not because of their positions on substantive socioeconomic issues or their advocacy of class interests. Rather they have been placed on the wrong side of a false dichotomy of authentic/inauthentic cultural identity, as if there still were a genuine authenticity against which the relative inauthenticity of individuals and groups could be measured.

Prior to the Revolution of 1979, the romanticized image of the popular masses had been greatly magnified. As the mosque reentered politics with a vengeance, its anachronistic sociopolitical discourse, coupled with the political activism of the popular masses, began to seem authentic. It came at a time of political and intellectual bewilderment. The Shah promised the "Great Civilization" but delivered a great political void. In a society bereft of intellectual and political leadership and under the morally corrosive climate of the 1970s, many intellectuals had already succumbed to a worldly mood of skeptical pessimism. Others had fallen into the political trance of a Sufist *fin de siècle*, ineffectual, boozy, opiumized, and wry; and some, at the margins of the political wilderness, chased after a Marxist, anti-imperialist mirage from which Khomeini surfaced. Iranians became infatuated with the Ayatollah's moment. In an act of historical self-denial, as if overcompensating for their guilt in embracing modernity and expiating the sins of the bourgeoisie, intellectuals folded their arms before the righteous fists of the Islamists and accorded them authenticity. More than a century of dreams, aspirations, and hard work of previous generations of secularists aimed at advancing modern scientific thought and freeing the mind from the shackles of religious dogmatism and backwardness were devaluated and disparaged. The false issue of authenticity led to the erroneous conclusion that the *mullahs* were the antidote to the cultural transgressions of the Shah's elite, ignoring the reality that both were equally at odds with the mainstream urban culture, as manifested in today's life praxis in Iran. The Islamistmania of the 1980s may prove to have been the obverse of the Westoxication (*gharbzadegi*) of the 1960s. Above all, the much deserved attacks on the Pahlavi elite blinded the intellectuals to the consequences of what Karl Jaspers called, in a different context, "the false inhuman innocence of the victims,"⁵⁴ i.e., those who themselves were subjected to state persecution.

Seeking authenticity in one's heritage is itself inauthentic, leading to heritagism, an infatuation with one's past that removes Islam from history,

54. Lotte Kohler and Hans Saner, eds., *Hannah Arendt-Karl Jaspers: Correspondence, 1926–1969* (New York: Harcourt Brace Jovanovich, 1992), 62.

superimposes the present obsessions on the past, and, in doing so, makes the heritage unfathomable. Nawal El Saadawi noted that:

Just as the historical and social consciousness of women has been distorted through the falsification of history, so has their consciousness of self been warped by a spurious glorification of the past. A conflict has been created between the concept of the authentic Arab personality or identity and a modern cultural consciousness based on knowledge and rational intelligence.⁵⁵

Under the impact of modernity, traditionalism is also pseudo-modernized. One cannot protect a tradition if one's discourse is permeated by modern normative concepts against which protection is sought in the first place. The tradition espoused by today's Islamist activists is itself a badly digested invention of modernity. My ancestors in Iran lived the Islamic tradition of the land; my Islamist compatriots today reconstruct an objectivized past that serves to authenticate a particular political vision of the present. Ann Mayer argues that tradition remains tradition when observed voluntarily, without the use of force by the authorities.⁵⁶ At the time when tradition has been crumbling under the impact of modernist urbanization, reimposition of tradition becomes a political act in the hands of the elite in control of the state.

The human rights issue developed as a political response to the emergence of the modern state. Because the state emerged in Western Europe first, it is natural that the philosophical underpinnings of the Universal Declaration are Western in their genesis. As Rhoda Howard argues, the nation-state is a modern invention that was initially alien to all cultural systems, including the West. No Islamist cultural relativist has called for the dismantling of the modern state that remains, to date, the most spectacular transplanting of an alien cultural structure. By its centralized structures and modern ethos, the state has overwhelmed the old society and rendered the political sphere of the tradition inauthentic. Thus, claiming authenticity in tradition while struggling to seize the commanding heights of the modern state is a spectacular political double-cross.

In defense of the human rights of millions of educated, secular, and modern Middle Easterners, I urge rejection of the dichotomy created between tradition and modern, between authentic and inauthentic Muslims. This is an arena for a witch hunt. I am aware that "human" in human rights has ceased to be the "other," it has become "me," and the experience of my life, shared by thousands of men and women who have broken intellectu-

55. Nawal El Saadawi, "The Political Challenges Facing Arab Women at the End of the 20th Century," in *Women of the Arab World: The Coming Challenge*, ed. Nahid Toubia (London: Zed Books Ltd., 1988), 21.

56. Mayer, *Islam and Human Rights*, note 8 above, 16.

ally and emotionally with the past. Perhaps our concern should be one of the central issues in defense of human rights in Islamic countries. I have also been writing against those who vilify the memory of generations of secular modernists, who dedicated their lives to cultural and ideological development by establishing modern schools and universities. The products of those schools and universities, my generation, are now being battered by the morose taunting of the Islamist zealots and being charged with "cultural treason."⁵⁷ For the Arabs, Fatima Mernissi expresses the same sense of outrage: "[T]he modern intellectuals are called servants of the West. Twentieth-century humanism, celebrated elsewhere as the triumph of creativity and the flowering of the individual, is forbidden to us on the pretext that it is foreign. Obscurantism is proposed as the ideal of the future, and one to defend."⁵⁸

THE ISLAMISTS AND DEMOCRACY

Islamic thinkers often repeat that human rights are part of the very essence of our beliefs. They make no clear distinction between human rights in the modern nation-state and human rights in Islam. When a right is recognized in Islam, it is often an ethical and spiritual assertion in an abstract religious discourse. When a right is recognized in a state, it is a fundamental entitlement enabling the individual to make specific legal claims, based on constitutional demands on the public authority. Those rights that do exist in Islam remain pious assertions by the faithful unless they are embedded in the constitution of a particular state, creating a legal framework arrived at without resort to political coercion. The experiences of the existing Islamic states, both in their legal construction and their own legal enforcement have been disappointing.

What is taking root among people in Islamic countries is the notion of human rights as a fundamental entitlement against the state. The assertion presupposes some confrontation against the state. The notion holds that people possess rights that are asserted against the state, which withholds the right. I do not believe that the advent of an Islamist regime is likely to change this confrontational model of human rights. The proposition that the Islamist political discourse is more attuned to the religious sentiments of a Muslim society and, therefore, is better able to provide leadership for

57. "Cultural treason" was flung at Salman Rushdie by Ali Mazrui. See Reza Afshari, "Ali Mazrui or Salman Rushdie: *The Satanic Verses* and Islamist Politics," *Alternatives* 16 (1991): 107-14.

58. Fatima Mernissi, *Islam and Democracy, Fear of the Modern World* (New York: Addison-Wesley Pub. Co., 1992), 41.

national development and reduce confrontation between the state and its citizens has proven, at least in case of Iran, utterly simplistic. After more than a decade of the Islamic Republic, Iran is left with more discord in politics, social relations, and culture, and more conflicts between the state and citizens than at any time in its modern history. To continue scapegoating westernized intellectuals and professionals is to make a travesty of sociopolitical analyses.

At the level of individuals' verbal assertions, if not actual deeds, the bond between religion and identity is still strong in the Middle East. But to assume that the bond can be politically extended to the modern state once the Islamists assume power is problematic. At the level of the state, other cultural habits foster a deeply ingrained sense of distrust toward the rulers and a feeling of helplessness for the ruled. Iranians hold political officialdom with disdain and associate politicians with devious behaviors. When the charismatic leader of the Islamic Revolution was alive, the regime's use of cosmological referents sought, and to a degree succeeded, to create political legitimacy. Today, Iranians judge the regime in the same way that all nations generally judge an authoritarian modern bureaucratic state: by performance of adequate, short term results. The proliferation of jokes about the Iranian *mullahs* has become proverbial, or as a Moroccan shoe merchant told Professor Mernissi: "I don't have confidence in anyone bearded or shaved."⁵⁹ Given that any Islamist takeover is likely to be accompanied by extreme political raptures and bloody conflicts, these anti-state sentiments are likely to outlive the initial euphoria. Even practicing Muslims may in fact be reluctant to attach that bond of Islamic identity to the state and may refuse to authenticate it, no matter who is in charge of the state apparatus.

Sympathetic observers have argued that the writings of Islamist activists like Mawdudi of Pakistan or Sayed Qutb of Egypt are not in sharp conflict with the underlying principles of democracy. Mumtaz Ahmad has expressed a commonly held view that the Islamists think "that democracy is the spirit of the Islamic governmental system, even though they reject the philosophical assumption of western democracy—that is, the sovereignty of the people."⁶⁰ Ahmad continues his comments:

Essentially, the Islamists are saying that the people are not sovereign. Only God's will is sovereign, which is reflected in the *shari'a*, enunciated from the Qur'an and the Sunna of the Prophet. They believe that the majority voice can constitute the basis for legitimate exercise of political authority in an Islamic

59. Ibid., 17.

60. Ibid.

state, but only if it recognizes and remains within the parameters of the *shari'a* paradigm.⁶¹

It does not require a special prescience to predict that once the Islamists take over a state, the cause of freedom and the prospects for democracy will receive a setback. The experience of Pakistan, Iran, and Sudan are powerful indications. Moreover, the Islamist movements are not driven by sentiments, political thought, and slogans conducive to developing respect for political diversity and freedom of opinion. The Islamist discourse is driven by operational concepts like *zulm* (injustice), *'adala* (justice), and other sacred notions. Even the dichotomous coupling of *al-haqq* (Truth) and *al-batil* (falsehood), premodern as it is in conceptualizing the sociopolitical reality, is hardly a ground on which the seedlings of democracy can grow. The notion of *'adala* (justice), when invoked in political struggle within the state, becomes the rationale for creating a just Islamic order—and all political means employed to actualize that end will be sanctified. Democracy will hardly be the avenue travelled toward that destiny. Mumtaz Ahmad is perceptive in saying that in Islamist politics “all outcomes are not equally legitimate.”

Only those outcomes of political processes are legitimate that are sanctioned by the *shari'a*. . . . The primary value is *shari'a* and not democracy, and whosoever is willing to enforce the *shari'a* can claim Islamic legitimacy, whether he is a hereditary monarch, a military officer, a mullah, or a politician. Both the Muslim Brotherhood in Sudan and the Jamaat-i-Islami in Pakistan had the similar experience of collaborating with the military regimes in order to seek the supremacy of *shari'a*, abandoning their principal position of commitment to democratic means.⁶²

Given that the neopatriarchal states are still intact in most Muslim countries, the logic of the Islamist discourse will lead to the establishment of an Islamic order instead of a system build upon respect for freedom of opinion (*hurriyyat al-ra'y*). The Islamists wish to transform citizens back to believers. On the issue of human rights, Mernissi distinguishes between rights and duties as believers and rights and duties as citizens of the modern state. She points out “[w]hile obedience is the decisive principle for religious belief, equality and the right to make decisions are the determinants of citizenship.”⁶³ Within the former's perimeter, an assertion of gender

61. Timothy D. Sick, *Islam and Democracy: Religion, Politics, and Power in the Middle East* (Washington, D.C.: United States Institute of Peace Press, 1992), 23.

62. *Ibid.*, 24.

63. Fatima El Mernissi, “Democracy as Moral Disintegration: The Contradiction Between Religious Belief and Citizenship as a Manifestation of the Ahistoricity of the Arab Identity,” in *Women of the Arab World: The Coming Challenge*, note 55 above, 37–38.

equality, "freedom of thought, expression and decision-making provokes a cultural crisis: a direct contradiction between Islam and human rights."⁶⁴

Still, a central question remains: In what school have Islamists received their lessons in tolerance and under whom have they completed their apprenticeship in democracy? The answer is in the schools of nationalists—whether Nasserite or *Ba'th* variety—and under the new *imams*, whose mental frame of reference is more medieval than modern. The current Islamist view of democracy is as essentially instrumentalist as it was under the nationalist leaders of the post-independence period. The nationalist teachers excelled in the politics of rage, based on an exaggerated claims. Under the politics of rage, the human rights of citizens are sacrificed. Today the reinvigorated politics of rage, now imbued with the sacred, is the main obstacle blocking advances in the field of human rights; it even menaces our freedom at home and our private sense of morality. The driving forces beyond the politics of rage are not tolerant Islamic liberals. Mernissi suggests that "[f]anatical, uncultured leaders, little versed in modern science, cannot give us a solution. They must drape themselves in their *rahma* [Islamic tenderness] and humbly reflect and learn."⁶⁵

RECONCILING *SHARI'A* WITH THE UDHR?

Having decided that secularism is an unlikely proposition for Muslim societies, a number of Muslim thinkers have tried to reconcile Islamic culture, *i.e.*, *shari'a*, and the UDHR. Abdullahi An-Na'im insists "that the proponents of alternative cultural positions on human rights issues should seek to achieve a broad and effective acceptance of their interpretation of cultural norms and institutions by showing the authenticity and legitimacy of that interpretation within the framework of their own culture."⁶⁶ But the question remains: How are they going "to achieve a broad and effective acceptance?" Will An-Na'im succeed without being denounced as un-Islamic by the traditional custodians of *shari'a*? He asserts the following: "Even when the very nature and substance of the culture make it unlikely for human rights advocates to achieve complete success, I believe that they can achieve significant improvements through this approach."⁶⁷

Recent history makes it hard to envision even partial "improvements through this approach." Even less possible to achieve is a broad acceptance

64. Ibid., 40.

65. Ibid., 91.

66. Abdullahi Ahmed An-Na'im, "Introduction," in *Human Rights in Cross-Cultural Perspectives*, note 30 above, 4.

67. Ibid.

of the total reconstruction of the legal laws of *shari'a* based only on the Meccan verses. Even Ann Mayer's hopes are pinned on the efforts of the most progressive Muslims who would "eliminate potential conflicts by offering new interpretations of the Islamic sources that accommodate a modern rights philosophy."⁶⁸ This theoretical discussion is intellectually attractive. The problem, however, of speaking of universal human rights in one's own specific language manifests itself once the Islamist thinkers descend from eloquent generalities into specific discussions concerning human rights measures. Two examples will suffice.

Consider An-Na'im's new approach to Islamic criminal justice. Blunting the harsh edges of many of the *shari'a* rules, he hopes to offer a reformed version of the *hudud* that might become acceptable among modern criminal justice systems.⁶⁹ A long passage from An-Na'im on Islamic *hudud* is worth quoting:

Thus, in all Muslim societies, the possibility of human judgement regarding the appropriateness or cruelty of a punishment decreed by God is simply out of the question. [It is this kind of assertion of behalf of "all Muslim societies" that I have questioned above.] Furthermore, this belief is supported by what Muslims accept as rational arguments. From the religious point of view, human life does not end at death, but extends beyond that to the next life In the next *eternal* life, every human being will stand judgement and suffer the consequences of his or her actions in this life. A religiously sanctioned punishment, however, will absolve an offender from punishment in the next life because God does not punish twice for the same offense. Accordingly, a thief who suffers . . . amputation of the right hand in this life will not be liable to the much harsher punishment in the next life

. . . The ultimately *religious* rationale of these arguments must be emphasized, however. The punishment is believed to achieve these individual and social benefits because God said so. To the vast majority of Muslims, [again I question the assertion] scientific research is welcome to confirm the empirical validity of these arguments, but it cannot be accepted as a basis for repudiating them, thereby challenging the appropriateness of the punishment Reform of the offender is not confined to his or her experience in this life, but includes the next life, too.⁷⁰

68. Ann Elizabeth Mayer, "Current Muslim Thinking on Human Rights," *Human Rights in Africa, Cross-Cultural Perspectives*, eds. Abdullahi Ahmed An-Na'im and Francis M. Deng (Washington, D.C.: The Brookings Institution, 1990), 137.

69. He recommends the following: "In view of the extreme harshness of the prescribed punishments and the negative political consequences of their enforcement, I believe that it is better . . . to restrict the requirement of invariability of punishment for *hudud* to those offenses for which the Qur'an provides the specific invariable punishment." An-Na'im, *Toward an Islamic Reformation*, note 3 above, 108.

70. Abdullahi Ahmed An-Na'im, "Toward a Cross-Cultural Approach to Defining International Standards of Human Rights: The Meaning of Cruel, Inhuman, or Degrading Treatment," in *Human Rights in Cross-Cultural Perspectives*, note 30 above, 35-36.

It seems that in this last article An-Na'im has discreetly backtracked from his otherwise forceful plea for a total reconstruction of *shari'a* laws, as formulated in *Toward an Islamic Reformation*.⁷¹ The fact that An-Na'im goes on to stress a number of strict "procedural requirements for the enforcement" of these kinds of punishments does not mitigate the strong sense of uneasiness that his justification creates. Lofty generalizations aside, *hudud* penalties such as amputations still have a place in An-Na'im's scheme. If this is all that a reconstructed version of an Islamic penal code could offer, one might seriously doubt its acceptability by international human rights organizations, especially those that also denounce the death penalty as currently practiced by regressive Western states.⁷² He insists, "If religious Muslims wish to have these punishments enforced regardless of the religion of the offender or victim, they must convince non-Muslims and secularist Muslims of the social utility and penological justification of each punishment."⁷³ I, for one, am convinced neither of "the social utility" nor of the "penological justification" of any of these punishments. This is a territory steeped in acrimonious quarrels since the first Islamic jurists discovered modernity. An-Na'im might in practice end up alienating not only Islamists but also old traditionalists while being rejected internationally by human rights organizations.

Rachid Ghannouchi provides a second example on the critical subject of the place of non-Muslim minorities in the reconstructed Islamic society of the future:

The head of state must be a Muslim because if the state is to be run on Islamic lines the head of state must defend the religion and imprint the society with the stamp of Islam. Ministers on the other hand might be non-Muslims or even without religion—for example, the minister of agriculture, of health, of art. But the minister of education, no—this must be held by a Muslim. Posts dealing with instruction, with values and morals must be held by Muslims.⁷⁴

71. An-Na'im, *Toward an Islamic Reformation*, note 3 above, especially the chapter, "Shari'a and Islamic Reformation." He wrote about a broad scheme for a reconstruction of the public law of the *shari'a*. He asserted that "the only effective approach to achieve sufficient reform of *Shari'a* in relation to universal human rights is to cite sources in the Qur'an and Sunna which are inconsistent with universal human rights and explain them in historical context, while citing those sources which are supportive of human rights as the basis of legally applicable principles and rules of Islamic law today." Ibid., 171. Or: "To achieve that degree of reform, we must be able to set aside clear and definite texts of the Qur'an and Sunna of the Medina stage as having served their transitional purpose and implement those texts of the Meccan stage which were previously inappropriate for practical application but are now the only way to proceed." Ibid., 180.

72. Already serious questions are raised by Ann Elizabeth Mayer, "A Critique of Na'im's Assessment of Islamic Criminal Justice," Working Paper Series, Department of Legal Studies, The Wharton School, University of Pennsylvania. Ref. No. 92-3-162.

73. An-Na'im, *Toward an Islamic Reformation*, note 3 above, 135.

74. Dwyer, note 40 above, 44.

One can hear more conservative fundamentalists adamantly objecting to appointing ministers "without religion." Again, viewed against the established international norms on religious freedom, Ghannouchi's proposed role for non-Muslims is indeed disappointing.⁷⁵ These examples show the limited extent to which a *shari'a*-bound discourse can envision change.

WHICH ONE IS THE TRUE ISLAM?

The task of finding an indigenous Islamic voice with which to articulate international human rights in Islam, is further compounded by the fact that more than one voice is heard in Muslim countries. Each claims authenticity. The predicament faced by all Islamic reformers since the Al-Afghani's generation in the last century has been to decide which version is the true Islam. An-Na'im notes that:

To avoid confusing the issue, however, we must be clear on the proper role of cultural autonomy, emphasized in anthropological literature as cultural relativism, in relation to human rights. Otherwise, the legitimacy of cultural relativism will be abused to justify norms and policies in clear violation of the *valid* objectives of cultural relativism itself.⁷⁶

Bassam Tibi is also acutely aware of this problem.⁷⁷ Again, who is going to define "the proper role of cultural autonomy" and the "*valid* objectives of cultural relativism?"

The Islamists who have engaged in the debate on the issue of cultural relativism and human rights can be divided into two broad groups: the old traditionalists and the new traditionalists. Despite considerable diversity of views within each group, the distinction between old traditionalists and new traditionalists is quite useful in analyzing the different Islamist approaches to human rights.

The old traditionalists are culturally conservative writers who have tried to accommodate the discriminatory rules emanating from *shari'a* into their proposed human rights schemes, presenting them as an authentic alternative (to UDHR) for Muslims to follow. They do not recognize an epistemological rupture between tradition and modernity. The Enlightenment remains an irrelevancy, and the end of the ecclesiastical era of the priests sounds like a demonic conspiracy. For them, as one writer puts it, "Islam is

75. Ibid., 43–44.

76. Abdullahi An-Na'im, "Religious Minorities under Islamic Law and the Limits of Cultural Relativism," *Human Rights Quarterly*, 9:1 (1987): 2.

77. See Bassam Tibi, "The European Tradition of Human Rights and the Culture of Islam," in An-Na'im and Deng, eds., note 68 above, 71.

a closed cultural system fully articulated in the past, preserved in medieval Islamic texts and valid for all ages."⁷⁸ They are still attuned to the well-versed divines of the religious establishment. They are, however, aware of the existence of a complex modern world outside.

The old traditionalists object to the imposition of Western standards on nonindividualistic Islamic cultures. They argue that the sphere of public authority in a Muslim society was regulated through religious norms that defined a pious society, an upright rule, and a just order. They assume that a separation between the civil society and the state did not exist. In the West, norms and standards of human rights were based on this separation. In contrast, it is argued, the Islamic cultural heritage lacks the notion of individual rights to be asserted against the state. Instead, Islamic norms stress "religious duties."⁷⁹

The Islamist nostalgia for communal solidarity envisions a society in which the ruler and ruled stood together, united in their duties of obedience to *shari'a*.⁸⁰ Universal human rights are perceived as a threat to this idealized society with its integrative membership. Kevin Dwyer, for example, quotes a Moroccan religious scholar on the issue of women's rights. He attributes the decline of the family in the West to the extensive rights granted to the individual, and he laments that the West's pernicious influence has created a trend, difficult to resist, that is undermining the Muslim family and other social institutions: "[T]here are so many forces at work leading in this direction—our economic system, the increasing employment of women and the changes in the woman's way of life."⁸¹ This lamentation over the weakening of patriarchal control resonates in the discussions of conservative Muslims.

A Pakistani author of an Islamic human rights scheme rejects the modern model of human rights as anthropocentric.⁸² The Tunisian Rachid Ghannouchi claims that God is the sole source and guarantor of human rights. He goes on to describe the grand social-engineering project underlying all Islamist movements: "Islam is here to take man from existing merely as an economic or political or nationalist being, or as a sexual being—that is, as a man or woman—and make a human being in the full meaning of the word."⁸³

Ann Mayer devotes a large part of her valuable book, *Islam and Human*

78. Esposito, *Islam and Politics*, note 41 above, 217.

79. Bassam Tibi, "The European Tradition of Human Rights and the Culture of Islam," in *Human Rights in Africa, Cross-Cultural Perspectives*, note 30 above, 116.

80. *Ibid.*, 121.

81. Dwyer, note 40 above, 111–12.

82. Mayer, "Islam and Human Rights," note 8 above, 61.

83. Dwyer, note 40 above, 40.

Rights: Tradition and Politics, to critical "analyses of specific aspects of Islamic human rights schemes" developed by the old traditionalists.⁸⁴ The value of Mayer's book lies in this detailed critical evaluation. As she writes, "One of the most striking features in all the Islamic human rights schemes is the use of Islamic criteria to qualify human rights principles."⁸⁵ Thus, the authors of Islamic rights schemes are political conservatives determined to maintain the traditional patterns of authority and subordination. They also "ignore the grim reality of the human rights situation in the Middle East."⁸⁶ They often tend to reinforce religiously-supported absolutist rules.

Mayer shows that the authors of Islamic human rights schemes have failed to create a comprehensive formulation of the philosophical and logical foundation for their rights' standards. The problem of philosophical incongruity surfaces where modern rights concepts and terminology are grafted onto what is still a traditional, premodern episteme. The modern rights concepts are misused in a language that expresses premodern values and ideas that are essentially "antihumanistic, antirationalist, and anti-individualistic."⁸⁷

Mayer shows in detail that Islamic schemes which use the premodern *shari'a* to restrict rights conflict with international human rights norms in three major areas: the subjugated position accorded to women in Islam; the inferior status offered to non-Islamic monotheists (the status of *dhimmis*, protected minorities); and the *shari'a* ban on apostasy which criminalizes a Muslim's decision to convert from Islam. One can also add the Islamic *hudud* punishments (stoning and amputation of limbs). The strength of Mayer's book lies in the chapters devoted to these three areas. She observes that many local cultures around the world exhibit "the actual patterns of discrimination."⁸⁸ These issues represent the problems of Islamic cultural heritage in the same way as does caste discrimination in Hindu India or race discrimination in the United States. One may conclude that in these cases the international human rights community must insist on the unqualified applicability of universal standards of rights. Cultural relativist justifications regarding these issues are unlikely to convince international rights organizations to acquiesce to rights limitations, no matter how eloquently the relativist arguments are presented.

The new traditionalists are usually better educated, are familiar with modernist discourses, and understand the complexities of national socio-

84. Mayer, "Islam and Human Rights," note 8 above, 3. She does not use the term "old-traditionalists" for the authors of human rights schemes.

85. *Ibid.*, 73.

86. *Ibid.*, 206.

87. *Ibid.*, 58.

88. *Ibid.*, 95.

economic development. They seem to be in a better position to create, through a drastic reinterpretation of the Islamic tradition, an indigenous (Islamic) cultural foundation for human rights. Whereas the old traditionalists want to "Islamize modernity,"⁸⁹ the new traditionalists, who have a tenuous ideological affinity with the traditional *ulema*, propose to modernize Islam. They have little sympathy for the Islamist concept of *hākimiyya* (governance of God) as propagated by the old traditionalists. A very diverse group, they are concerned with identity, drawing a sharp, and potentially menacing, distinction between authentic and inauthentic Muslims. They generally tend to stress the need for pluralism. This apparent tolerance reflects not only sensitivity to international norms but also political vulnerability in the face of attacks from the angry young Muslims of the fundamentalist groups.

In *Arab Voices, The Human Rights Debate in the Middle East*, Kevin Dwyer listens to the voices of the new traditionalists.⁹⁰ Thus, Dwyer's book complements Ann Mayer's, each focusing on the views of one of the two major Islamist groups.

The new traditionalists have moved far beyond literal interpretations of the sacred texts and developed methodologies, mostly based on the various techniques of *ijtihad* (independent legal reasoning leading to a new judgement), for overcoming narrowly literalist interpretation. They are treading, at varying paces, the path charted by earlier generations of Islamic reformers who stressed the moral precepts of Islam, while downplaying the specific rules prescribed by *shari'a*. They thus attempt to reconstruct Islam by "ascertaining the motive, intent or purpose behind Qur'anic values."⁹¹ A Tunisian "progressive Muslim" argues that at this time "the general interest (*meslaha*)" of the society and the "fundamental aims (*maqasid*) of the religion" must take "precedence over specific textual prescriptions."⁹² Thus, if the ultimate goal is the creation of a just and equitable Islamic society, one can overlook *shari'a's* specific rules on rewards and punishments.

Similarly, Abdullahi An-Na'im dismisses the possibility of ever achieving a significant Islamic reform through the exercise of *ijtihad* under the historical *shari'a* "in matters governed by clear and definite texts of the Qur'an and Sunna."⁹³ He rejects the discriminatory *shari'a* laws on slavery, women, and non-Muslims. He calls for a total reevaluation in the applica-

89. This concept is used by Yvonne Haddad, "Islamists and the 'Problem of Israel': The 1967 Awakening," *The Middle East Journal* 46 (Spring 1992): 272-73.

90. Dwyer, note 40 above, 69-70.

91. An-Na'im, *Toward an Islamic Reformation*, note 3 above, 50 (quoting Esposito); see also Esposito, *Islam and Politics*, note 40 above, 235-36.

92. Dwyer, note 40 above, 44-45.

93. An-Na'im, *Toward an Islamic Reformation*, note 3 above, 65.

tion of the *shari'a* laws: "Working with the same primary sources, modern Muslim jurists might shift emphasis from one class of texts to the other, and interpret the previously enacted texts in ways consistent with a new understanding of what is believed to be the intent and purpose of the sources."⁹⁴ He hopes to reconstruct Islam based on the Meccan verses that are "the fundamental and eternal message of Islam," those that "preached the solidarity of all humanity." These verses constitute the ethical vision of Islam advocating "freedom of choice and noncompulsion."⁹⁵

Whereas the old traditionalists often use a cultural discourse to justify their rejection of the UDHR standards, the new traditionalists (including Abdullahi An-Na'im) believe the goal should be to reinterpret Islamic tradition to make it fully consonant with the international norms.⁹⁶

Since the rise of Islamist movements, it has been the more conservative Islamists, in or out of power, who have better succeeded in defining the parameters of the valid version of Islamic politics. Any new approach to *shari'a* interpretation will create a hermeneutical chasm between itself and the traditional exegesis. The established *ulema* are unlikely to accept a reading of the Islamic tradition which serves the "progressive" agenda of the new traditionalists.⁹⁷ And to invite the *ulema* to intervene on behalf of modernity is to repeat the tragic political experiences of generations of Iranian reformers since the early years of the century. In the case of Iran, Ervand Abrahamian has shown that the anti-clerical Dr. Shari'ati and the Mojahedin tried to bring about an "Islamic Renaissance and Reformation" and "to teach the masses the true meaning of Islam."⁹⁸ In the end, the ayatollahs won the political contest over "who is better equipped to judge what is true Islam."⁹⁹

94. Abdullahi Ahmed An-Na'im, "Human Rights in the Muslim World: Socio-Political Conditions and Scriptural Imperatives," *Harvard Human Rights Journal* 3 (1990): 47.

95. An-Na'im, *Toward an Islamic Reformation*, note 3 above, 57. "In other words, the evolutionary principle of interpretation is nothing more than reversing the process of *naskh* or abrogation so that those texts which were abrogated in the past can be enacted into law now. . . . Verses that used to be enacted as *Shari'a* shall be repealed, and verses that used to be repealed shall be enacted as modern Islamic law." *Ibid.*, 56.

96. Abdullahi Ahmed An-Na'im, "Religious Minorities under Islamic Law and the Limits of Cultural Relativism," *Human Rights Quarterly* 9 (Feb. 1987): 18.

97. As Hisham Sharabi reminds us, "Interpretation has remained the monopoly of specialists or religious officials whose exegesis derives not so much from readings of the sacred text as from commentaries upon it." Hisham Sharabi, "The Neopatriarchal Discourse: Language and Discourse in Contemporary Arab Society," in *Arab Civilization: Challenges and Response*, eds. George N. Atiyeh and Ibrahim M. Oweiss (New York: State University of New York Press, 1988), 151.

98. Ervand Abrahamian, *The Iranian Mojahedin* (New Haven, CT: Yale University Press, 1989), 122-23.

99. *Ibid.*

One must keep in mind the diversity and complexity of Islamic traditions. When reference is made to "Islamic law," a host of diverse positions, numerous schools of law, and many Islamic sects, each pronouncing conflicting interpretations, comes into the picture. No one is happy with the historical Islam as it was. Everyone is engaged in the extrapolation of rules from traditional sources to be applied to schemes for human rights. Kevin Dwyer writes that the Egyptian Islamist movements and individuals with Islamist tendencies make up "a very complex terrain filled with people of many different persuasions."¹⁰⁰ In the case of Egypt, Dwyer notices that each individual is "quite distinct in his own way and some none too anxious to be thought of as part of a group with the others."¹⁰¹

As Dwyer listened to Muslim intellectuals, he heard not a monologue but a rich polyvocal diversity, revealing, amidst much intellectual creativity, a web of juxtapositions and ideological-political eclecticism, at times confused but often imaginative. Perhaps the clearest voice belongs to Hamida Naifer, the Tunisian thinker who reaches furthest for a synthesis with modernity. Can his voice be that which Bassam Tibi seeks—"the language of human rights in their own tongue?" The problem is that there will never be a consensus regarding which voice is the promised one. Naifer is accused of "incorporating too many Western elements and questioning what was basic to Islam."¹⁰²

This approach fails to create a consensus even between the most progressive Islamist intellectuals and their secular counterparts, as indicated by the experience of the Tunisian Human Rights League (LTDH). When they attempted to write a charter for the League in 1985, a minority Islamist group within the charter commission responded defensively to a negative campaign waged in the press by a more conservative brethren outside the League. The conservatives denounced the proposed charter because it retained the essentials of the UDHR. Muhammad Charfi, who was elected president of the LTDH in 1989, explained the response:

Within the League, they wanted to affirm religious freedom in only a very general way. They argued, for example, against the freedom of interpretation (*ijtihad*), saying, "Careful, in Islamic law, interpretation obeys certain rules, there isn't total freedom. One has to be a Muslim, one has to be learned, one has to be pious . . ." So, if we followed their argument, it's quite likely that if you put forward an interpretation that challenged something they were sensitive about, they'd attack you . . .¹⁰³

100. Dwyer, note 40 above, 69.

101. *Ibid.*, 71.

102. *Ibid.*, 46.

103. *Ibid.*, 177–78.

Islamic opinions abound on any single issue. The divergent interpretations advanced by thinkers are incapable of creating the consensus needed for national legislation; they only add fire to sectarian politics. Even intellectually, we are no closer to a consensus on a reinvigorated Islam than was the generation of Rifa'a al-Tahtawi (in Paris, 1826–1931), who was awakened to Europe's early modernity, or to the generation of al-Afghani (d. 1897), who much more defensively started the reformist (*salafiyya*) movement.

I PLEAD ON BEHALF OF SECULARISM AND COMPLEXITY

Professor Tibi hopes for an enlightened interpretation of Islam, one that would enable Muslims to "speak the language of human rights in their own tongue."¹⁰⁴ One might ask whether the political culture of a Middle Eastern country can ever reach the level of pluralism and tolerance which enables it to provide "support for the proponents of enlightened perception and interpretation"¹⁰⁵ of its tradition. Will Abdullahi An-Na'im's daring departure become the dominant mode of interpretation for the Islamic tradition? When it does, one can assume, the political culture will have reached a level of modernity where the issue of cultural relativism would lose its political urgency and where the Quran-quoting cultural conservatives would increasingly play a role similar to one played by their Bible-quoting counterparts in the West—both calling for a close attention in politics to God, family, and community without seriously threatening the principles of human rights. Kevin Dwyer observes:

That there is now a sentiment widely shared throughout the region that the nations of the Middle East face a severe crisis at once economic, social, cultural, and political, only makes the discussion of human rights more acute, since many Middle Easterners believe that hard thinking about basic social options is now imperative and that the very nature of their societies hangs in the balance. These people naturally have serious disagreements about how to proceed and upon what basis to act.¹⁰⁶

In the Arab world, the valiant efforts of human rights advocates to create at least a declaratory human rights regime have often floundered on the hard rocks of the politics of the neopatriarchy, on the state's abuses of the Arab nationalist sentiments, and on the confusion created by the Islamist activists raising the banner of cultural relativism. All are equally true for Iran.

104. Tibi, "The European Tradition," note 77 above, 75.

105. An-Na'im, "Introduction" in *Human Rights in Cross-Cultural Perspectives*, note 30 above, 27–28.

106. Dwyer, note 40 above, 2.

The existing elites may remain in power or they may be replaced by counter-elites using politicized Islam for mobilization. The major concern of those in control of the neopatriarchal state will continue to be "their staying in power and denying legitimacy to the programs of opponents and critics."¹⁰⁷ Under near cataclysmic sociopolitical conditions, it is imperative that human rights standards and definitions closely model themselves on the rights provisions of the Universal Declaration, and not be left to the political vagaries of domestically constructed human rights schemes. Nor should they be the subject of competing claims and attempts at redefinition. Cultural relativists who are active in the politics of their countries are bad human rights advocates. Like their Marxist-Leninist counterparts, they have a larger political agenda far superseding the task of protecting individual's rights.

In whose image should the future be shaped? The fundamentalists, the old traditionalists, the new traditionalists, or the secular feminists? Assured by a secularism which would dissipate the premodern religious intolerance sanctioned by the state, the future should belong to all of them. They will be further protected by a pluralism that supports political diversity, the inevitable product of an integrated world civilization in the grips of instantaneous communication and pervasive commercialization. One might reject secularism and pluralism as values in themselves. At this time, however, there is hardly any alternative that better permits a nation to deliberately reckon with its cultural heritage, select what is valuable in a process which is free from xenophobia and reaction, and divest itself of the anachronism of patriarchal values and practices.

Professor An-Na'im makes a heartfelt appeal to human rights advocates to support his proposed modernist "Islamic platform" for human rights:

I urge human rights advocates to claim the Islamic platform and not concede it to the traditionalist and fundamentalist forces in their societies. I would also invite outside supporters of Muslim human rights advocates to express their support with due sensitivity and genuine concern for Islamic legitimacy in the Muslim world.¹⁰⁸

Fully sharing in his desire for protection of human rights in Islamic countries, I wish to make a counter-invitation on behalf of complexity. It seems to me that the search for Islamic legitimacy is more a symptom of the problem than a factor positively contributing to a solution. It may appear more expedient to locate an Islamic cultural foundation for human rights than to build further on the present social transactions and habits that have been permeated by a secular praxis and bring them into a closer harmony

107. Mayer, *Islam and Human Rights*, note 8 above, 30.

108. An-Na'im, *Toward an Islamic Reformation*, note 3 above, 50.

with the universal ethos of the contemporary politics. On a practical level, it is ironic that, by rejecting the universal applicability of the International Bill of Rights, the Muslim authors have created not one but many alternative Islamic human rights schemes in conflict with one another. The debates over which one is authentically Islamic will continue *ad nauseam*.

In Muslim countries, the secular agenda is not an exploration into unknown worlds. Preoccupied with the Islamist and fascinated with the Muslim as the Other, Western observers have largely ignored the secular intellectuals, discounting them as marginal irrelevancies. In the midst of Islamist sound and fury, the secular and feminist discourses are making an impact on the consciousness of many Arab and Iranian Muslims. Like other trends, the secular discourses also present a full spectrum of thought, from moderate cultural critics to true iconoclasts. After years of exaggerated claims voiced by the nationalists and the contrived radicalism expressed by the Marxists, today the intellectual discourses are indeed a breath of fresh air in what is otherwise a suffocating Islamist climate. They have established a new intellectual plateau, progressive and future-oriented, that reaches for those cultural roots that were often suppressed and marginalized in the past. They do not want to reaffirm the stifling certitudes of the *shari'a* Islam. Their efforts are aimed at lifting the heavy burden that *shari'a* has imposed on Islamic heritage. The Islam of the *imams*, caliphs, and sultans is being stripped of its robe of legitimacy. Thus, the heritage presented by the establishment Islam is rejected and a call is extended to seek a heritage in past ideas, rebel movements, and individuals that the official orthodoxy of the *shari'a* suppressed. The new discourse has little patience for the *ahl al-hadith* and their *shari'a*. *Shari'a* is not reinterpreted; it is largely dismissed. The secular feminists are the *avant-garde* of the new movement of heritage reconstruction.

The secular proponents of the universality of human rights are active in what is "primarily a cultural struggle, with decisive social and political consequences, between the forces of religious conservatism and the forces of secular critical modernity."¹⁰⁹ Hisham Sharabi continues his claim: "The movement of enlightenment and secularization spearheaded by a significant segment of the rising generation seems irreversible and will in the years ahead have a profound, transformative effect on the structure of neopatriarchal society."¹¹⁰

Sharabi further explains that the new critical discourse has tried "to break not only from traditional Western models but also and simultaneously

109. Hisham Sharabi, "Introduction," in *The Next Arab Decade: Alternative Futures*, ed. Hisham Sharabi (Boulder, CO: Westview Press, 1988), 6–7.

110. Ibid.

from Islamic fundamentalism and 'modernized' Arab neopatriarchy."¹¹¹ It is "to subvert simultaneously the existing social and political (neo)patriarchal system and [the] West's cultural hegemony."¹¹² As such it is iconoclastic, reflecting a profoundly disillusioned detachment with respect to the past, a piercing self-criticism that demystifies the culture, breaks the barriers, and violates the taboos. Thus, it stands in sharp contrast to the *shari'a*-bound discourse of Islamic cultural relativism. Presently, disgruntled men aiming at seizing political power are manipulating the icons of the past with ferocious irrationality. The Middle Eastern critical discourse asserts that valuable cultural attributes of the past can be preserved and made to nurture development of a progressive national character only if the cultural icons are purged from their inherent patriarchy.

Left to the individual, the creation of a new cultural awareness is an exercise in true authenticity. The intellectuals' production of culture is full of novelties that do not make the endeavor any less authentic. A person's authenticity is achieved through freedom from the tyranny of heritage. To protect against witch hunts, the quest for authenticity must be left to the individual.

In this context, *shari'a* itself, in all its various interpretations, is an icon that enshrines the conservatism of the patriarchy in an inviolable code of law. Divested of their emotive political connections and religious passions, the icons will cease to lend themselves to manipulation by the neopatriarchy at the service of anachronism. Cultural iconoclasm, therefore, is an essential means to political liberation from patriarchy, itself a precondition for creating indigenous roots for human rights standards. Thus, I can share An-Na'im's desire for norms of human rights to root themselves in the soil of the past, if the past is freed from its essentially oppressive characteristics.

My fear is that his efforts, if successful, may paradoxically result in a reinvigoration of the emotive charge of *shari'a*-based discourse. A similar task was preformed by Dr. Shari'ati and the radical Islamist Mojahidin organization in Iran, from which the traditionalist clerics politically benefitted. I believe that the discourse of cultural relativism based on *shari'a* reconstruction, like the state's anti-imperialist rhetoric, may result in the reinforcement of traditional, patriarchal authority patterns that are profoundly anti-democratic and unrepresentative.

The search for cultural roots for human rights standards will not help if it is conducted within the confines of a *shari'a*-bound cultural and mental

111. Hisham Sharabi, "The Scholarly Point of View: Politics, Perspective, Paradigm," in *Theory, Politics and the Arab World: Critical Responses*, ed. Hisham Sharabi (New York: Routledge, 1990), 21.

112. *Ibid.*, 23.

structure. The latter cannot break with the political restraints set by the sacral nature of *shari'a*, and is not capable of exposing the ancient roots of the patriarchal values and practices enshrined in the sacred text. It carries the risk of adding a veneer of modern respectability to the discourse of the holy text and religious conservatism.

As for the "outside supporters" and international human rights organizations, they should recognize that internal debates are far from being resolved and that people in each country must first put their house in order by reaching a workable consensus on the principles they wish to govern their lives. Despite my own obvious affinity with the iconoclastic discourse, the fact is that no grand paradigmatic reconstruction is going to have a substantial impact on the present realities, which do not, in their messiness and fluidity, lend themselves to any systemic ordering. This also leads to the recognition that there will never be a transnational agreement on Islamic legitimacy in the Muslim World, as each country will continue on a separate path in accordance with its own specificities. The best indication, however, that a national consensus on human rights standards has been reached is an *enduring* national constitution legitimated not by false claims to tradition or Islamic beliefs and values, but through free participation in democratic elections. The presence of a legitimate government authority with lawful means for the transfer of political power is a precondition for a credible discussion on cultural relativism in the discourse of human rights. Until then everyone must insist on strict applicability of the UDHR.