

# **ASPECTS OF HUMAN RIGHTS VIOLATIONS IN GCC COUNTRIES**

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### DECLARATION

I declare that the dissertation entitled "ASPECTS OF HUMAN RIGHTS VIOLATIONS IN GCC COUNTRIES" submitted by me for the award of the degree of MASTER OF PHILOSOPHY of Jawaharlal Nehru University is my own work. This dissertation has not been previously submitted for any degree of this university or any other university.

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### CERTIFICATE

We recommend that this dissertation be placed before the examiners for evaluation.

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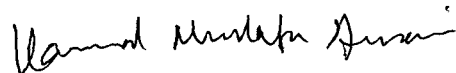
*To*  
*my late mother*  
*Noor Jahan Khatoon*

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## **CHAPTER 1**

### **INTRODUCTION**

This study focuses on select aspects of human rights violations of citizens, expatriates, minorities and women in Gulf Cooperation Council countries. It will also discuss human rights norms, realities of human rights violations and debate which are being constructed to defend the violations. It will cover the time period from 1981 when six Gulf countries: Bahrain, Kuwait, Oman, Qatar, Saudi Arab, and UAE, became the member of Gulf Cooperation Council, to 2004. All the Gulf countries are characterized by the neo-patriarchy and rentier- economy and state. The situation of human rights violations emerges from the fact that these countries have not only conformed to United Nations Human Rights Declarations 1948, and other international human rights instruments but also from the fact that concerned citizens have been demanding the human rights regime in these countries. There have been cases of human rights violations world over but it is more particularly in the third world countries. These cases can be noticed from Rwanda, Burundi to East Timor. It has more to do with underdevelopment and lack of democratization. It is in this context I have chosen Gulf countries to study. In Gulf, human rights violation exacerbates due to lack of democratization, increase in orthodoxy and authoritarianism among the other reasons. Human rights violations are justified in the name of different reasons. It is to hide their shortcomings on the human rights front 'human rights debate' are created by these countries

### **HUMAN RIGHTS NORMS**

Human rights are a special sort of inalienable moral entitlement. They attach to all persons equally, simply by virtue of their humanity, irrespective of race, nationality, or membership of any particular social group. They specify the minimum conditions for human dignity and a tolerable life. The "modern international human rights revolution begins with the adoption of the Charter of the United Nations. While it is true that international law recognised some forms of international human rights protection prior to the Charter, the process which ushered in the internationalization of human rights and

humanization of international law, begins with the establishment of the United Nations”<sup>1</sup>. The end of the Cold war has deideologized the struggle for human rights and reinforced human rights movement. The result has been a worldwide movement in which states, intergovernmental and nongovernmental organizations are the principle players in the continuing struggle concerning the role of the international community should play in promoting and protecting human rights.

The creation of United Nations placed human rights at the centre of global politics. “Human rights are mentioned in the UN Charter seven times, including Article 68, which calls for the creation of the Commission on Human Rights”<sup>2</sup>. The Commission drafted United Nations Declarations of Human Rights (1948) and two international conventions (1966): International Covenant of Economic, Social and Cultural Rights; and International Covenant of Civil and Political Rights. According to Universal Declaration of Human Rights (1948), human rights constitute recognition of the inherent dignity and of the equal and inalienable rights of all the members of human family. It reaffirms faith in fundamental human rights, in the dignity and worth of the human person and equal rights of men and women and has determined to promote social progress and better standards of life. Other legally binding instruments included the Convention on the Prevention of Crime of Genocide (Genocide Convention), the Convention against Torture and Other Cruel, Inhuman or Degrading treatment or Punishment (Torture Convention), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The Commission also put in place procedures for implementing the rights set out in these treaties, including monitoring, periodic reports and arbitration.

It is sometimes said that the concept of human rights is “the only political and moral idea that has received universal acceptance”<sup>3</sup>. Some scholars describe human right as the central moral issue in the international relations today as the “currency of international moral discourse”<sup>4</sup>, or as the “modern tool of revolution in the struggle for

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<sup>1</sup> Symonides, Janusz, (eds), *Human Rights: Concepts and Standards*, (Rawat Publications, Jaipur, 2002) p.4.

<sup>2</sup> Evans Tony, *The Politics of Human Rights: A Global Perspectives*, (Pluto, London, 2005), p.12.

<sup>3</sup> Mc Corgnodale, Robert (ed), *Human Rights*, (Cromwell Press, Towbridge- Wiltshire, 2004) p. 57.

<sup>4</sup> *ibid* p. 57.

human dignity in our times”<sup>5</sup>. The concept of human rights also deals with the security issues and armed conflict among nations.

Human rights by definition are not concerned about ordinary crimes, which are offences against state. Instead they are concerned about unjust state, act or policy. According to Andrew Heywood “human rights are rights to which people are entitled by virtue of being human”<sup>6</sup>. The dominant conception of human rights entails: (a) political and civil rights, including free and fair elections and judicial process and freedom of thought, speech and press; (b) the right to be free from what are often called “atrocious” acts such as torture and genocide.

Human rights are the only universally recognized set of contemporary values, which, during the last 50 years, has been gradually developed and defined by all states in a comprehensive international legal framework. As such international human rights regime is closely related to international peace and security, development and a global trend towards pluralist democracy, good governance and the rule of law.

According to UN Declaration (UDHR, 1948), everyone has the right to a standard living, adequate for the health and well being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond her control. Human rights can be distinguished from civil rights, on the grounds that the former are moral principles that claim universal jurisdiction, while the latter depend upon the freedoms and status accorded citizens in particular societies. However, the notion of civil rights and civil liberties often rest upon an underlying belief in human rights, and are viewed as moral principles given legal expression in the form of citizenship. According to the *UNDP Report 2004*, “the basic recognition of the idea of human rights is linked directly to the safeguarding and advancement of human freedoms”<sup>7</sup>. It is well known that in every country the UN intervenes to safeguard rights. United Nations Commission for Human

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<sup>5</sup> *ibid* p. 57.

<sup>6</sup> Heywood, Andrew, *Key Concepts in Politics*, (Oxford University Press, London, 2000) p. 132.

<sup>7</sup> *Human Development Report 04: Cultural Liberty in Today's Diverse World*, (Oxford University Press New Delhi) p. 15.



Rights, Human Rights Commission and Security Council form important part of human rights regime.

Except Qatar none of the GCC countries have human rights institution. Saudi Arab announced the formation of human rights institution in 2003, but it could not materialize. Qatar, in 2003 created National Human Right Committee (NHRC) by a decree. The aim of the NHRC included “constitutional referendum, municipal election, granting of certain formal right to women ...to promote international human right norms, advice the government on human rights issues, examine existing violation, and attempt to prevent future once”<sup>8</sup>.

### **HUMAN RIGHTS VIOLATIONS IN THE THIRD WORLD**

The problem of human rights violations is linked with third world countries as it can be seen by looking at their record. Here effort has been made to delineate the case of Rwanda, Burundi, Chechnya and Kosovo. Reasons for human rights violations can be different in the case of both sets of countries: Rwanda, Burundi on one side and Chechnya and Kosovo on the other side.

#### **RWANDA**

It's a conflict between two warring tribes, Hutu and Tutsi. The Rwandan government and insurgents fought an increasingly brutal and costly war, killing thousands—probably tens of thousands—of unarmed civilians during 1998. Based largely in the northwest of the country, the insurgents also led major strikes against other regions. They attacked jails to free prisoners and they slaughtered members of the Tutsi minority, government officials, and others who refused to support the rebellion. Soldiers of the Rwandan Patriotic Army (RPA), equipped with helicopters, armored vehicles, and heavy weapons killed unarmed civilians, sometimes in pursuit of insurgents, sometimes in places or at times where no rebels were present but where they suspected the population of supporting them. In an incident in late October that became known only near the end of 1997, RPA soldiers

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<sup>8</sup> Cardenas, Sonia and Andrew Flibbert, “National Human Rights Institutions in the Middle East”, *Middle East Journal*, Vol. 59, No.3, Summer 2005, p. 431.

allegedly caused the deaths of hundreds and perhaps thousands of persons who had sought refuge in caves at Kanama.

Estimating the number killed in the course of the year 1997, is difficult. “International diplomats concluded that between 100,000 and 250,000 persons were unaccounted for out of a population of some 1,500,000 in the two prefectures of Gisenyi and Ruhengeri. Some 200,000 persons did not collect their required identity papers in Gisenyi, suggesting that they were either dead or living on the other side of the frontier, in the forest, or in areas controlled by rebels”<sup>9</sup>. The mid-May 1997, assassination of Seth Sendashonga in Nairobi eliminated one leader who bridged the gap between Hutu and Tutsi.

Military, police, and some civilian officials took thousands of persons into custody during large-scale security sweeps, residential inspections, and verification of identity papers on the roads. Some of these persons were subsequently released after interrogation that was sometimes accompanied by physical abuse. Some persons who “disappeared” were found murdered but most have never been located. Many of the 11,000 Rwandan refugees who were registered in Tanzania between January and June said they fled because of unexplained “disappearances” caused by soldiers.

An increasingly active military justice system tried soldiers for indiscipline and common crimes, sentencing several to prison and even to death after conviction for charges such as theft and murder. Early in the year 1997, army officials summarily and publicly executed soldiers in two separate alleged incidents of common crime. Investigations were begun and soldiers arrested in several cases of massacres of civilians, but few of the accused were brought to trial or seriously punished for human rights abuses in the course of military operations. In one noteworthy trial, a Major was sentenced to life in prison and a subordinate to a term of forty-five months for having massacred more than thirty civilians in July 1994.

During 1997, 322 persons were judged on charges of genocide, a rate which if unchanged would result in fewer than 5 percent of the detainees being tried within their lifetimes. Authorities set a goal of 5,000 persons to be tried in 1998 and began prosecuting larger groups of defendants together, including one group of fifty-one

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<sup>9</sup> <http://www.hrw.org/worldreport99/africa.html> on 12/07/06

persons. This practice speeded disposition of cases, but also produced confusion and logistical problems that seemed likely to prejudice the rights of some defendants. By the end of October 1998, it appeared that the courts would fall short of the goal of 5,000. Even after numerous training programs had increased the number of personnel, the judicial system still lacked the staff needed to try all those detained. Authorities proposed alternatives, such as community-based mediation to settle cases involving only damage to or theft of property.

## **BURUNDI**

The war in Burundi began following the October 1993 assassination by a group of Tutsi army officers of President Melchior Ndadaye. Ndadaye, freely and fairly elected some months before, was the first Hutu to serve as head of state in Burundi. His victory followed reforms instituted by Tutsi President Pierre Buyoya who had been the first to name a substantial number of Hutu to ministerial posts. Earlier attempts by the majority Hutu to win a share in power had been put down by the Tutsi, a minority of some 15 percent of the population, who have dominated political, economic, and social structures since the colonial period. After Ndadaye's assassination, Hutu, sometimes under the orders of local administrative or political leaders, slaughtered thousands of Tutsi and the Tutsi-dominated army massacred thousands of Hutu.

A ceasefire signed on December 3, 2002 by the government of Burundi and the rebel movement, the National Council for the Defense of Democracy-Forces for the Defense of Democracy (Conseil National pour la Défense de la Democratie-Forces pour la Défense de la Democratie, CNDD-FDD) raised hopes for an end to nine years of war in Burundi. The parties to the conflict re-affirmed their commitment to this agreement in a second document signed January 27, 2003.

On January 19, 2003 "government troops unlawfully killed at least thirty-two and probably more than eighty civilians at Mwegereza, Gisuru commune, in the eastern province of Ruyigi. They also reportedly deliberately killed civilians in the neighboring communes of Kinyinya and Nyabitsinda. Government soldiers also raped women, both after the combat and more recently. In addition, soldiers burned some 420 houses and

pillaged more than 1,000 others”<sup>10</sup>. They have prevented local residents, who were forced to flee, from returning to their homes to gather food, harvest their crops, and work in their fields.

FDD rebels have deliberately killed civilians, raped women and stolen cattle, goats, and other goods in many parts of Burundi, particularly in the central provinces of Gitega and Muramvya as well as in the eastern province of Ruyigi. The FDD has apparently not held its combatants accountable for violations of international humanitarian law.

The nine year old civil war has a strong ethnic component: Tutsi, a minority in the country, dominate the army while the most important rebel group, the FDD, is predominantly Hutu, as is the National Forces of Liberation (Forces Nationales de Liberation, FNL), the one party which has not yet signed any form of agreement with the government.

As the struggle moves from the battlefield to the political arena, the parties that have dominated the government face new challenges. The Front of Burundian Democrats (Front pour la démocratie au Burundi, FRODEBU) has been the major Hutu-led political party in the country but now must contend with the arrival of the more militant CNDD, the political wing of the FDD forces that have played a leading role in the rebellion. Similarly, FRODEBU and even the CNDD may find the FNL a powerful rival, particularly in areas around the capital, should it too decide to accept a ceasefire and enter the political process.

Burundian army soldiers massacred more than thirty and perhaps as many as eighty-nine civilians at Mwegereza and elsewhere in Ruyigi in late January 2003, following four days of combat with FDD forces. Government soldiers raped women and girls in the days and weeks after the attack at Mwegereza. According to Human Rights Watch men and women alike spontaneously spoke of rapes by soldiers posing a serious risk to women in the area. One woman gave the names of six women who had been raped in the past month.

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<sup>10</sup><http://www.hrw.org/background/africa/burundi/burundi0203.htm> on 07/06/07

## CHECHNYA

For more than a decade, Russia's federal forces have inflicted wanton violence on civilians in Chechnya in violation of international human rights and humanitarian law. While the most intense period of the war in Chechnya ended in the spring of 2000 with the occupation of the capital, Grozny, and most other areas, the behavior of Russia's forces toward the civilian population continues to be brutal, corrupt and illegal.

Physicians for Human Rights (PHR) documents that, as of December 2000, "Russia's forces continued to engage in arbitrary arrests, unlawful detention, torture, murder, attempted murder, disappearances, bribery, and shelling of population centers. Civilians are arrested on flimsy pretexts, interrogated, beaten, and sometimes thrown into pits in the ground, only to be released when relatives pay significant bribes. Some disappear. Russia's military units sweep through cities and villages ostensibly in search of fighters on the Chechen side, arrest civilians, shoot into homes, take property, and leave. Travel within Chechnya requires civilians to run a gauntlet of checkpoints, where they also may experience extortion, arrests or beatings"<sup>11</sup>.

There was considerable variation in the details provided by witnesses in their accounts to PHR of human rights violations, common elements appear throughout: The violations committed by Russia's forces came suddenly, often without warning or reason, to people merely trying to survive in a war-devastated country. Individuals were arrested and detained while walking on a road in their villages or towns, standing in their front yards, shopping at a market, driving, crossing a checkpoint that they had navigated hundreds of times before, or just sitting in their homes with their families.

During the first six months of the second Chechen war of the decade, which began in September 1999, war crimes by Russia's forces were documented and condemned by numerous organizations. In February and March 2000, Physicians for Human Rights assessed patterns and prevalence of abuse and found extensive evidence of war crimes and other human rights violations. PHR conducted a random survey of 1,143 persons displaced from Chechnya by the war. Respondents and members of their households alone witnessed almost 200 killings of non-combatants. 46% of the 1,143

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<sup>11</sup> [http://www.phrusa.org/research/chechnya/chech\\_rep.html](http://www.phrusa.org/research/chechnya/chech_rep.html) on 06/07/06

surveyed reported witnessing at least one killing of a civilian by Russia's federal forces. Survey respondents reported 77 instances of torture. The survey was accompanied by corroborated witness case testimonies of massacres at Katr Yurt and Aldi, and atrocities at the Chernokozovo filtration camp.

In April, 2000, the United Nations Commission on Human Rights demanded that Russian President Vladimir Putin conduct an independent investigation of serious breaches of human rights by Russia's forces and hold accountable those responsible for them. But when Russia failed to perform the demanded investigation or to end impunity, it suffered no consequences. Instead, Russian authorities continued to block the entry of human rights monitors from international bodies including the Organization for Security and Cooperation in Europe and the United Nations, preventing them from investigating ongoing violations or preventing new ones. Other than eliciting verbal protests, the international community, including the United States, took no effective action and declined to use tools at its disposal to require President Putin to stop Russia's massive violations of human rights and humanitarian law. The abuses continue into the present day.

Russia's forces arbitrarily arrest civilians, detain them, and frequently torture them. PHR interviewed 23 witnesses about instances of arrest, detention, and torture. Eleven of the witnesses were victims of torture. In almost every case, there existed no authority or legal grounds for the arrest, no charges were formally brought against the individual, and the person's documents were confiscated. The places of detention included military camps and police stations, but also dank basements in abandoned buildings and pits dug in the ground.

Rebels have been involved in human rights violations cases as well. In Beslan School tragedy, rebel held hostage hundreds of students. In this episode more than 300 school children lost their lives. In various other cases rebels killed innocent civilians.

## **KOSOVO**

On March 24, 1999, the eyes of the world turned to Kosovo as aircraft from the North Atlantic Treaty Organization began to bomb targets in the former Federal Republic of Yugoslavia. The start of NATO's air war against Yugoslavia was also the beginning of

the bloodiest period in Kosovo since the end of the Second World War. In “the twelve weeks that followed, Serbian and Yugoslav military, police, and paramilitaries expelled more than 850,000 ethnic Albanians from Kosovo, internally displacing several hundred thousand more”<sup>12</sup>. Many were robbed and beaten as they were forced from their homes, which were frequently looted and burned. Scores of women were raped. Thousands of adult males were detained, and many of them were executed, in some cases together with women, children, and the elderly, although the total number of civilians executed is still unclear. In more than a dozen mass killing sites, government forces tried to hide the evidence by destroying or removing bodies. The brutal campaign against ethnic Albanian civilians came to a halt only after the withdrawal of Yugoslav soldiers and Serbian police and paramilitaries and the entry of NATO forces in Kosovo on June 12, 1999.

Operations that began in late March 1999 went far beyond counterinsurgency: Serbian and Yugoslav forces carried out a systematic campaign of violence and forcible depopulation that left an estimated 80 percent of the civilians displaced from their homes. 7 Areas with no history of support for the KLA and which had previously escaped the violence in Drenica and southwestern Kosovo, such as Pristina and eastern Kosovo, were targeted for mass expulsion. The killing and terror against civilians began to encompass any area with a current or historic link to the KLA, as well as some areas without any such link. In short, localized counterinsurgency was joined by systematic “ethnic cleansing.”

Despite the scale of the displacement during 1998 and early 1999, many observers believed Kosovo, with its 90 percent ethnic Albanian population, would be exempt from large-scale ethnic cleansing, if only for the practical obstacles to the expulsion of an entire people. In ethnically-mixed Bosnia and Herzegovina, and contested areas of Croatia where no one ethnic group had an absolute majority, the expulsion of one ethnic group was a means of consolidating control over that territory by a rival group. By contrast, Kosovo with its overwhelming ethnic Albanian majority had experienced a steady outflow of its Serb population over preceding decades, with Belgrade resorting to forced resettlement of Croatian Serbs in an attempt to reverse the migration of Serbs out of the province. The slow initial response of UNHCR and NATO to the human tide of

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<sup>12</sup> <http://www.hrw.org/reports/2001/kosovo/undword-03.htm> on 06/07/06

refugees into Macedonia and Albania in late March and early April is evidence that few in the international community believed the government of Slobodan Milosevic would attempt the "ethnic cleansing" of Kosovo.

December 1998 and January 1999 saw a gradual increase of security forces in Kosovo, in violation of the KVM agreement, but without serious criticism from the international community. The killing of forty-five ethnic Albanians in Racak provoked an international outcry.

More than two years after the end of the war, "the total number of victims killed between March and June 1999 remains unclear. Although the explanations for the lack of clarity in the death toll are straightforward and common to many post-conflict situations, the total number of dead remains one of the most controversial aspects of the war. Ultimately, however, what matters is not whether the dead number 5,000 or 15,000, but that large numbers of civilians were targeted for execution by Serbian and Yugoslav security forces"<sup>13</sup>.

The credible allegations of body removal and destruction were apparently confirmed in May 2001, when the Serbian government announced that a truck filled with eighty-six bodies had been dumped in the Danube River in Serbia during the Kosovo war-allegedly the bodies of ethnic Albanian civilians taken from Kosovo. A top Serbian Ministry of Internal Affairs official announced on May 25 that Milosevic had ordered then-Interior Minister Vljako Stojiljkovic to eliminate "all traces which could lead to any evidence of crimes" in Kosovo. As of July 2001, the Serbian authorities had announced the discovery of four additional graves in Serbia with as many as 1,000 Kosovar Albanian bodies.

In addition to the general killings that took place throughout Kosovo, some prominent Kosovar Albanians were specifically targeted for execution. A number of politicians, doctors, human rights activists, and other public figures were killed in this way, as well as individuals who had worked with the OSCE or rented their homes to the organization.

Rape and other forms of sexual violence were used in Kosovo in 1999 as weapons of war and instruments of systematic "ethnic cleansing." "Rapes were not rare and

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<sup>13</sup> <http://www.hrw.org/reports/2001/kosovo/undword-03.htm> on 06/07/06



isolated acts committed by individual Serbian or Yugoslav forces, but rather were used deliberately as an instrument to terrorize the civilian population, extort money from families, and push people to flee their homes. Rape also furthered the goal of forcing ethnic Albanians from Kosovo”<sup>14</sup>.

During 1998 and the first months of 1999, there was substantial displacement in Kosovo: “more than 200,000 Kosovar Albanians were internally displaced, almost 70,000 fled the province to neighboring countries and Montenegro, and a further 100,000 Yugoslav nationals, mostly Kosovo Albanians, sought asylum in Western Europe”<sup>15</sup>. But as the discussion above makes clear, few Western observers believed that Belgrade would attempt to expel the entire Albanian population of Kosovo. None could have predicted the speed and scale of the expulsion: within three weeks of the start of NATO air strikes, there were 525,787 refugees from Kosovo in neighboring countries. A month later, on May 12, the total had risen to 781,618.59 All told, the Yugoslav military and Serbian police and paramilitaries expelled 862,979 Albanians from Kosovo, 60 and several hundred thousand more were internally displaced, in addition to those displaced prior to March. These figures indicate that by early June 1999, more than 80 percent of the entire population of Kosovo and 90 percent of Kosovar Albanians were displaced from their homes. Approximately 440,000 refugees crossed the border to Albania and 320,000 to Macedonia (of whom almost 80,000 were transferred to third countries outside the region). Montenegro hosted around 70,000 refugees, while Bosnia and Herzegovina received more than 30,0000.

Throughout the armed conflict in 1998 and early 1999, arbitrary arrests and detentions of Kosovar Albanians were commonplace. Physical abuse and torture of detainees was widespread. The practice intensified during the period March-June 1999. Thousands of Kosovar Albanians were detained during the NATO bombing. Very often, men were separated from women and held in makeshift detention centers, such as schools or factories, for a period of days, during which time they were beaten and interrogated about the KLA. Some men were held for longer periods in the prisons at Smrekovnica, Lipljan, Istok (Dubrava), or Pristina. Most of the men in detention at the end of the war-

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<sup>14</sup> <http://www.hrw.org/reports/2001/kosovo/undword-03.htm> on 06/07/06

<sup>15</sup> <http://www.hrw.org/reports/2001/kosovo/undword-03.htm> on 06/07/06

between 1,000 and 2,000-were transferred out of Kosovo to prisons in Serbia proper; as of March 2001, more than 400 Kosovar Albanians were still being held.

There is clear evidence that between March and June 1999, Yugoslav and Serbian security forces detained adult males and compelled them to dig trenches, clear bunkers, and perform other manual work. The majority of the work appears related to the Yugoslav Army's strategic objectives. The most notable incidents occurred in Glogovac municipality during May and June 1999. Human Rights Watch also documented the "compulsory labor of detainees in Prizren municipality during April 1999, where on at least two occasions, Serbian police and Yugoslav soldiers rounded up men in Prizren town and transported them to the Albanian border where they were forced to serve on trench-digging brigades"<sup>16</sup>. There are also reports of work brigades in Orahovac, Suva Reka, and Djakovica, where Roma were allegedly compelled to dig trenches on the border with Albania during the month of April 1999.

It is against this background that I want to do this case study of six GCC countries where there have been serious problem of human rights violations. It's not only the case of the above four countries only. Human rights violations are not only a third world phenomena but it does take place in the developed world countries also. It is important in the context to note that developed nations largely conform to international human rights norms but the developing countries are major violators of human rights instruments.

### **GCC STATES AS SOCIO-ECONOMIC FORMAT**

It is important to discuss the nature of society in GCC countries. As we know these societies are characterized by patriarchy. The system of patriarchy and dependency when joined together, give rise to particular socio-political structure which may be described as "neopatriarchal". The neo-patriarchal is neither traditional nor modern, its unique, its has its own particular pattern of doing and thinking, i t own ways of valuing and behaving, its own manner of dealing with reality in the world. Projected in social terms, neo-patriarchy may be characterized by the following attributes: (1) "Social

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<sup>16</sup><http://www.hrw.org/reports/2001/kosovo/undword-03.htm> on 06/07/06

fragmentation-i.e., the family, the class, religion, or ethnic group (rather than nation or civic society) constitutes the basis of social relations and corresponding social organization. (2), Authoritarian organization: i.e. domination, coercion, and paternalism (rather than cooperation, mutual recognition, and equality) govern all relations from the microstructure of the family to the macrostructure of the state. (3), Absolute paradigms: i.e. a closed, absolutist consciousness (in theoretical practice, in politics, and everyday life) grounded in transcendence, metaphysics, revelation, and closer rather than in difference plurality, diffusion, openness, etc. (3), Ritualistic practice: i.e. behavior governed by ceremony, custom, and ritual (rather than spontaneity, creativity, and innovation). And so on”<sup>17</sup>. Iliya Hariri in the Arab State, describes the Arab states’ society and authority in terms of structure, power base, legitimacy and traditions. Following categorization is used: (1) The Imam-Chief System: The authority is vested in sanctified leader. (2), The alliance system of chiefs and Imams. (3), The traditional secular system, whereby authority is based in a dynasty free from religious attributes. (4) The bureaucratic-military oligarchic type, where authority originates from urban garrisons who develop extensive bureaucracy. (5), The colonially created state system<sup>18</sup>.

Trucial States were predecessors of GCC states. “The seven Trucial States occupy the area of eastern Arabia known geographically as Trucial Oman, a name for the northern part of Oman coined by captain F. B. Prideaux early in this century. It aptly describes the connexion, geographical and historical, with Oman while stressing the area’s separate identity. The total area is only 30,000 square miles and population 180,200”<sup>19</sup>. Trucial states or Gulf City States were mainly: Bahrain, Qatar, Dubai, Abu Dhabi, Sharjah, Ajman, Umm al-Qaiwain, Ras al Khaimah and Fujairah. All of the Gulf City States experienced relatively high and growing levels of imports in the late 1960s. Bahrain, Qatar, Abu Dhabi and Dubai were main centers of foreign trade and their total import in 1969 amounted to 214 million Bahraini Dinar. Export and reexport of Bahrain, excluding oil and its refined products increased from 10.7 million Bahraini

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<sup>17</sup> Sharabi, Hisham, *The Next Arab Decade: Alternative Futures* (Ed), (Westview, Boulder, London, 1988) pp. 2-3.

<sup>18</sup> Hariri, in Giacomo Luciani, *Arab State* (ed), (Routledge, London, 1990) pp. 5-6.

<sup>19</sup> Hawley, Donald, *The Trucial States*, (George Allen & Union Ltd., London, 1979) p.18; see also M. T. Sadik and William P. Snavely’s *Bahrain, Qatar, and the United Arab Emirates*, (Lexington Books, Lexington London, 1972).

Dinar in 1965 to 19.9 million Baharaini Dinar in 1969 (Muhammad T. Sadik and William P. Snavely, 1972).

Most of these countries are oil and natural gas based economies. Earlier GCC economies were traditional ones, like of pearl, slave trade, dates and etc. But the discovery of oil in the West Asia changed the face of the region “as the average price of crude oil rose from less than 2.8 dollar per barrel in 1972 to more than 34 dollar per barrel in 1981, the aggregate annual merchandise export earning of the GCC states soared from less than 10 billion dollar to more than 163 billion dollar”<sup>20</sup>. Bahrain’s industry accounted for 42.8% of GDP and service 56% of the GDP. In the year 2002 its oil reserve was 125m.bbbls and in the same year natural gas reserve was 91bn.cu. metre<sup>21</sup>. In 1993 Bahrain 62% export constituted mineral fuel<sup>22</sup>. In the 2002 Kuwait’s industry account for 59.7% of the GDP and service sector 40.3% of the GDP. In the year 2002 it had 2.6% of the world oil production. In the same year it had 96.5 bn. bbbls oil reserve and 11.0 bn. cubic metre of natural gas reserve. In the 2002 it had 1,496 bn.cu. metre proven reserve of gas<sup>23</sup>. 91% of the revenue of Kuwait comes from oil export which constitutes 46% of the GDP<sup>24</sup>. Saudi Arabia is the largest exporter of oil in the world. In 2002 its industry accounted for 52.0% of the GDP and service 42.8% of the GDP. Oil accounts for 45% of the GDP, which accounted for 75% of the government revenue and 85% of the export<sup>25</sup>. It controls 25% of the world oil supply. In 2003 it had 262.7bn.bbbls. proven reserve of oil<sup>26</sup>. In 2002, Qatar industry accounted for 70.7% of the GDP and service sector 28.9% of the GDP. In 2002 it had proven oil reserve of 15.2 bn.bbbls. Oil accounted for 59% of the GDP (2002). In 2002 natural gas reserve was 14,400 bn.cu. metres and its output in the same year was 29.3 bn.cu.metre<sup>27</sup>. In Oman industry accounted for 53.2% of the GDP in 2002 and service 44.7% of the GDP. In 2002 it had proven oil reserve of 5.5 bn.bbbls. Oil production in 2002 stood at 29.5 m. tones and gas at 14.8 bn. cu. metre. Crude oil

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<sup>20</sup> Vahan Zanoia, “After Oil Boom: The Holiday in the Gulf”, *Foreign Affairs*, Vol. 74, No.6, November December 1995, p. 2-7.

<sup>21</sup> *The Statesman Yearbook: The Politics, Culture and Economies of the World*, (ed) Turner Berry, Palgrave Macmillan, New York, 2006, p. 252.

<sup>22</sup> *ibid.* p. 253.

<sup>23</sup> *ibid.* p. 1022.

<sup>24</sup> *ibid.* p. 1023.

<sup>25</sup> *ibid.* p. 1407.

<sup>26</sup> *ibid.* p. 1408.

<sup>27</sup> *ibid.* p. 1339.

export in 2002 account for its 70% of the total export<sup>28</sup>. In 2002 UAE's oil and gas provided for 33.7% of the GDP. In 2002 its oil production stood at 105.6 m.tonnes. It had 3% of the world output (2002). In 2003 it 97.8 bn.bbls. oil reserve<sup>29</sup>.

Despite being rich countries all GCC nations have their own contradictions. With coming of the prosperity they do not have respect for human rights in conformity to economic development. The following tables mention various data about GCC countries which will help us understand this region in better way while analyzing human rights issue.

**Table 1.1 Socio-Economic Development Indicators of GCC Countries 2003**

Country	Population	Female population	Surface Area (1000 sq. km)	Population Growth %	GNI Per Capita \$
Bahrain	698 Thousand	276,955 (1991)	710	2.0	10,500
Saudi Arab	22 Million	7,468,415 (1992)	2150	2.8	8,530
Qatar	6.10 Million	179,564 (1986)	11	2.0	..
Kuwait	2 Million	622,168 (1995)	18	2.3	16,340
UAE	3 Million	797,710 (-)	84	6.9	..
Oman	3 Million	840,069 (1993)	310	2.4	7830

Source: Little Data Book, World Bank, Washington, 2004, pp.38-125-167-178-185-219; see also *Europa Year Book* 50<sup>th</sup> edition 2004 for gender data pp. 240-986-951-694-1192-891.

<sup>28</sup> *ibid.* p. 126.

<sup>29</sup> *ibid.* p. 1643.

**Table: 1.2 Social Indicators of GCC Countries-2002**

Country	Infant Mortality/1000 live birth	Life Expectancy at Birth 5 yrs	Literacy Total %	Female Literacy %
Bahrain	13	73	88	84
Saudi Arab	23	73	78	69
Qatar	11	75	84	82
Kuwait	9	77	83	81
UAE	8	75	77	81
Oman	13	74	74	65

Source: *Little Data Book*, World Bank, Washington, 2004, pp.38-125-167-178-185-219.

**Table 1.3 Age Structure of GCC countries**

Age Structure

Country	0-4	15-64	64+
Saudi Arab	45.5	51.59	2.6
Kuwait	35.6	63.0	1.4
UAE	30.8	67.5	1.7
Oman	46.3	51.9	2.6
Bahrain	-	-	-
Qatar	-	-	-

Source: *World Bank Report 1992*, as taken in P. C. Jain's *Human Resource Development in the GCC countries* p.15.

**Table 1.4 Demographic Composition Expatriates and Nationals**

Country	Sunni	Shia /Others	Nationals	Non-Nationals	Urban Population % (2001)
Bahrain	21% (1997)	63% (1997)	369,200 (1996)	229,400 (1996)	95
Kuwait	810,000 (1996)	540,000 (1996)	-	58% (1995)	96
Oman	-	-	-	-	76
Qatar	-	-	-	-	92.9
Saudi Arab	18,210,000 (1997)	640,000 (1997)	-	-	86
UAE	-	-	-	88% (1995)	87

Source: *The Statesman Year Book 2006*, London, pp.253-256-1026-1260-1030-1397-1633; see also *Europa Year Book 2004* for urban population.

None of the Gulf societies have the modern parliamentary democracy or the presidential form of government. This is also because of the fact that none of them have the multi party system; almost all of them are ruled by the decrees. Kuwait<sup>30</sup> is ruled by the Al Saba family. In 1992 Kuwait had the national assembly election. "Only first class Kuwaiti male citizens who numbered about 81400 which are under 15% of the adult population were eligible to vote. A total of 280 candidates, many of them affiliated to quasi political organizations, contested elections to the new assembly. Groups of women

<sup>30</sup> See also Shafeeq Ghabra, "Kuwait and Dynamics of Socio-Economic Change", *Middle East Journal*, Vol.51, No.3, 1997; Soliman Demir, *Kuwait Fund and Political Economic of Arab Regional Development*, (Praeger, New York, 1976); Mary Ann Toreanlt, *Kuwait Petroleum Corporation and Economics of the new world order*, (Quorum Books, Westport 1995); HVF Winstone, *Kuwait Prospects and Reality*, (George Allen and Union, London, 1972); Jacqueline S, Ismael, *Kuwait: Social Change in Historical Perspective*, (Syracus University Press, New York, 1982).

protested against their exclusion from the political process”<sup>31</sup>. There have been frequent clashes between the National Assembly and the government in Kuwait. In 1999 they had again the election. Kuwait’s Emir governs in consultation with prominent families and the elected National Assembly. Following the 2003 elections, the emir appointed a new prime minister. The prime minister appoints all officials in the executive branch; however, the National Assembly has at times influenced or overturned government decisions. The constitution provides for some judicial independence; however, the emir appoints all judges, and the Ministry of Justice must approve the renewal of most judicial appointments. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority.

The status of women in terms of their representation in parliament is very poor in all GCC countries. It can be substantiated by following table as well.

**Table: 1.3 Women Representation in Parliament/majlis: 2004**

Bahrain	7.5 %
Kuwait	0.0
Oman	7.8%
Saudi Arabia	0.0
Qatar	–
UAE	0.0

Source: *Human rights Development Report 2005: International Cooperation at a Crossroads; Aid, Trade and Security in an Unequal World*, Oxford University Press, New Delhi, 2005, pp. 316-317.

In “1971, Bahrain got full independence. Sheikh Isa took the title of Amir. In December 1972 elections were held for constituent assembly. Elections to a 44 member National Assembly took place in the same year. Of its 30 were chosen by all male electorate, the rest being members of government. Although traditional administrative system of *Majlis* (assembly) where citizens and non citizens present petitions to the Amir,

<sup>31</sup> *Europa Year Book of Middle East and Africa 2005*, (Europa Publications, London, 2005) p. 707.



remained, it was not until November 1992 that the Amir announced the formation of a new, 30 member Consultative Council<sup>32</sup>. The constitution provides that the king is head of the executive, legislative, and judicial branches of the government. Civilian authorities generally maintained effective control of the security forces.

In Oman<sup>33</sup> on 23<sup>rd</sup> July 1970 the Sultan Said was deposed and later exiled in coup led by his son Qabus bin Said. In August 1970 Muskat and Oman became simply the Sultanate of Oman and Sultan Qabus appointed his uncle Taimur as prime minister. Oman too does not have the parliamentary system of democracy. A 45 member Consultative Assembly consisting of 17 representatives of the government, 17 representatives of the private sector and 11 regional representatives, was created on October 1981. In response to the suggestion that Sultan was no sufficiently aware of the public opinion in 1983 assembly's membership was extended to 55 including 19 representatives of the government however its role was confined to comment on economic and social developments and recommendations on future policy. In 1980s Sultan Qabus announced that the assembly was to be replaced by new Consultative Assembly, comprising regional representatives in order to allow wider participation by Omani citizens in national responsibilities and tasks. In 1996 Sultan Qabus issued a decree promulgating what was termed as basic statute of the state, a constitutional document defining for the first time the organs and the guiding principles of the state. According to the same the council of Oman will be composed of Consultative Council and a new council of a state. The latter was to be appointed from prominent Omanis and would function as a liaison between government and people of Oman. "In 2003 the government announced that the next elections of the Consultative Council were to be held in October; voting rights which was previously limited to prominent professionals

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<sup>32</sup> *Europa Year Book of Middle East and Africa 2005*, (Europa Publication, London, 2005), pp. 236-237. See also, Emile A Nakhleh, *Political Development in a Modernising Society*, (Lexington Books, Lexington, 1976); J. E. Petterson, *Bahrain First Step Towards Reform under Amir Hamad*, *Asian Affairs*, Vol. 33, No. 2, June 2002, pp. 216-227. John Bulloch, *Gulf: A Portrait of Kuwait, Qatar, Bahrain and the UAE*, (Century Publishers, London, 1984); P. C. Jain, "Indians in Bahrain", *Journal of Indian Ocean Studies*, Vol. 11, No. 3, December 2003, pp. 437-46.

<sup>33</sup> See also, J. E. Peterson, *Oman in 21st Century: Political Foundation of an Emerging State*, (Croom Helm, London, 1978); John Tounsend, *Oman the Making of a Modern State*, (Croom Helm, London, 1977); Unni Wikan, *Behind the Veil in Arabia*, (John Hopkins University, Battimgre, 1982); Damn Chatty, "Women Working in Oman: Individual Choice and Cultural Constraints", *International Journal of Middle Eastern Studies*, Vol. 32, No. 2, May, 2000, pp. 241-254.

intellectuals and tribal chiefs would be granted to all Omani citizens of over 21 years of age – a total of 820,000 people”<sup>34</sup>.

Saudi Arabia has been a monarchy since its inception in 1927 by Ibn Saud. In 1953 at the age of 71 Ibn Saud was succeeded by Saud Ibn Abd al Aziz. In 1975 King Faisal was assassinated by one of his nephews. Saudi Arab has been a close society. There has been a system of petitions of request to the king whenever there are grievances from the sides of citizens of the country.

It is fundamental assumption of the polity of Saudi Arabia is that “the Holy Quran correctly implemented is more suitable for Saudi Muslims than any other secular constitution”<sup>35</sup>. The council of ministers is the most potent derives power directly from the king. It can examine any matter in the kingdom. A royal decree in 1953 issued by King Abdul Aziz established the first Council of Ministers which dealt with five issues: organization of council; jurisdiction of council; council’s procedures; jurisdiction of the president of the council; division of the council of ministers, and council cabinet. In the wake of the Gulf War petitions were submitted to the king for the reforms. The petitions suggested various reforms including issuance of the Basic Law. In 1<sup>st</sup> March 1992 the kingdom of Saudi Arabia issued two major laws: The Basic Law of the Government and the Consultative Council Law. The Basic Law and the Consultative Council Law remain subordinated to the official constitution of the Saudi Arabia, the Sharia. The Basic Law is principally a supplement to Sharia, it is composed of 83 articles, it institutionalizes governmental framework of the kingdom, authorises establishment of the Consultative Council and the guarantees fundamental rights. The Consultative Council establishes a 61 member advisory council. The whole thing represents a Saudi attempt at integrating Islamic law and culture with the ideals of participatory democracy. It is important to mention that various petitions and requests were submitted to Saudi King by its citizens which included in “December 1990 Petition for Change; Memorandum of Advice (February 1991); Fax message of the Islamic Movement for Change – Jihad wing (1995); National Reform Document (January 2003); the Shia Petition (April 2003); Petition for Reforms (September 2003) and Communiqué of the Second National Dialogue (January

<sup>34</sup> *Europa Year Book of Middle East and Africa*, (Europa Publications, London, 2005). pp. 905 -906.

<sup>35</sup> Al-Farsy, Foud, *Modernity and Tradition: The Saudi Equation*, (Kegan Paul International, London, 1990) p. 39.

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2004)''<sup>36</sup>. Inherent line of all these petitions and memos were the rights of the Saudi citizens.

United Arab Emirates and Qatar<sup>37</sup> are having the monarchical system of government. They do not have the parliamentary form of government. In Qatar November 1995 Sheikh Hamad announces intention to establish an elected municipal council, although the elections for this were not held till March 1999. In the municipal elections which were held under full adult suffrage, women were permitted to contest elections, although no female candidate actually gained a seat of the council, which was to have a consultative role in the operations of the ministry of municipal affairs and agriculture. The rate of participation of voters reported exceeded 90% in Doha province and 62 to 70% of the registered electorate in the rural areas.

While having a succinct glance of evolution of these traditional-bureaucratic and authoritarian regimes, one can infer that since they do not have modern form of democratic cultural set up (which guarantees rights of the people), it's becomes easy for them to undermine the rights of people.

### **HUMAN RIGHTS REGIME**

While discussing human rights regime, it is important here to discuss **United Nations Human Rights Council**, its purpose is to address human rights violations, and it has inherited the United Nations Commission on Human Rights. **Office of the High Commissioner of Human Rights** promotes human rights by giving practical effect to the will of the world community as elucidated by the United Nations. **Universal Declaration of Human Rights** which constitute universal morals to be implemented by United Nations and its agencies. There are various international human rights instruments which have to be acceded to by developed and developing nations as well. There are various international human rights instruments which have generally been acceded by developed world community. The major problem for accession comes from the developing countries. Most of the international conventions like International Convention on the

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36 Ansari, M. H, *Islamic Boomerang in Saudi Arabia: The Cost of Delayed Reform*, (New Delhi, Samskriti, 2005) p. 57.

37 See also, Rosemarie Said, Zahlan, *Creation of Qatar*, (Croom Helm, London, 1979); El Mallkh Ragaiei, *Qatar: Development of an Oil Economy*, (Croom Helm, London, 1979)

Prevention and Punishment of the Crime of Genocide 1948, International Convention on Elimination of All Forms of Racial Discrimination 1965, International Covenant on Civil and Political Rights 1966, International Covenant on Economic, Social and Cultural Rights 1966, Convention on Elimination of All Forms of Discrimination Against Women 1979, and, Convention Against Torture, Cruel, Inhuman or Degrading Treatment or Punishment 1984, have been largely implemented by developed nations. Major problem for implementation comes from developing nations. United States is the only developed nation which has not yet ratified **ICESCR 1966** and **CEADW 1979** otherwise all developed nations have acceded and implemented international human rights instruments. Underdevelopment and authoritarianism are two factors which contribute to non acceding to these above instruments and their implementation as well. It is because of these reasons most of the third world countries and moreover GCC countries might have acceded to these conventions but have not implemented them in letter and spirit.

#### **HUMAN RIGHTS VIOLATIONS IN GULF**

There are various aspects of human rights violations in the GCC countries. Civil aspect of human rights is an important one. There are dearth of voluntary organizations and associations at the societal level. Civil Liberties Unions or Non-Governmental Organizations (NGO) have very limited space in these societies. Mostly there has been an absence of trade unionism in these countries. Modern democratic system and modern political institutions are weak. More often than not these systems of government are monarchical and authoritarian in nature with almost no direct accountability to the people. Thus, it increases the possibility of human rights violations in the GCC countries. There have been custodial deaths in these countries and there have been many instances of unfair trial in GCC countries. In Kuwait there have been arrests on the question of internal security. Scores of people have been arrested after 9/11 in the GCC countries and in some cases put to death without fair trial. There have been arrests of opposition forces in the GCC countries. According to the Amnesty International Report 2004, “five suspected critics of the state in the UAE were brought to trial in three separates cases”<sup>38</sup>. In the UAE “one Ahmed Abu Ali-24 year old US national was

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<sup>38</sup> <http://web.amenesty.org/report/index-eng> 22/8/2005.

arrested in June 2003”<sup>39</sup> at the University of Madina and he is still in jail without fair trial. In Saudi Arab various groups have raised their voice on the question of human rights. In Saudi Arabia the Islamists’ 1993 decision to establish the **Committee for the Defence of Legitimate Rights (CDLR)** prompted a government crackdown, which culminated in 1994 in arrest of its members. Most CDLR members have fled to England where they revitalized the movement in exile. There have been violations of refugees’ rights in the GCC countries according to the Amnesty International 2005 Report. In Bahrain according to ‘Decree Concerning Matters of State Security’, except parliamentary discussions all political activities are banned. Without reason one can be arrested and put behind bars successively for five years and the legal examination of which will be at the absolute discretion of minister of interior only. In Bahrain “political and other extra judicial killings and cases of people getting killed by police firing on crowds of anti-government demonstrations and in police custody are reported. There are credible reports of torture being used against prisoners. Human Rights activists report that the prisoners are routinely beaten, burnt with cigarettes, forced to endure without sleep and subjected to electric shock leading to violations of article 19, Para 4, of the Bahrain constitution. Under State Security Act 1974, persons may be detained for up to three years without trail for engaging in activities against the regime. The government uses this law regularly to subdue opposition violating Article 19, Para 1 and 11 of the constitution”.<sup>40</sup>

The rights of the minorities have always been the pillar of democracy in any modernized country. But when we look at the situation of the GCC countries, it is just the opposite. These countries have always been under scanner for not doing justice to the minorities particularly like Shias, and Ibadis. Shias constitute formidable minority group in GCC countries. Bahrain has 60 percent (2005) Shias population; Kuwait: 30 percent (2005); Oman where out of 53.5 percent three quarter is Ebadi (2005); UAE: 16 percent (2005); and Saudi Arabia in 1997 Shias constituted 15 percent of its population (2005). After the Islamic revolution of 1979 in Iran large numbers of Shias were deported to Iran

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<sup>39</sup> <http://web.amenesty.org/report/index-eng 22/8/2005>.

<sup>40</sup> Bhupati, Renuka, “Constitutional Rule and Place of Human Rights in Bahrain”, in A.K. Pasha, *India, Bahrain and Qatar: Political, Economic and Strategic Dimensions*, (Gyan Sagar Publications, Delhi, 1994) pp.68-69.

from Bahrain. In 1993, Amnesty International published a report, which was critical of Bahrain authority, claiming that Bahrain had deprived Shias' majority of their nationality and forced them into exile. In Saudi Arabia Shia minority is marginalized politically, socially and economically. A Shia memorandum was published in the Lebanese daily Al-Safir on 22<sup>nd</sup> May 2004 regarding the condition of Shias in Saudi Arab who constitute 15 percent of Saudi's population. It talked about various things including "Shia citizens are striving for equality.... there are still a number of areas where Shias are excluded from employment such as military, security and diplomatic sectors while their women are unable to take administrative posts in the department of female education. Shias are being sidelined because of their sect"<sup>41</sup>. It also talked about suppression of religious freedom of Shias. It says, "Shia citizens in the kingdom still suffer from various pressures and restriction in conducting their religious ceremonies. They do not enjoy any freedom at the cultural level, to the extent that they are unable to print their own books or import them, or set up cultural institutions or religious centers"<sup>42</sup>.

There have been frequent arrests of human rights activists in the GCC countries. Religious freedom of non-Muslim is highly curtailed. Non-Muslims do not have any right to freely express their religious beliefs.

The violation of rights of migrant labour in GCC countries is another area of major concern which attracts much attention. The problem of unemployment in other third world countries leads these migrations to these countries and thus makes them vulnerable community. The UN charter on migrant workers in 1990 recognizes the right of the migrant worker for freedom of thought, conscience and religion. This would protect the right of the migrant workers who belong to a different religious community than their host nation. This charter also recognizes the right of the migrant workers to their privacy, right against any unlawful interference with their family, home, correspondence and other communications. Migrant workers would enjoy not less favorable treatment than that of the nationals of the state in terms of employment conditions and wages. The rules regarding minimum wages and hours of work would uniformly apply to the workers who are the nationals of the country in question as well to

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<sup>41</sup>M.H, Ansari, Op.cit. p. 76.

<sup>42</sup>M.H, Ansari, Op.cit. p. 77.

the migrant workers. The right to form trade unions and participate in union activities is recognized. Apart from these, this charter also addresses other issues like illegal human trafficking, trafficking of child labour and the exploitation of female migrant workers and laid down guidelines as to how these issues need to be addressed. Human Rights Watch in its 2005 report on GCC says: “migrants, including large number of women employed as domestic servants, face intimidation and violence at the hands of employers, supervisors, sponsors, and police and security forces”<sup>43</sup>. In many cases it can be seen that sponsors and employers continue to confiscate migrants’ documents, including passports and residence permits. This severely restricts freedom of movement and limits migrants’ ability to report mistreatment to authorities without risking arrest, imprisonment, and steep fines. According to same report “Migrants in undocumented or irregular situations are among the most vulnerable. Recruiters in their home countries traffic migrants en masse, promising them jobs and salaries that never materialize. These workers have often paid recruiters significant sums to secure what they believed were legally enforceable contracts and visa works”<sup>44</sup>.

The situation of migrant worker is not really good in GCC states which can be gauged from the facts that GCC countries have not ratified any of the ILO organization conventions etc. None of the migration/migrants conventions like ILO C-97, ILO C-143, and others have been ratified by GCC countries. It delineates state of affairs about the labour rights situation in these countries concerning migrants.

According to the ILO’s **Private Employment Agencies Convention, 1997**, a member shall determine and allocate, in accordance with national law and practice, the respective responsibilities of private employment agencies providing the services referred to in Paragraph 1 (b) of article 1 and of uses enterprises in relation to: collective bargaining; minimum wages; working time and other working conditions; access to training; statutory social security benefits; protection in the field of occupational safety and health; compensation in case of occupational accidents or diseases; compensation in case of insolvency and protection of workers claims; maternity protection and benefits, and parental protection and benefits.

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<sup>43</sup> <http://hrw.org/english/docs/2003/04/11/saudia5596.htm>, on 22/08/05.

<sup>44</sup> *ibid.* <http://hrw.org/english/docs/2003/04/11/saudia5596.htm>, on 22/08/05.

According to **C97 Migration for Employment Convention (Revised), 1949**, there should be equality of treatment between migrant workers and nationals as regarding laws and administrative practices on living and working conditions, social security, employment taxes and access to justice.

In Bahrain, “labour unions have been viewed as a negative force whose long range objective was to dismantle the Khalifa regime, and therefore such a force has not been tolerated. The failure of the authorities to adopt a flexible attitude towards labour and their inability to realize that unions can contribute to economic development, national rigor, and societal harm only have forced labourers to politicize their demands. As a result, every labour strike has been considered a crisis, and the government response has usually been suppression”<sup>45</sup>.

Under the most GCC countries expatriates get less wage. The physical work is disdained and looked down upon as it is considered polluted or an ‘*aib*’ act which are taken over by immigrants. Split wage system is operational in GCC countries adding to the woes of expatriates. There is always a discrimination against expatriates in terms of wages if we compare it with the local citizens. This characteristic accrues from the rentier state economy. There are large numbers of expatriates in these countries. In the Bahrain expatriates constitute 36.4 percent; in the Saudi Arab it is 27.3 percent; in Oman the 26.5 percent; in the Kuwait 62.8 percent; in the Qatar 68.9 percent and in the U.A.E. 72.4 percent of the total population respectively in 1992. It is extremely difficult for expatriates to become citizens of these countries. Expatriate women workers fall prey to sexual harassment by the native Arabs.

Apart from expatriates’ issue, the problem of women is another burning aspect in the GCC countries. There have been violations of women rights in the GCC countries, which can be taken into account from two perspectives i.e. the problem of native women and the degenerative status of migrant women in these specific political milieus. On the one hand, native women in the GCC countries have negligible representation in the political scene. As for instances, Bahrain, the women hold only 7.5 percent of the total seats in the Parliament. In Saudi Arab, there is only one legislator in the name of

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<sup>45</sup> A. Nakhleh, Emile, *Bahrain: Political Development in a modernizing Society*, (Lexington Books , Lexington , 1976) p. 75.



women's representation. In Kuwait, only recently, suffrage has been extended for women. As far as political participation is concerned there is absolutely no voting right for women in Saudi Arab, Qatar and Oman. At the societal level they are also oppressed. Amnesty International discusses about beating and torture of women in its report on the GCC countries. According to the Amnesty International report 2004, "National Institute of Forensic Medicine said that around 750 women a year visit forensic medical clinics in Amman after suffering domestic violence, although it is estimated that the actual number of victims could be 10 times higher"<sup>46</sup>. "Honour" killings still take place in these countries. UN Committee on the Elimination of Discrimination against Women criticized women's lack of political rights in Kuwait. The Committee also expressed concern at the continuing existence of *de jure* discrimination against women in various laws, including the Nationality Act, the Personal Status Act, the Civil Code and the Private Sector Employment Act. Whereas, the migrant women apart from sharing same fate on the human rights violation with their male counterpart also face the problem of domestic violence and sexual abuse.

On the question of ratification and especially on implementation of major international human rights instruments, the record of GCC countries has been abysmally low. Major human rights instruments which are awaiting full implementation are: Convention on Elimination of All Forms of Discrimination Against Women; International Covenant on Economic, Social and Cultural Rights(1966); International Covenant on Civil and Political Rights(1966); International Convention on Elimination of All Forms of Racial Discrimination(1969); Convention on Prevention and Punishment of the Crime of Genocide(1948); and , Convention Against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment(1984).

### **CONSTRUCTION OF HUMAN RIGHTS DEBATE**

Creation of human rights debate by West Asian nations or more particularly GCC countries: is basically an excuse for the human rights violations. Human Rights according to Western perspective are literally the rights one has simply by virtue of being human-

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<sup>46</sup><http://web.amnesty.org/report/index-eng> 22/8/2005.

“the rights of man”. Rights create claims that have a special force and carry real value. They give legitimacy to claims if the enjoyment of those rights is threatened or denied. By contrast, in Islamic traditions human rights are entirely owned by God; and individuals, as vice-regents of God, can enjoy them in their relationship with God. The conceptual postulates of human rights are teleological; their moral underpinnings are theological; and they can be observed if obligations to God have been fulfilled. Human rights are a function and not the antecedent of human obligations. The idea of obedience to God in Islam shapes the discussion of Islam and human rights so deeply that the emphasis on ‘rights’ is virtually always superseded by their duties. This leads to the assertion that the essential characteristic of human rights in Islam is that which constitute obligations connected with divine and derive their force from this connection. Islam questions the universality of the Western concept of human rights and assumes that only Islam can provide a full guarantee of human rights. According to Majid Khadduri important principles of human rights in Islam are: “dignity and brotherhood; equality among members of the community, without distinction on the basis of race, color, or class; respect for the honour, reputation, and family of each individual; the right of each individual to be presumed innocent until proven guilty; and individual freedom”<sup>47</sup>.

In this context it is necessary to mention two feminist writers: Fatima Mernissi and Nawal-al-Sadawi. Nawal-al-Sadawi, an Egyptian psychiatrist who in her book, *Women and Sexuality*, fearlessly embarked on a total confrontation of neo patriarchal societies, raising not only social and economic aspects of women liberation but the sexual as well. Fatima Mernissi is a Moroccan sociologist who in her book, *Beyond the Veil*, raised besides the question of sexuality the legal-judicial aspect of women subordination and the ways it might be changed in a truly modern society. Until the appearance of these two books; the women’s question in Arab world was dealt with from mainly two perspectives, the conservative and reformist. The reformists, since the turn of the century, genuinely sought to focus on some of the major issues connected with the degraded position of women in society, but they did not address the central problems, which were intertwined with religious and legal issues, and never went beyond a vague notion of

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<sup>47</sup> Arzt E. Donna, “The Application of International Human Rights Law in Islamic States”, *Human Rights Quarterly*, Vol. 12, No. 2, May 1990, p. 205.

'renewal' (*tajdid*). Mernissi while talking on women and Muslims speaks in defiant terms: 'the Muslim system is not so much opposed to women as to the heterosexual unit ..... Such an involvement constitutes a direct threat to man's allegiance to Allah, which should be unconditional investment of all man's energies, thought and the feelings in his God'<sup>48</sup>. Both Sadawi and Mernissi take a rational, systematic approach drastically different from the rhetorical, superficial approach of the reformists and traditionalists. Although the two feminist writers adhere to different analytical frameworks, Sadawi leaning towards a psycho analytical and Marxist approach and Mernissi to western social science, they both agree about the fundamental pre conditions of liberation: radical social change and the overthrow of the patriarchal hegemony. Neither, however, defines essentially political character of the solution. Sadawi writes: "justice and equality among human beings, does not become reality merely by raising socialist slogans, or merely by legislating socialist laws. Change in the laws is necessary, but in itself it is not enough to bring about change"<sup>49</sup>.

### CONCEPTUAL FRAMEWORK

Conceptual framework for this study is based on combination of patriarchy/neo-patriarchy and rentier state and economy. The contemporary social formations in the Gulf are characterized by neo or modern patriarchy. According to Hisham Sharabi, patriarchy is pre-capitalist patriarchal societies; the specificity of Arab patriarchy is derived from a cluster of geographical, climatic and demographic factors. The organizing principles of a patriarchal social formation centre on family, kinship, tribalism and sectarianism. These remain the ultimate ground of allegiance. The GCC countries are basically patriarchal societies. "Patriarchy is a term that essentially defines a specific kind of discourse and practice and a distinctive mode of economic and political organization. Patriarchal society is pre capitalist social formation which has historical existed in various forms in Europe and Asia. It took a specific and distinctive form, in the society we characterize today as Arab Society. Patriarchy as a socio economic category refers to traditional, pre

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<sup>48</sup>Mernissi quoted in Hisham Sharabi's , *Neopatriarchy: A Theory of Distorted Change in Arab Society*, (Oxford University Press, New York, 1988) p. 97.

<sup>49</sup> Sadawi as quoted in Hisham Sharabi's, *Neopatriarchy: A Theory of Distorted Change in Arab Society*, (Oxford University Press, New York, 1988) P. 98.

modern society. In this sense the terms patriarchal society/culture and traditional or pre modern society/culture are more or less interchangeable, with both sets of terms being defined in contrast to a qualitatively different modern society/ culture”<sup>50</sup>.

There can be stages and types of patriarchy as described by Hisham Sharabi, which are: Pristine Patriarchy (Pre- Islamic and, Muhammad and immediate successors); Traditional and Pre-modern Patriarchy (Umayyad/Abbasid Caliphate and Petty Sultanates Ottoman Caliphate/Sultanate) and Neopatriarchy (Modern Arab Petty State System).

The characteristics of the patriarchal social formations which have sustained and favoured the persistence of its structural prototype are basically two: the stubborn resistance/ clan type to structural change (from pre Islamic times to the end of the 19th century ); and the rise at a relatively early stage (seventh century) of a powerful ideological/ legal system which served to reinforce the kinship system and to strengthen patriarchal relations with in more advanced social and economic forms.

The contemporary neopatriarchal Arab society is new. Its distinctive character is reflected in the newness of the social composition, which is in a state of formation and flux. In these moments of this development we witness the emergence within it of a new composite under class, scattered in contrasting urban and rural settings, forming an undifferentiated popular mass, which is increasingly polarized to a small hegemonic elite. Patriarchy is itself the basis of human rights violations in GCC countries. J. Crystal writes that “The last thirty years have witnessed the complete disappearance of democratic freedoms in the Arab world.....Authority in the Arab countries is today based on intimidation, subjugation and cooptation”<sup>51</sup>.

All the Gulf countries have rentier economies and states. GCC economies are majorly dependent on oil and natural gas revenues. So basically the rentier interests dominated these economies. The rentier states are defined by the following characteristics: A) “Most of the state’s revenue is derived from rents on a natural resource rather than from the capital producing agencies of the economy. Without the rents derived from the sale of natural resources the rentier state would be classified as a deficit

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<sup>50</sup> Sharabi, Hisham, *Neopatriarchy: A Theory of Distorted Change in Arab Society*; (Oxford University Press, New York, 1988) p. 84.

<sup>51</sup> J. Crystal, “The Human Rights Movement in the Arab World”, *Human Rights Quarterly*, Vol. 16, No. 3, August 1994, p. 435.

economy. B) The extraction of natural resources is a technologically intensive enterprise that employs few members of the indigenous economy. In this regard one might contrast the minimal work force required for the extraction of oil with the extensive work force required for the production of cottage, coffee or similar agricultural exports. C) The rent producing enterprise is isolated from other sectors of the economy. Direct spill over into feeder industries or transferable skills is minimal. D) The rents received from the export of the rent producing product are concentrated in the hands of state rather than being defused among the population. E) The technological skills required for the profitable extraction of the rent producing resources are concentrated in the hands of technicians from industrialized states. F) The rents are derived from the extraction of non renewable resources”<sup>52</sup>. Three sets of traditional work values are particularly relevant to the maintenance and perpetuation of rentier economy. A) In the societies of tribal origin manual labour tends to be disdained, like in Saudi Arab, construction work is considered to be *ait* shame. B) This firm attachment of the traditional individuals to their extended families often conflicts with their willingness relocate away from their families. Mobility of workforce severely constrained. C) Individuals reared in traditional societies tend to rank low in terms of risk taking for achievement motivation and modernization. Rentier economy and the rights of expatriates are interlinked. Sharp distinction is made between citizens and expatriates in terms of human rights, working and living conditions. The authoritarian legal framework of the rentier state further reinforces this distinction thereby resulting in human rights violations of expatriates and minorities in particular and overall population in general.

## METHODOLOGY

The proposed work is analytical in nature. This study is primarily based on secondary sources but primary and internet sources are also used. Primary sources include annual reports on human rights violations from such agencies as Human Rights Watch, ILO, the UNHRC and Amnesty International and others. Secondary sources will include books and articles.

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<sup>52</sup> Stookey, Robert. W, *The Arabian Peninsula: Zone of Ferment*, (Hoover Institution Press, Stanford University, Stanford, California) 1984, pp. 17-18.

## CONCLUSION

Violations of human rights are closely linked with authoritarianism and underdevelopment. More the countries are underdeveloped greater the chances for human rights violations are. It can very well be seen in the case of third world countries. Looking at the socio-economic indicators of GCC it will not be unwise to say that these nations are not underdeveloped except Oman. But despite all there have been human rights violations in the Gulf. Violations of human rights in these countries range from citizens in general to women, minorities and expatriates. In all of these countries they do not have democracy. Monarchical authoritarianism exacerbates seriousness of human rights violations. There are no substantial civil and political rights in all of these countries. In none of these countries people have right to vote mostly they have cosmetic nominated majlis. Just concluded elections in Kuwait were highly restricted where no woman candidate could get elected. Women condition in all of these countries is not well in terms of their rights. Still two women are considered equal to one Oman in these countries. Minorities face discrimination at political, social and economic levels. In case of Bahrain where Shia constitute majority but they are treated as marginalized group. Expatriates are nothing more than materials. Domestic servants are frequently raped and tortured. In many cases migrants lead the life similar to forced labour. It is because of authoritarianism and religious orthodoxism that violations of human rights are justified in GCC nations. Under different pretext most of the human rights covenants are not implemented. It is to hide the real motives of violations of human rights the other debates are created by these nations.

## CHAPTER 2

### HUMAN RIGHTS REGIME AND GCC COUNTRIES

This chapter will deal with human rights regime. It delineates major human rights institutions of the world like, United Nations Human Rights Council, Office of the High Commissioner of Human Rights and Amnesty International. It discusses United Nations Human Rights Declaration 1948. International human rights instruments which are backbone and parameters of human rights world over will be explicated. These institutions particularly includes: The Declarations on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities; International Convention on Elimination of All Forms of Racial Discrimination; International Convention on the Protection of Rights of all Migrant Workers and Their Families; Convention on the Elimination of all Forms of Discrimination Against Women; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention Against Torture and Other Cruel, Inhuman or other Degrading Treatment or Punishment. Apart from these various committees on the human rights conditions like, Committee Against Torture; Committee on Economic, Social and Cultural Rights; Committee on the Protection of all Migrant Workers and Members of Their Families and Committee on the Elimination of Racial Discrimination will also be elucidated. Attempt has been made to incorporate human rights institution in GCC countries which are virtually non existent. It will also emphasize on status of international human rights institutions and labour in GCC countries.

#### HUMAN RIGHTS REGIME

“A regime can be defined a set of implicit or explicit principles, norms, rules and decision making process around which actors’ expectations converge in a given area of international relations”<sup>1</sup>. Scholars using a regime approach in the study of human rights have focused on norms, standards of correct action binding on a group. Norms have been called the core of a regime. Norms as a concept of regime analysis, add little to the study

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<sup>1</sup> Henderson, Convey, “Human Rights and Regime: A Bibliographical Essay”, *Human Rights Quarterly*, Vol-10, No-4 (NOV,1998), p.525.

of human rights because scholars have referred to human rights norms for years. The question for human rights scholars have always been: to what extent are human rights norms convertible into norms or international law; and to what extent is human rights law enforceable. Jack Donnelley views norms as so widespread as accepted in the human rights field that they form a human rights ideology, and he thinks an important element of human rights regime if this seemingly inescapable ideological appeal of human rights in the post war period<sup>2</sup>.

### **UNIVERSAL DECLARATIONS OF HUMAN RIGHTS 1948**

While discussing human rights regime it is important to discuss **Universal Declaration of Human Rights 1948 (UDHR)**. On December 10, 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights. Following this historic act the Assembly called upon all member countries to publicize the text of the Declaration and "to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories."<sup>3</sup> The General Assembly proclaims this Universal Declaration of human rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of member states themselves and among the peoples of territories under their jurisdiction. According to article 1 of the declaration, all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. According to article 2 everyone is entitled to all the rights and freedoms set forth in this Declaration, without

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<sup>2</sup> Bergson, Helge Ole, *The Power to Embarrass: The UN Human Rights regime and Utopia* Fridtjof (Nausen Institute, Oslo, Norway, 1982), p.10; other works on human rights regime include, Donnelley, Jack, "International Human Rights: A Regime Analysis", *International Organisation*, Vol.48, Summer 1986-601-42; Peterson, Spike, N G Onuf, *Journal of International Affairs* 47, Winter 1984, 329-42.; Ruggie, John Gerard, "Human Rights and Future of International Community", *Daedalus*, 112, Fall 1983, 93-110; Bergson, Helge Ole, *Norms count, But Power Decides International Regime – Wishful Thinking or Realities*, (Fridtjof Nausen Institute, Oslo, Norway, 1985).

<sup>3</sup> <http://www.un.org/overview/rights.html> on 16/05/06.



distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. According to article 3 everyone has the right to life, liberty and security of person.

Article 4 says that no one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. According to article 5 no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. According to it all are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Again everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. No one shall be subjected to arbitrary arrest, detention or exile. It also talks that everyone has the right to leave any country, including his own, and to return to his country. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

Article 15 of the Declaration says that, “everyone has the right to a nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality”<sup>4</sup>. Again it says that everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. Everyone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association. The will of the people shall be the basis of the authority of

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<sup>4</sup> <http://www.un.org/overview/rights.html> on 16/05/06.

government; this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures. Discussing right to work article 23 says, “Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. Everyone has the right to form and to join trade unions for the protection of his interests”<sup>5</sup>. According to Declaration everyone has “the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages”<sup>6</sup>. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

#### **AMNESTY INTERNATIONAL**

It is pertinent here to discuss **Amnesty International** as a worldwide movement of people who campaign for human rights. It works independently and impartially to promote respect for all the human rights set in the UDHR. It campaigns “to free all persons of conscience; prompt and free trials of political prisoners; abolish death penalty; torture and degrading treatment of all persons; and extra judicial executions and disappearances; to fight impunity by working to ensure perpetrators of such abuse and brought to justice in accordance with international standards”<sup>7</sup>.

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<sup>5</sup> <http://www.un.org/overview/rights.html> on 16/05/06.

<sup>6</sup> <http://www.un.org/overview/rights.html> on 16/05/06.

<sup>7</sup> Op.cit. Turner Berry, p.66.

## UNITED NATIONS HUMAN RIGHTS COUNCIL

The **United Nations Human Rights Council** is an international body within the United Nations System. “Its purpose is to address human rights violations, and it is the successor to the United Nations Commission on Human Rights, which was often criticised for the high-profile positions it gave to member states that did not guarantee the human rights of their own citizens”<sup>8</sup>.

On Wednesday, 15 March 2006, the United Nations General Assembly voted overwhelmingly in favour of creating the new human rights body, with the resolution receiving approval from 170 members of the 191-nation Assembly. Only the United States, the Marshall Islands, Palau, and Israel voted against the Council's creation, claiming that it would have too little power and that there were insufficient safeguards to prevent human rights-abusing nations from taking control. Belarus, Iran and Venezuela abstained from the vote, and a further seven countries (Central African Republic, DPR Korea, Equatorial Guinea, Georgia, Kiribati, Liberia and Nauru) were absent from the session.

The 47-seat Human Rights Council will replace the current 53-member Commission on Human Rights. The Commission was an independent body, but the Council will be elevated to the status of a subsidiary body of the Assembly. The 47 seats in the new Council will be distributed among the UN's regional groups as follows: 13 for Africa, 13 for Asia, 6 for Eastern Europe, 8 for Latin America and the Caribbean, and 7 for the Western European and Others Group.

Unlike the former Commission, which was criticised for the election of Libya to its chairmanship in 2003, the Council's members will be required to meet "the highest standards of human rights and will be subject to periodic review. To ensure no human rights violators will be easily admitted to the Council, each member nation of the Council must be approved individually and directly by a majority (96 of 191) of the members of the General Assembly”<sup>9</sup>, in a secret ballot. Council membership is also limited to two consecutive terms, and by a two-thirds vote of the Assembly, any Council member may be suspended.

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<sup>8</sup> [http://en.wikipedia.org/wiki/United\\_Nations\\_Human\\_Rights\\_Council](http://en.wikipedia.org/wiki/United_Nations_Human_Rights_Council) on 16/07/06.

<sup>9</sup> [http://en.wikipedia.org/wiki/United\\_Nations\\_Human\\_Rights\\_Council](http://en.wikipedia.org/wiki/United_Nations_Human_Rights_Council) on 16/07/06.

The Commission was asked to wrap up its work by 16 June 2006, to make way for the first meeting of the Council on 19 June. The first election of members was held at the General Assembly on 9 May 2006. The only successful GCC candidates were: Bahrain and Saudi Arabia

## **OFFICE OF THE HIGH COMMISSIONER OF HUMAN RIGHTS**

**Office of the High Commissioner of Human Rights** “promotes universal enjoyment of all human rights by giving practical effect to the will and resolve of the world community as expressed by the United Nations”<sup>10</sup>. It plays the leading role on human rights issues and emphasizes the importance of human rights at the international and national levels. It promotes international cooperation for human rights, stimulates and coordinates action for human rights throughout the United Nations system. It promotes universal ratification and implementation of international standards. It supports human rights organs and treaty monitoring bodies. It responds to serious violations of human rights. It undertakes preventive human rights action; promotes the establishment of national human rights infrastructures; and undertakes human rights field activities and operations. There are various independent committees: Committee against Torture; Committee on Economic, Social and Cultural Rights; Committee on Migrant Workers and Committee on the Elimination of Racial discrimination, which foresee the implementation of various conventions.

## **INTERNATIONAL HUMAN RIGHTS INSTRUMENTS, COMMITTEES AND THEIR STATUS IN GCC COUNTRIES**

It will discuss various human rights instruments, committees and GCC countries status therein.

## **DECLARATION ON MINORITIES**

Minorities constitute the backbone of democracy. According to the **Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities** adopted by General Assembly resolution 47/135 of 18 December 1992, one

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<sup>10</sup> <http://193.194.138.196/html/hchr.htm> on 17/05/06

of the basic aims of the United Nations, as proclaimed in the Charter, is to promote and encourage respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion. It reaffirms faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small. It talks to promote the realization of the principles contained in the Charter, the Universal Declaration of Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide; the International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief; and the Convention on the Rights of the Child, as well as other relevant international instruments that have been adopted at the universal or regional level and those concluded between individual states members of the United Nations. It says that the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of states in which they live. According to Article 1, "States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity"<sup>11</sup>. States shall adopt appropriate legislative and other measures to achieve those ends. According to the Declaration, Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination. Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation. Persons belonging to minorities have the right to establish and maintain their own associations. Persons belonging to minorities have the right to establish and

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<sup>11</sup> <http://193.194.138.190/html/menu3/b/d-minoriti.htm> on 16/05/06

maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other states to whom they are related by national or ethnic, religious or linguistic ties. Persons belonging to minorities may exercise their rights, including those set forth in the present Declaration, individually as well as in community with other members of their group, without any discrimination. No disadvantage shall result for any person belonging to a minority as the consequence of the exercise or non-exercise of the rights set forth in the present Declaration. States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law. States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.

Consequently the Declaration states should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue. States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole. States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country. "National policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities"<sup>12</sup>. Programmes of cooperation and assistance among states should be planned and implemented with due regard for the legitimate interests of persons belonging to minorities. States should cooperate on questions relating to persons belonging to minorities, inter alia, exchanging information and experiences, in order to promote mutual understanding and confidence. States should cooperate in order to promote respect for the rights set forth in the present Declaration.

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<sup>12</sup> <http://193.194.138.190/html/menu3/b/d-minoriti.htm> on 16/05/06

In accordance with Article 8 “Nothing in the present Declaration shall prevent the fulfilment of international obligations of States in relation to persons belonging to minorities. In particular, States shall fulfil in good faith the obligations and commitments they have assumed under international treaties and agreements to which they are parties”<sup>13</sup>. The exercise of the rights set forth in the present Declaration shall not prejudice the enjoyment by all persons of universally recognized human rights and fundamental freedoms. Measures taken by States to ensure the effective enjoyment of the rights set forth in the present Declaration shall not prima facie be considered contrary to the principle of equality contained in the Universal Declaration of Human Rights. And nothing in the present Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States. The specialized agencies and other organizations of the United Nations system shall contribute to the full realization of the rights and principles set forth in the present Declaration, within their respective fields of competence.

#### **CONVENTION ON ELIMINATION OF RACIAL DISCRIMINATION**

It is important to mention **International Convention on Elimination of All Forms of Racial Discrimination** considering that the “Charter of the United Nations is based on the principles of the dignity and equality inherent in all human beings, and that all member states have pledged themselves to take joint and separate action, in co-operation with the Organization, for the achievement of one of the purposes of the United Nations which is to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion”<sup>14</sup>. Desiring to implement the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption of practical measures to that end have agreed that as article 1 says that “In this Convention, the term racial discrimination shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which

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<sup>13</sup><http://193.194.138.190/html/menu3/b/d-minoriti.htm> on 16/05/06

<sup>14</sup> [www.bayefsky.com](http://www.bayefsky.com) on 15/05/06

has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a state party to this Convention between citizens and non-citizens. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality”<sup>15</sup>.

Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved”<sup>16</sup>. Each state party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation. Article 2 of the Convention says that each state party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists. Each state party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization. Each state party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division. States parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the

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<sup>15</sup> www.bayefsky.com on 15/05/06

<sup>16</sup> www.bayefsky.com on 15/05/06



full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved. States shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof. States shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law. States shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

States parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other state institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

There shall be established a Committee on the Elimination of Racial Discrimination (hereinafter referred to as the Committee) consisting of eighteen experts of high moral standing and acknowledged impartiality elected by states parties from among their nationals, who shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as of the principal legal systems. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the states parties. Each state party may nominate one person from among its own nationals.

## **CONVENTION ON MIGRANT WORKERS**

**International Convention on the Protection of Rights of all Migrant Workers and their Families** was adopted in 1990. The purpose of this Convention was to discourage illegal migration. "A migrant worker is defined in the Convention as a person who is to

be engaged, is engaged or has been engaged in a remunerative activity in a state of which he or she is not a national”<sup>17</sup>. According to article 7, “states parties undertake, in accordance with the international instruments concerning human rights, to respect and to ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind such as to sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status”<sup>18</sup>. According to article *Article 12*, migrant workers and members of their families shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of their choice and freedom either individually or in community with others and in public or private to manifest their religion or belief in worship, observance, practice and teaching. Migrant workers and members of their families shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of their choice.

It delineates that no migrant worker or member of his or her family shall be arbitrarily deprived of property, whether owned individually or in association with others. Where, under the legislation in force in the state of employment, the assets of a migrant worker or a member of his or her family are expropriated in whole or in part, the person concerned shall have the right to fair and adequate compensation. Migrant workers and members of their families shall have the right to liberty and security of person. Migrant workers and members of their families shall be entitled to effective protection by the state against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions.

Article 18 of the Convention says “migrant workers and members of their families shall have the right to equality with nationals of the state concerned before the courts and tribunals. In the determination of any criminal charge against them or of their rights and

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<sup>17</sup> Symonides, Janusz, Op.cit. p.330.

<sup>18</sup> <http://www.hrweb.org/english/law/cmw.htm> on 15/05/06

obligations in a suit of law, they shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law”<sup>19</sup>.

No migrant worker or member of his or her family shall be held guilty of any criminal offence on account of any act or omission that did not constitute a criminal offence under national or international law at the time when the criminal offence was committed, nor shall a heavier penalty be imposed than the one that was applicable at the time when it was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, he or she shall benefit thereby.

It shall be unlawful for anyone, other than a public official duly authorized by law, to confiscate, destroy or attempt to destroy identity documents, documents authorizing entry to or stay, residence or establishment in the national territory or work permits. No authorized confiscation of such documents shall take place without delivery of a detailed receipt. In no case shall it be permitted to destroy the passport or equivalent document of a migrant worker or a member of his or her family.

In conformity to article 22, migrant workers and members of their families shall not be subject to measures of collective expulsion. Each case of expulsion shall be examined and decided individually. According to article 25 “migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration”<sup>20</sup>. According to convention migrant workers and members of their families shall have the right to form associations and trade unions in the State of employment for the promotion and protection of their economic, social, cultural and other interests. Migrant workers who in the state of employment are not permitted freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere fact of the termination of their remunerated activity prior to the expiration of their work permit, except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were admitted. Such migrant workers shall have the right to seek alternative employment, participation in public work schemes and retraining

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<sup>19</sup> <http://www.hrweb.org/english/law/cmw.htm> on 15/05/06

<sup>20</sup> <http://www.hrweb.org/english/law/cmw.htm> on 15/05/06

during the remaining period of their authorization to work, subject to such conditions and limitations as are specified in the authorization to work.

## CONVENTION ON WOMEN

The **Convention on the Elimination of all Forms of Discrimination against women (CEDAW)**, adopted in 1979 by the UN General Assembly, is often described as an international bill of rights of women. The drafters of the Convention, “had to face difficult task of preparing a text applicable to societies of different cultural characteristics and traditions. The ways in which discrimination against women manifested itself varied from one culture to another. The Convention therefore represents a constructive compromise”<sup>21</sup>. CEDAW “called upon all the UN members states to contribute to the cause of female rights by incorporating the principles of women’s rights and equality between sexes into provisions of international law”<sup>22</sup>. Consisting of a preamble and 30 article, it defines what constitute discrimination against women and set up an agenda for national action to end such discrimination.

The convention defines discrimination against women as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedom, in the political, economic social control, civil or other field”<sup>23</sup>.

By accepting the convention states commit themselves to undertake a series of measures to end discrimination against discrimination against women in all forms, including; “(a) to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women; (b) to establish tribunals and other public institutions to ensure effective protection of women against discrimination; and (c) to ensure elimination of all acts of discrimination against women by persons, organizations or enterprise”<sup>24</sup>.

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<sup>21</sup> Symonides, Janusz, Op.cit. p.234.

<sup>22</sup> Bahmueller, Charles f, *Human Rights violations*, (Salem Press, Pasadena, California, 2003, Vol.2), p.585.

<sup>23</sup> <http://www.un.org/womenwatch/daw/cedaw/> on 16/05/06

<sup>24</sup> <http://www.un.org/womenwatch/daw/cedaw/> on 16/05/06

The convention provides the basis for realizing equality between women and men through ensuring women equal access to, and equal opportunities in, political and public life including the right to vote and to stand for election as well as education, health and employment. States parties agree to take all appropriate measures, so that women can enjoy all their human rights and fundamental freedoms.

The convention is the only human rights treaty which affirms the productive rights of women and targets culture and tradition as influential forces shaping gender role and family relations. It affirms women right to acquire, change or retain their nationality and the nationality of their children. States parties also agree to take appropriate measures against all forms of traffic in women and exploitation of women. The countries who have ratified have to bring annual reports.

## **COVENANT ON CIVIL AND POLITICAL RIGHTS**

**International Covenant on Civil and Political Rights** was adopted in 1966, is another important part of the human rights regime. In accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. Recognizing that these rights derive from the inherent dignity of the human person, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. Considering the obligation of states under the charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms, realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present covenant. According to article 1 of the covenant "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a

people be deprived of its own means of subsistence. The states parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations”<sup>25</sup>.

This Covenant states that each state party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The states which are party to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any state party to the present Covenant. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. No one shall be held in servitude. No one shall be required to perform forced or compulsory labour.

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<sup>25</sup> <http://www.hrweb.org/leal/cpr.html> on 15/05/06

This covenant explains that everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgment. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 12 of the Convention says “everyone lawfully within the territory of a state shall, within that territory, have the right to liberty of movement and freedom to choose his residence. Everyone shall be free to leave any country, including his own”<sup>26</sup>. According to covenant an alien lawfully in the territory of a state party to the present Covenant may expelled there from only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority. All persons shall be equal before the courts and tribunals. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. According to article 18 “everyone shall

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<sup>26</sup> <http://www.hrweb.org/leal/cpr.html> on 15/05/06

have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching”<sup>27</sup>. According to covenant, right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. Article 22 says that everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests. Every citizen will have right to take part in the conduct of public affairs, directly or through freely chosen representatives; to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

## **COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**International Covenant on Economic, Social and Cultural Rights**, article 1 says that “all peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence. The states parties to the present Covenant, including those having responsibility for the administration of Non-

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<sup>27</sup> <http://www.hrweb.org/leal/cpr.html> on 15/05/06



Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations”<sup>28</sup>.

States parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals. The states parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant. The states parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right. The steps to be taken by a state party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual. The states parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work. The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. The right to strike, provided that it is exercised in conformity with the laws of the particular country.

Article 11 says that “the states parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed to improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as

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<sup>28</sup> [http://www.unhchr.ch/html/menu3/b/a\\_ceschr.htm](http://www.unhchr.ch/html/menu3/b/a_ceschr.htm) on 19/05/06

to achieve the most efficient development and utilization of natural resources<sup>29</sup>.” According to covenant It recognizes right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms.

## **CONVENTION AGAINST TORTURE**

**Convention Against Torture and other Cruel, Inhuman or other Degrading Treatment or Punishment**, “was a major triumph for the United nations, as it struck at the internal norms of the nation state”<sup>30</sup>. According to article 1 of the Convention “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions”<sup>31</sup>. According to same convention, each state party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction. There can not be any justification of torture. According to article 3, “No state party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights”<sup>32</sup>.

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<sup>29</sup> [http://www.unhchr.ch/html/menu3/b/a\\_ceschr.htm](http://www.unhchr.ch/html/menu3/b/a_ceschr.htm) on 19/05/06

<sup>30</sup> Op.cit. Bahmueller, Charles f, Vol.1, p.493.

<sup>31</sup> <http://www.hrweb.org/legal/cat.html> on 19/05/06

<sup>32</sup> <http://www.hrweb.org/legal/cat.html> on 9/05/06

Table 1:2

**Status of Major International Human Rights instruments in GCC Countries**

HDI Rank	International Convention on Elimination of Racial Discrimination 1965	International Covenant on Civil and Political Rights 1966	International Covenant on Economic Social and Cultural Rights 1966	Convention on Elimination of All Forms of Discrimination against Women 1979	Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 1984	Convention on Prevention and Punishment of the Crime of Genocide 1948
Qatar	+	+			+	
UAE	+	+		+		
Bahrain	+	+		+	+	+
Kuwait	+	+	+	+	+	+
Oman	+	+				
Saudi Arabia	+	+		+	+	+

Source: Human Development Report 2005, *International Cooperation at a Crossroads: Aid Trade and Security in an Unequal world*, New Delhi, Oxford University Press, 2005, pp.320-321.

+ Ratification, Accession, Succession

As it becomes clear from the table that not all GCC countries have acceded to major international human rights instruments. And those who have acceded do not fully implement the international obligations.

## HUMAN RIGHTS COMMITTEES

### COMMITTEE AGAINST TORTURE

**The Committee Against Torture (CAT)** is the body of independent experts that monitors implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by its state parties. All states parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially one year after acceding to the Convention and then every four years. "The Committee examines each report and addresses its concerns and recommendations

to the State party in the form of concluding observations. In addition to the reporting procedure, the Convention establishes three other mechanisms through which the Committee performs its monitoring functions: the Committee may also, under certain circumstances, consider individual complaints or communications from individuals claiming that their rights under the Convention have been violated, undertake inquiries, and consider inter-state complaints<sup>33</sup>. An Optional Protocol to the Convention will, when it enters into force, create a sub-committee and allow in-country inspections of places of detention to be undertaken in collaboration with national institutions. The Committee meets in Geneva and normally holds two sessions per year consisting of a plenary (of three weeks in May and two weeks in November) and a one-week pre-session working group. The Committee also publishes its interpretation of the content of human rights provisions, known as general comments on thematic issues.

#### **COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**The Committee on Economic, Social and Cultural Rights (CESCR)** “is the body of independent experts that monitors implementation of the International Covenant on Economic, Social and Cultural Rights by its States parties. The Committee was established under ECOSOC Resolution 1985/17 of 28 May 1985 to carry out the monitoring functions assigned to the United Nations Economic and Social Council (ECOSOC) in Part IV of the Covenant. All States parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially within two years of accepting the Covenant and thereafter every five years. The Committee examines each report and addresses its concerns and recommendations to the State party in the form of concluding observations<sup>34</sup>. The Committee cannot consider individual complaints, although a draft Optional Protocol to the Covenant is under consideration which could give the Committee competence in this regard. The Commission on Human Rights has established a working group to this end. However, it may be possible for another committee with competence to consider individual communications to consider issues related to economic, social and cultural rights in the

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<sup>33</sup> <http://www.un.org/english/bodies/cat/index.htm> on 15/05/06

<sup>34</sup> <http://www.ohchr.org/english/bodies/cescr/index.htm> on 16/05/06

context of its treaty. The Committee meets in Geneva and normally holds two sessions per year, consisting of a three-week plenary and a one-week pre-sessional working group. The Committee also publishes its interpretation of the provisions of the Covenant, known as general comments.

### **COMMITTEE ON MIGRANT WORKERS**

**The Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW)** is the body of “independent experts that monitors implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families by its State parties”<sup>35</sup>. It is the newest treaty body which held its first session in March 2004. All States parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially one year after acceding to the Convention and then every five years. The Committee will examine each report and address its concerns and recommendations to the State party in the form of “concluding observations”. The Committee will also, under certain circumstance, be able to consider individual complaints or communications from individuals claiming that their rights under the Convention have been violated once 10 States parties have accepted this procedure in accordance with article 77 of the Convention. The Committee meets in Geneva and normally holds one session per year.

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<sup>35</sup> <http://www.ohchr.org/english/bodies/cmw/index.htm> on 16/05/06

Table 1:1

**Status of Ratification of ILO Instruments by GCC countries**

State	Ratification ILO C-97#	Ratification ILO C-143*	Ratification or accession (a) 1990 Convention©	Signature 1990 Convention
Bahrain	X	X	X	X
Kuwait	X	X	X	X
Oman	X	X	X	X
Qatar	X	X	X	X
Saudi Arabia	X	X	X	X
UAE	X	X	X	X

Table: International Instruments on Migration/Migrants Rights<sup>36</sup>

X= Not Ratified

✓=Ratified

#= ILO Migration for Employment Convention No- 97 of 1949

\*= ILO Migrant Workers (Supplementary Provisions) Convention No- 143 of 1975

©=1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

None of the international labour instruments on migrants have been ratified by GCC countries, which always increase the possibility of human rights violations in GCC countries.

**COMMITTEE TO END DISCRIMINATION**

The **Committee on the Elimination of Racial Discrimination (CERD)** is the body of independent experts that monitors implementation of the Convention on the Elimination of All Forms of Racial Discrimination by its State parties. All states parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially one year after acceding to the Convention and then every two years.

<sup>36</sup> International Labour Organisation reports, ILO, Geneva.

The Committee examines each report and addresses its concerns and recommendations to the State party in the form of “concluding observations”. In addition to the reporting procedure, the “Convention establishes three other mechanisms through which the Committee performs its monitoring functions: the early-warning procedure, the examination of inter-state complaints and the examination of individual complaints”<sup>37</sup>. The Committee meets in Geneva and normally holds two sessions per year consisting of three weeks each. The Committee also publishes its interpretation of the content of human rights provisions, known as general recommendations (or general comments), on thematic issues and organizes thematic discussions.

### **HUMAN RIGHTS INSTITUTIONS IN GCC COUNTRIES**

None of the GCC countries have human rights institutions except few have some rudimentary forms of human rights committees. Qatar Amir, Shayekh bin Khalifa Al Thani, created Human Rights Committee by decree in May 2003. It was part of the package of liberalising reforms that included constitutional referendum, municipal elections, and granting of few formal rights to women. NHRC’s aim is to promote international human rights norms, advise the government on human rights issues, and to examine existing violations. Headed by Deputy Prime Minister Khalid bin Muhammad al-‘Atiyya, the committee has 15 members, including three women and representatives from both civil society and government ministries. In another case of institutional replication, Qatar created in 2003 an Office of human Rights within the Interior Ministry’s Legal Department, supplementing a Human Rights Office already under Foreign Ministry. The NHRC has addressed both the protection and promotion of human rights. The committee members have visited detention facilities and issued recommendations to promote government officials. The NHRC has received human rights complaints including by expatriates, who remain the victim of human rights violations. But its “weak structural foundations may limit its effectiveness”<sup>38</sup>.

In a meeting with visiting human rights delegation Saudi officials vowed to create a National Human Rights Institution (NHRI). In Saudi Arab announcement for creation

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<sup>37</sup> <http://www.ohchr.org/english/bodies/cedr/index.htm> on 16/05/06

<sup>38</sup> Cardenas, Sonia and Andrew Flibbert, “National Human Rights Institutions in the Middle East” *Middle East Journal*, Vol. 59, No.3, Summer, 2005, p.432.

of National Human Rights Institution was made in conjunction with the approval of the Kingdom's first non-governmental organization, the National Human Rights Association. Formally created in March 2004, the NHRA has 41 members including 10 women. "It has mandate to receive public complaints and monitor Saudi compliance with its international commitments.... They (Saudis) also contend that the NHRI will complement the NGO, while coordinating its activities with a new human rights committee within the expanded Shura Council"<sup>39</sup>. But at the same time Saudi Arabia has refused to allow Amnesty International in its territory.

### CONCLUSION

Human rights regime can be explained in terms of implicit or explicit principles, norms, rules and decision making process around which actors' expectations coalesce together in a given area of international relations. Human rights regime involves various institutions and conventions. United Nations is the apex body of human rights. Human Rights Council purposes to address human rights violations, and it is the successor to the United Nations Commission on Human Rights. There are various conventions which are expected to be ratified by international community which have been done in many cases. It is specially true in the case of GCC countries except by few. Universal Declaration of Human Rights 1948 was opposed by Saudi Arab at UN on ground of freedom of conscience and marriage choice question. This convention has still not been implemented in letter and spirit by GCC countries. Convention on Elimination of all Forms of Discrimination against Women-1979, which delineates equal rights for men and women and equal legal protection for men and women, has not been still ratified by Qatar and Oman. Major ILO Conventions, Migration for Employment Convention-97, 1949; Migrant Workers Conventtio-143, 1975; and International Conventions on Protection of all Migrant Workers and their Families-1990, none of these conventions which are crucial for the protection of workers rights have been ratified by GCC countries. Convention on the Prevention and Punishment of the Crime of Genocide-1948 which stresses for punishment against genocide has been ratified only by Bahrain Kuwait and Saudi Arab. Other Gulf nations have not ratified it. "Genocide is not only killing of the

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<sup>39</sup> *ibid.* p. 433.



people of one group but inflicting physical destruction, preventing birth within the group and forcefully transferring children of one group to another”<sup>40</sup>. It is in this case important to ratify and implement it. International Convention on Elimination of Racial Discrimination- 1965 and International Convention on Civil and Political Rights (ICCPR) 1966, are the only convention which has been ratified by the all GCC countries. But basic essence of ICCPR that people should have self determination right and they have right to choose their political system are mirage in GCC countries. International Covenant on Economic and Cultural Rights- 1966, has been ratified only by Kuwait in GCC countries. According to the convention all peoples have right to freely use their economic resources, and the cultural rights of all. This convention is particularly important in the context of minorities in the Gulf. Convention against Torture and other Cruel, Inhuman or Degrading treatment or Punishment 1984, still has not been ratified by UAE and Oman. In the GCC only Qatar has created National Human Rights Commission to advise on human rights questions to the government. Saudi Arab has announced to create a human rights institution. Other Gulf nations do not have any human rights institutions.

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<sup>40</sup>Manoj kumar Sinha, Op.cit. p.1.

## CHAPTER 3

### HUMAN RIGHTS VIOLATIONS IN GCC COUNTRIES

There are three major aspects of violations of human rights in GCC countries. It will particularly discuss violations of civil and political rights, rights of women, minorities and expatriates. I have consulted apart from books and articles, various reports of Human Rights Watch, Bureau of Democracy Report on Labour and Human Rights, and various years Amnesty International Report. Qatar held its first municipal elections in March, in which citizens over the age of 18, including women had the right to vote. "Six women contested but none won seats"<sup>1</sup>. In all of the GCC countries there are the problem of civil and political rights. Women, minorities and migrants face indiscriminate biases in these societies. Because of lack of democratic culture and absence of multiparty system, the question of human rights remains at the mercy of orthodox-authoritarian rulers who claim as 'Shadow of God on Earth'. Saudi Arabia, Bahrain, and UAE were among the countries that "blocked access to one or more political or human rights websites that displeased authorities"<sup>2</sup>. Women suffer "violence at the hands of male relatives, they do not have any means to redress. Foreign workers who are detained by police face torture, prolonged incommunicado detention and forced confession"<sup>3</sup>. Shia Muslims who constitute about 8 percent of the Saudi population, "faced discrimination in employment and religious practices"<sup>4</sup>. According to various Amnesty International Reports scores of dissidents have been arrested in Kuwait. "Hundreds of political prisoners, including possible prisoners of conscience, arrested in 1991 on the charges of collaboration with Iraqi forces during the occupation of Kuwait, remained in custody. Over 100 people, including 13 women, some of whom appeared to be prisoners of conscience, continued to serve prison terms imposed following unfair trials in 1991 and 1992"<sup>5</sup>.

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<sup>1</sup> <http://www.hrw.org/wr2k/Mena.gtm#TopOfPage> on 14/06/06

<sup>2</sup> <http://www.hrw.org/wr2k/Mena.htm#TopOfPage> On 14/06/06

<sup>3</sup> [http://hrw.org/english/docs/2006/01/13/saudia\\_9810.htm](http://hrw.org/english/docs/2006/01/13/saudia_9810.htm) on 14/06/06

<sup>4</sup> <http://www.hrw.org/wr2k1/mideast/saudi.htm> on 14/06/06

<sup>5</sup> *Amnesty International Report 1994*, Amnesty International, London, 1994 p.189.

## KUWAIT

Kuwait is a constitutional, hereditary emirate ruled by the al-Sabah family, which governs in consultation with prominent families and the elected National Assembly. The 1962 constitution grants the Emir executive and legislative authority and permits dissolution of the elected National Assembly by decree. Kuwait has a population of 2.9 million residents, approximately 970 thousand of whom are citizens. During the July 2003 parliamentary elections, the electorate consisted of approximately 143 thousand male citizens, and there were no political parties.

According to 1990 Human Rights Watch Report “A major source of discontent was restrictions on press freedom guaranteed by Article 37 of the Constitution. Since radio and television were owned by the state and usually reflected only government views, Kuwaiti newspapers and the foreign media were the only sources of independent information”<sup>6</sup>. After long struggle in Kuwait “women gained right to vote and stand for political office under a new electoral law which took effect on 14 May”<sup>7</sup>. Civil freedom can be gauged from the fact that authorities arrested 14 people in May 2005 for questioning about their links to the Ummah party, according to Amnesty International 2006.

### CIVIL AND POLITICAL RIGHTS

Civil and political rights have been the complex issue in the Gulf countries. People of Kuwait have limited right to vote. Writ of monarchy rules. It has been noticed that police and members of the security forces reportedly abuse detainees, and there are allegations of torture during interrogation. Police and security forces are more likely to inflict such abuse on noncitizens, particularly non-Gulf Arabs and Asians, than on citizens.

In February 2004 according to Human Rights Watch a citizen journalist claimed security officers beat him with sticks after he was arrested on January 5 on charges of spreading news that harmed the national interest. On May 24, six Islamic militants, whose leader died in custody, suspected of engaging in deadly gun battles with

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<sup>6</sup> [http://www.hrw.org/reports/1990/WR90/MIDEAST.BOU-07.htm#P557\\_134432](http://www.hrw.org/reports/1990/WR90/MIDEAST.BOU-07.htm#P557_134432) on 30/06/06

<sup>7</sup> <http://web.amnesty.org/report2006/kwt-summary-eng> on 12/06/06

security forces in January alleged they had been tortured, including beatings on their backs and on their feet, while in police custody.

Prison conditions varied, and some were poor. The government permitted visits by independent human rights observers. In their April 18 2004 report, the National Assembly's Human Rights Defense Committee (HRDC) reported severe overcrowding, poor sanitation, inadequate containment of infectious diseases, and lack of sufficient medical staff as common problems in the old prison complex.

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. In general police officers must obtain an arrest warrant from state prosecutors or a judge before making an arrest, although in misdemeanor cases the arresting officer may issue them. There were credible reports of police arresting and detaining foreigners without a warrant, based on accusation by a third party.

The law provides for an independent judiciary and the right to a fair trial and states that "judges shall not be subject to any authority"; however, the Emir appoints all judges, and the renewal of judicial appointments is subject to government approval. Judges who are citizens have lifetime appointments; however, many of the judges were noncitizens who held one- to three-year renewable contracts. The Ministry of Justice (MOJ) may remove judges for cause but rarely does so. Foreign residents involved in legal disputes with citizens frequently claimed that the courts showed bias in favor of citizens.

The law provides for individual privacy and the sanctity of the home, and the government generally respected these rights in practice. The law generally requires police to obtain a warrant to search both public and private property; however, it permits searches without warrant if alcohol or narcotics are suspected on the premises or if police are in pursuit of a suspect fleeing the scene of a crime. A warrant may be obtained from the state prosecutor or, in the case of searches of private property, from a judge. The security forces occasionally monitored the activities of persons and their communications.

The constitution provides for freedom of speech and the press "in accordance with the conditions and in the circumstances defined by law"; however, the government

restricted these rights in practice. "The government practiced prepublication censorship, and journalists continued to practice self-censorship."<sup>8</sup>

The press and publications law prohibits the publication of any direct criticism of the Emir or of official government communications with other states and bans material that serves to "attack religions" or "incite people to commit crimes, create hatred, or spread dissension among the public." For violating the law, article 28 provides a maximum imprisonment of six months, increased to one year if repeated, and or a fine. Administrative punishments are also possible, including confiscation, closure, and withdrawal of licenses without a court ruling. The criminal law also contains an array of press-related charges, such as offense to religious sensibilities, public morality, and the "basic convictions of the nation." The MOI threatened to impose penalties against individual publishers and editors believed to have criticized government policies or discussed subjects deemed offensive to Islam, tradition, or the state.

The law provides for freedom of assembly; however, the government restricted this right in practice. Although public gatherings required government approval, the law protects *diwaniyas* (informal weekly social and political gatherings). Many adult male citizens, including members of the government and of the National Assembly, and increasing numbers of female citizens hosted or attended *diwaniyas* to discuss current events. The *diwaniya* system provided an important forum for public debate on economic, political, and social issues. Women also held *diwaniyas* of their own, but such *diwaniyas* were uncommon; a few *diwaniyas* were open to both sexes. The government required a permit for demonstrations, which it issued routinely.

## WOMEN

Human Rights Watch called on Kuwait to revoke laws that discriminate against women and long-term non-citizens of Kuwait. In a report issued before the opening of the Kuwaiti National Assembly on October 28, 1999, Human Rights Watch also called on Kuwait to amend its Penal Code and Printing and Publications Law to protect freedom of expression. The 38-page report of Human Rights Watch 2000, "Promises Betrayed: Denial of Rights of Bidoon, Women, and Freedom of Expression," details Kuwaiti laws

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<sup>8</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61692.htm> on 10/07/06

and practices which systematically discriminate against women and stateless Bidoon. These laws contravene Kuwait's international treaty obligations, including the six human rights treaties that Kuwait has signed since 1968. Human Rights Watch said that Kuwaiti women face severe discrimination in both public and private life. Under Kuwaiti penal law, men who kill female relatives in so-called "honour crimes"<sup>9</sup> serve a maximum three-year sentence and are not prosecuted for murder. Women cannot contract their own marriage or divorce without the agreement of a male guardian or judge, and are barred in practice from many public positions, including serving as judges. "Female domestic workers, who were excluded from the labor law, were particularly vulnerable to physical and sexual abuse by employers. In March, India announced that it had stopped issuing immigration clearances to Indian nationals wishing to work as domestics in Kuwait because of abuses there"<sup>10</sup>. "Women faced widespread discrimination in both law and practice. The Personal Status Law discriminated against women in inheritance rights. The Penal Code reduced or eliminated punishments for violent crimes committed by men against women, and criminalized abortion even when it was necessary to save a woman's life. Women were prohibited from voting and standing for election, and discriminated in relation to the passage of nationality to their spouses and children"<sup>11</sup>.

Violence against women continued to be a serious and overlooked problem. "The law does not specifically prohibit domestic violence, although cases are tried as assault. Each of the country's 83 police stations reportedly received weekly complaints of domestic abuse. The courts have found husbands guilty of spousal abuse; however, most domestic abuse cases are not reported, especially outside the capital. Abusive husbands, if convicted, rarely faced severe penalties"<sup>12</sup>.

There are no shelters for victims of domestic violence. Some noncitizen women married to citizen men reported domestic abuse and inaction or discrimination by police during the year. By law a victim of domestic violence may file a complaint with the police and request that formal charges be brought against the abuser. In practice, however, even with documented evidence of the abuse such as eyewitness accounts,

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<sup>9</sup> <http://www.hrw.org/reports/2000/kuwait/> on 15/05/06

<sup>10</sup> <http://www.hrw.org/wr2k1/mideast/Kuwait.html> on 23/05/06

<sup>11</sup> <http://www.hrw.org/wr2k1/mideast/Kuwait.html> on 23/05/06

<sup>12</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61692.htm> on 16/05/06

hospital reports, and social worker testimony, police officials rarely took into custody perpetrators of domestic violence. An abused woman may petition for divorce based on injury, but the law does not provide clear legal standard as to what constitutes injury. In addition a woman must provide at least two male witnesses (or a male witness and two female witnesses) to attest to the injury committed. Individuals reportedly bribed police officials to ignore charges of domestic abuse.

The law provides that citizens found guilty of crimes that violate moral integrity, such as rape or incest, are forbidden from public employment. However, rape and sexual assault remained serious problems, particularly for domestic servants and other foreign workers. "Shari'a discriminates against women in judicial proceedings, freedom of movement, and marriage. Inheritance is governed by Shari'a, which differs according to the branch of Islam. In the absence of a direct male heir, Shi'a women may inherit all property, while Sunni women inherit only a portion, with the balance divided among brothers, uncles, and male cousins of the deceased"<sup>13</sup>. In case of divorce, a female citizen loses her right to the house regardless of any payments she may have made on the loan. She may continue to reside in the house if she has custody of any minor children resulting from the marriage, but she must move once the children reach the age of 18. A divorced single mother and her minor children or a female citizen married to a noncitizen cannot, by law, qualify for the government housing allowance.

More than four years after ratifying the ICCPR, and six years after ratifying the Convention on the Elimination of All Forms of Discrimination against Women, the Kuwaiti government has made very little effort to modify the numerous provisions in its domestic legislation which discriminate on the basis of sex. In its concluding Observations, the Human Rights Committee reiterated its position that the Covenant's article 2(1) prohibition on discrimination, including discrimination based on sex, and its article 3 guarantee of equality between men and women, are "essential obligations," and thus Kuwait's reservations to them are "without legal effect." Kuwaiti law and practice discriminate against women in violation of the ICCPR. Other laws and practices prohibit women from engaging in public affairs and public service, including voting and standing for election. Further still other laws and practices discriminate against women in relation

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<sup>13</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61692.htm> on 16/05/06

to passing nationality to their spouses and children, and effectively prevent women in some cases from living legally as a family with husbands and adult children who are not recognized as Kuwaiti nationals.

### **Discriminatory Provisions in Personal Status Law**

Disputes involving family law in Kuwait come within the jurisdiction of the personal status divisions in the courts of first instance, appeal, and cassation. The courts apply Personal Status Law 51/1984 to cases involving Sunni Muslims, or non-Muslims when the parties differ in religion or sect. The Personal Status Law, based on the Maliki school of Islamic jurisprudence, discriminates against women in, *inter alia*, giving lesser weight to their testimony; affording them lesser inheritance rights; and assigning spouses unequal rights and responsibilities as to marriage, during marriage and at its dissolution. Judges have wide discretion in applying many provisions of the law, and are free to base their rulings on Maliki texts and doctrine when faced with personal status issues not directly addressed in the law.

Among the most discriminatory provisions in the Personal Status Law are those regarding contracting marriage. "Under the law, a woman is never free to make a marriage decision on her own. Unlike a man, she is not free to contract her own marriage but must have a male guardian (*wali*) contract on her behalf, regardless of her age. Muslim women are prohibited from marrying all non-Muslims, while Muslim men have much greater freedom to choose a spouse"<sup>14</sup>. After the age of twenty-five or upon becoming divorced, widowed, or otherwise not considered to be a virgin, a woman may choose whether to marry, but still may not contract her own marriage. A woman between 15 and 25 years of age (*fata*) may be prohibited by her guardian from marrying, and while she may appeal to the courts she still cannot marry if the court rules against her. In addition, the minimum age for registering a marriage is fifteen for women, two years younger than that of men. Witnesses to the marriage must be Muslim men for the marriage to be valid. During marriage, the law contemplates different rights and responsibilities for women and men, with a number of articles suggesting that wives owe husbands a duty of obedience which can be enforced by the courts. For example, a wife's

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<sup>14</sup> <http://www.hrw.org/reports/2000/kuwait/kuwait-05.htm#p362-79533> on 23/05/06



mobility can be severely restricted, based on her husband's choices. She must move with her husband except if the court rules that it is not in the family's interest that she does so. She may only engage in "permissible work" outside the marital home if it is not contrary to the family's interests, and while the law contemplates that a wife going outside the marital house is not in itself a violation of her duty toward her husband (*nashuz*), it must be for "legitimate reasons." In addition, a man may legally have up to four wives simultaneously, while a woman may only be married to one man. This pattern of discrimination extends to the marriage's dissolution, a process which is ultimately completely out of a wife's control. Under Kuwaiti law, a husband has a unilateral and unconditional right to divorce his wife, as well as recourse to judicial divorce. A wife, however, has only a limited ability to initiate divorce, either through asking her husband to divorce her in exchange for her providing him with financial or other compensation (*khul'*) or through petitioning the court for a judicial divorce. In all cases the decision is in a man's hands - either her husband's or a male judge's. The court will only consider petitions for divorce in a limited number of cases, subject to stringent conditions, with a high standard of proof. Either party can petition for a divorce based on injury, by words or actions, which make continued cohabitation impossible; or based on the husband's testimony that he has not had conjugal relations with his wife for at least four months.

### **Discriminatory Provisions in Penal Code**

While the Personal Status Law does little to help women who wish to part from violent husbands, several provisions of the Penal Code actually condone male violence against women, including so-called "honor killings," by reducing or eliminating penalties for these crimes. Thus, "while the Penal Code mandates execution or life imprisonment in cases of murder, a husband who murders his wife and/or her sexual partner after apprehending them in an adulterous act is only subject to the penalty for manslaughter, namely not more than three years of imprisonment and/or a fine of up to 225KD"<sup>15</sup>. The same article also provides for a reduction in punishment should a man kill his daughter, mother, or sister and/or her partner after apprehending them in a sexual act, regardless of whether the sexual act was consensual. Equally disturbing, a man who kidnaps a woman

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<sup>15</sup> <http://www.hrw.org/reports/2000/kuwait/kuwait-05.htm#p362-79533> on 23/05/06

may be excused from all punishments, on the condition that he marries the victim with her guardian's consent. Women who commit equivalent crimes do not benefit from similar reductions.

### **Right to Vote**

Article 25 of the ICCPR guarantees to every citizen the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions to take part in the conduct of public affairs, directly or through freely chosen representatives; to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors. Article 22 of the Covenant provides for the right to freedom of association with others. "Kuwait's election law denies all women the right to vote. It restricts male voting rights to male citizens over twenty-one years of age, with a further prohibition on voting by naturalized male citizens prior to the passage of thirty years from the date of their naturalization. Only those with voting rights can stand for parliamentary or local elections. These restrictions to rights to freedom of expression and assembly, combined with the ban on voting and standing for election, significantly undermine women's ability to "take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves, a right and opportunity guaranteed every citizen in article 25(a) of the Covenant"<sup>16</sup>.

### **MINORITY/ BEDOON**

A campaign by the Kuwaiti government against Shi'a community activists, started in September 1989, continued in 1990. "Following bomb attacks that left one man dead during the annual Muslim pilgrimage in July 1989, Saudi Arabia arrested hundreds of Shi'a pilgrims, including many Kuwaitis. Sixteen Kuwaiti nationals were later executed in Saudi Arabia, on September 21. In protest, Kuwaiti Shi'as demonstrated in Kuwait demanding the return of the bodies of those killed and family visits for those still in detention. The Kuwaiti government responded by arresting more than 20 Shi'a leaders in

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<sup>16</sup> <http://www.hrw.org/reports/2000/kuwait/kuwait-05.htm#p362-79533> on 23/05/06

September and November. Seyed Muhammed Baqer al-Musawi, a religious leader, was arrested, charged with planning terrorist acts and held incommunicado for most of his time in jail from September 23, 1989 until he was acquitted -- with three other defendants -- by a court on June 18, 1990. There were credible reports that the four were subjected to torture and ill-treatment by the State Security Intelligence Service"<sup>17</sup>. Thirteen more Shi'a leaders were arrested on February 14 and 18, and released on bail on March 3, without being formally charged with any crime.

In September 1989, the government dissolved the board of directors of the Social and Cultural Association -- the only officially sanctioned philanthropic Shi'a society in Kuwait. Its deputy director, Khalil Musa al-Musa, was later arrested, on November 13, 1989, and detained for a month without charge, then rearrested in February 1990 and released in March on bail, again without ever being charged with a crime. In 1990, the government continued to use the State Security Court for state security offenses. The Court is staffed by part-time judges who almost always meet in secret and whose decisions are not open to appeal.

It has been argued by some in Kuwait, including privately by government officials, that certain restrictions on freedom of the press, parliamentary debate and Shi'a activity were imposed partly in deference to the Iraqi government. Others put the blame on pressure from conservative Saudi Arabia. "A 1980 law prohibits the naturalization of non-Muslims; however, citizens who were Christians before 1980 were allowed to transmit their citizenship to their descendents"<sup>18</sup>. By law a non-Muslim man must convert to Islam when he marries a Muslim woman. The Shi'a minority remained disadvantaged in the provision of mosques, access to Shi'a religious education, and representation in higher levels of the government. Approximately 287 thousand citizens (30 percent of the total) and an estimated 100 thousand noncitizen residents are Shi'a. There were approximately 36 Shi'a mosques and approximately 1,070 Sunni mosques. Five Shi'a were elected to the 50-seat National Assembly in 2003, compared with 6 Shi'a in the previous assembly. On June 15, the government appointed the first woman, a Shi'a, to the Council of Ministers. "Unlike in the previous year, the country's Shi'a population was not

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<sup>17</sup> [http://www.hrw.org/reports/1990/WR90.BOD.07.htm#P557\\_134432](http://www.hrw.org/reports/1990/WR90.BOD.07.htm#P557_134432) on 24/05/06

<sup>18</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61692.htm> on 16/05/06

permitted to publicly celebrate one of their religious traditions. In February the government denied a request to reenact the Battle of Karbala, but Shi'a openly celebrated the holiday with police protection at mosques and tents"<sup>19</sup>. Members of religions not sanctioned in the Koran, such as Baha'is, Buddhists, Hindus, and Sikhs, may not operate official places of worship as these religions lack legal status. However, they were allowed to worship privately in their homes without government interference.

Kuwait practices a system of institutionalized discrimination against its residents known as Bedoons, longtime inhabitants who have been denied Kuwaiti citizenship and are now being rendered stateless. Barred from employment, denied education for their children, restricted in their movements, and living under the constant threat of arbitrary arrest and deportation, Bedoons are a community of "have nots" in one of the wealthiest countries in the world. At the same time, "tens of thousands of Bedoons who fled Kuwait during the Iraqi occupation have been barred from returning to their country"<sup>20</sup>. After decades of treating Bedoons as citizens and repeatedly promising to confer formal citizenship on them, the Kuwaiti government declared them illegal residents. Kuwaiti "government delegation repeatedly sought to justify Kuwait's discriminatory treatment of Bedoon by referring to them as "illegal residents" who may in some cases be deserving of a "humanitarian" solution, but who have few if any claims to rights in Kuwait"<sup>21</sup>.

This position contravenes Kuwait's obligations under the ICCPR, which requires all states parties to guarantee effective enjoyment of the rights set out in the treaty "*to all individuals within its territory and subject to its jurisdiction,*" and to do so without discrimination. "More than 100,000 long-term residents of Kuwait faced widespread and systematic discrimination, and tens of thousands more were prevented from returning to Kuwait. Known as Bedoon, they had lived in Kuwait for decades, even generations, unable to obtain Kuwaiti nationality, and without effective nationality elsewhere. Kuwait severely restricted their rights to leave and return to Kuwait, to marry and found a family, and to work, and their children's rights to education, to be registered immediately after birth, and to acquire a nationality. Bedoon also suffered disproportionately from discrimination on the basis of sex, particularly with regard to issues of nationality and

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<sup>19</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61692.htm> on 16/05/06.

<sup>20</sup> <http://www.hrw.org/reports/1995/Kuwait.htm> on 16/05/06.

<sup>21</sup> [http://www.hrw.org/reports/2000/kuwait/kuwait-04-htm#p168\\_23590](http://www.hrw.org/reports/2000/kuwait/kuwait-04-htm#p168_23590) on 24/05/06.

naturalization, marriage, divorce, and family reunification. According to the Ministry of Interior, some 37,000 Bedoon became eligible to apply for naturalization following amendments to the Nationality Law on May 16. However, the law limited the number who would be granted nationality in any given year, raising concern that even those eligible could continue to face discrimination for many years to come”<sup>22</sup>. Many Bidoon are unable to provide documentation proving sufficient ties to the country or present evidence of their original nationality, as they are truly stateless.

## **MIGRANTS**

Millions of migrants who work in Saudi Arabia and neighboring countries “lack real legal protection”<sup>23</sup>, Human Rights Watch said. In letters to the six states of the Gulf Cooperation Council (GCC) -- Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates -- Human Rights Watch strongly urged their leaders to endorse the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Despite repeated government promises to amend labor laws and to crack down on the illegal trade in work visas, more than one million foreign workers faced serious restrictions on their ability to organize and bargain collectively, and had few legal remedies against abuses by employers. Many foreign workers pay Kuwaiti brokers thousands of dollars in return for what they believe legal work visas, only to find no jobs awaiting them. Foreign labourers employed as domestics constitute one-third of the noncitizen workforce and are specifically excluded from the right to associate and organize. “The labour law discriminates against foreign workers by denying them union voting rights, barring them from leadership positions, and permitting them to join unions only after five years of residence, although the KTUF stated that this requirement was not widely enforced in practice”<sup>24</sup>. Foreign workers recruited with traded visas not only faced possible prosecution for being engaged in illegal employment, but also were extremely vulnerable to extortion by employers, sponsors, and middlemen. Visa and residence trading resulted in a growing number of unemployed foreign workers in the country. Many were unable to earn enough money to pay the illegal fees often

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<sup>22</sup><http://www.hrw.org/wr2k1/mideast/Kuwait.html> on 23/05/06.

<sup>23</sup> <http://hrw.org/english/docs/2003/04/11/saudia5596.htm> on 16/05/06.

<sup>24</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61692.htm> on 16/05/06.

charged by their local sponsors or local labour recruitment agencies in exchange for residency and work permits. Many suffered from abuse or mistreatment at the hands of their unofficial employers. Abused foreign workers employed on the basis of illegally traded visas typically failed to report incidents of abuse or poor working conditions to authorities for fear of arrest and/or deportation. The government did not make significant progress in efforts to stop this practice, such as by closing front companies for visa traders. Many foreign workers who met the minimum income threshold often waited months for government approval to sponsor their immediate family members to the country. Domestic servants and other unskilled foreign workers in the private sector frequently worked in excess of 48 hours, often with no day of rest and no annual leave. Many foreign workers were forced to live in "housing camps," which generally were overcrowded and lacked adequate cooking and bathroom facilities. Labourers were housed 10 or more to a room in squalid conditions, a number without access to adequate running water. These workers were allowed off the camp compound only on company transport or by permission of the employer. Many foreign workers went heavily into debt and could not afford to return home. "Domestic Labour department officers were assigned to liaise specifically with the Indian, Indonesian, Philippine, and Sri Lankan embassies on labour problems. The law requires companies to make a bank deposit for each expatriate worker hired, which the government could confiscate to reimburse employees for unpaid back-wages. The government reportedly compensated Bangladeshi workers by this method after their April 24 protest over unpaid back wages received widespread media coverage"<sup>25</sup>.

According to Amnesty International 2006, "migrant workers, protested against working conditions, non payment of wages, arbitrary pay cuts, ill treatments, unsatisfactory living conditions and non renewal of residence permits. Women migrant workers were specially were vulnerable to abuse because of discriminatory legislations and practices and exclusion of domestic workers from protection of labour laws. They suffered gender based violence including rape"<sup>26</sup>.

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<sup>25</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61692.htm> on 16/05/06.

<sup>26</sup> <http://web.amnesty.org/report2006/kwt-summary-eng> on 14/06/06.

## SAUDI ARABIA

Saudi Arabia is a monarchy ruled by the Al Saud family without elected representative institutions at the national level. On August 1, 2004, King Abdullah bin Abd al-Aziz Al Saud ascended the throne upon the death of his half-brother, King Fahd bin Abd al-Aziz Al Saud. As the custodian of Islam's two holiest sites in Mecca and Medina, the government bases its legitimacy in governance according to its interpretation of Islamic law (Shari'a). The Basic Law sets out the system of government, rights of citizens, powers, and duties of the state, and provides that the Koran and the Traditions (*Sunna*) of the Prophet Muhammad serve as the country's constitution. The government generally maintained effective control over the security forces.

Saudi Arabia is ruled by the Basic Law. The Basic Law sets out the system of government, rights of citizens, powers, and duties of the state, and provides that the Koran and the Traditions (*Sunna*) of the Prophet Muhammad serve as the country's constitution. The government generally maintained effective control over the security forces. According to Bureau of Democracy Report on Human Rights and Labour 2005, human rights issues have not historically been the subject of public discourse but have become increasingly prominent during the year. The government's human rights record remained poor overall with continuing serious problems, despite some progress. The following human rights problems were reported in Saudi Arabia : “no right to change the government; infliction of severe pain by judicially sanctioned corporal punishments; beatings and other abuses; arbitrary arrest; incommunicado detention; denial of fair public trials; exemption from the rule of law for some individuals and lack of judicial independence; political prisoners; infringement of privacy rights; significant restriction of civil liberties--freedoms of speech and press, assembly, association, and movement; no religious freedom; widespread perception of corruption; lack of government transparency; legal and societal discrimination against women, religious and other minorities; strict limitations on worker rights”<sup>27</sup>. According to 1993 Human Rights Watch Report “On May 28, in preparation for the annual Muslim pilgrimage *al-Hajj*, Saudi Minister of Interior Prince Nayef ibn Abdel Aziz issued a ban on using, displaying or bringing into the country books, photographs, and leaflets of political, propagandistic or

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<sup>27</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61698.htm> on 25/05/06.

ideological aim. Aimed primarily at the Iranian pilgrims, permitted to return to the country for the first time since 1987 when a major disturbance left over four hundred dead, the ban was strictly enforced against all political literature and Shi'a religious documents. Two petitions submitted to King Fahd by Shi'a clergymen in 1991 complained about a ban on the use of religious tracts required for the exercise of Shi'a religious rites"<sup>28</sup>.

On September 12, 2004, the Council of Ministers approved the establishment of the Human Rights Commission, a specialized governmental entity, aimed at protecting and enhancing human rights as well as raising public awareness and ensuring the implementation of human rights in line with Shari'a rule. The Islamists 1993 decision to establish "Committee for the Defence of Legitimate Rights" (CDRL) prompted a government crackdown, which culminated in 1994 with the arrests of al-Hawali and Al-Awda. Their followers' reactions- a protest rally in al-Awda's hometown of Burayda- triggered another wave of arrests. "Most CDRL members were imprisoned; two, Muhammad al-Masari Sad al-faqih, fled to London where they established a branch of movement in exile"<sup>29</sup>. CDLR's stated purpose was, "to protect human rights"<sup>30</sup>. Still the old form of punishment is prevalent in Saudi Arabia, "judicial punishment of flogging and amputation continued to be imposed. Mikhail Cornelius Mikhail, an Egyptian member of Coptic Orthodox Church, received 500 lashes before his release and deportation to Egypt"<sup>31</sup>.

## CIVIL AND POLITICAL RIGHTS

Saudis do not have democracy. They can not choose their government nor they can form their political parties. Authoritarian system puts the civil and political rights of the people there at the alter of Sultans. During the year the religious police (*Mutawwa'in*) harassed, abused, and detained citizens and foreigners of both sexes. These incidents are most common in the central region, including the capital, Riyadh, and less frequent in the eastern and western regions of the country. The government sentenced criminals to

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<sup>28</sup> [http://www.hrw.org/reports/1992/WR92/MEW2-02.htm#P415\\_151501](http://www.hrw.org/reports/1992/WR92/MEW2-02.htm#P415_151501) on 30/06/06.

<sup>29</sup> *ICG Middle East Report N 31, International Crisis Group*, 21 September 2004, p.5.

<sup>30</sup> Ansari M.H, Op.cit. p20.

<sup>31</sup> *Amnesty International report 1994*, Published by Amnesty International, London, 1994, p.255.



punishment according to its interpretation of Shari'a. "Corporal punishments provided by law included public execution by beheading, amputation, lashing, and other measures deemed appropriate by the judicial authorities, including potentially as eye-gouging."<sup>32</sup> By year's end of 2004, the press reported approximately 86 executions. Executions were for killings, narcotics-related offenses, rape, and armed robbery. The authorities punished repeated thievery and other repeated offenses by amputation of the right hand and left foot. The government also punished convicted persons by lashing. According to January 6, 2004 press reports, two young citizens, Barjis bin Faleh and Abdulrahman bin Haif, were sentenced to prison terms (12 years and 1,200 lashes and 2 years and 200 lashes) for orchestrating, filming with a camera phone and distributing a video on the Internet of a foreign driver sexually assaulting a 17-year-old girl.

Many jails remained overcrowded, and some detainees were allowed family visits only after a significant period of time after their initial incarceration. The Basic Law prohibits arbitrary arrest and detention and limits the period of arrest to five days without charges being filed; however, ambiguities in implementation of the law and lack of due process give the minister of interior broad powers to detain persons indefinitely. By royal decree, the religious police have the authority to detain persons for no more than 24 hours for violations of the strict standards of proper dress and behaviour that they themselves determine; however, they often exceeded this limit before delivering detainees to the police. The authorities may detain without charge persons who publicly criticize the government, or may charge them with attempting to destabilize the government. Political detainees arrested by the internal security service were held incommunicado in special prisons during the initial phase of an investigation. "Political protestors arrested and detained in December 2004 were held for weeks prior to being charged"<sup>33</sup>.

The government did not provide information regarding political prisoners or respond to inquiries about them. The government conducted closed trials for persons who may have been political prisoners and in other cases has detained persons incommunicado for long periods while under investigation. On August 8, 2004, King Abdullah pardoned imprisoned political reformers and dissidents Abdullah al-Hamid,

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<sup>32</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61698.htm> on 10/07/06

<sup>33</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61698.htm> on 10/07/06

Matrouk al-Faleh, and Ali al-Demaini as well as their lead attorney, Abdul Rahman al-Lahem, who had been arrested on November 6, 2004, and held without charge.

The Basic Law guarantees the inviolability of homes and the privacy of correspondence. The Criminal Procedure Law requires authorities to obtain a warrant prior to searching a residence, or a court order prior to perusing personal correspondence or documents.

The government continued to restrict freedom of speech and press and censored articles that the government deemed negative towards it, the royal family or Islam. Authorities routinely censored foreign print sources. However, during the year, there was regular discussion in the media of social, economic, and political issues previously considered taboo such as reform, trafficking in persons, prostitution, homosexuality, the religious establishment, women's rights, and human rights. The print media were censored and privately owned, but subsidized, and some were owned, financially backed by, or had other close ties to members of the royal family. Journalists also practiced self-censorship, refraining from direct criticism of government officials. A media policy statement and a national security law both prohibit the dissemination of criticism of the royal family and the government. The government media policy statement urged journalists to uphold Islam, oppose atheism, promote Arab interests, and preserve cultural heritage. The Ministry of Information appoints, and may remove, all editors in chief. The government also provided guidelines to newspapers regarding controversial issues.

The authorities continued to ban government employees from criticizing the government. The government enforced existing laws based on Article 12 of the Basic Law that provides the state with the authority to "prevent anything that may lead to disunity, sedition, and separation."<sup>34</sup> Accordingly, all public employees are enjoined from "participating, directly or indirectly, in the preparation of any document, speech or petition, engaging in dialogue with local and foreign media, or participating in any meetings intended to oppose the State's policies." The Basic Law does not address freedom of assembly, and the government strictly limited it in practice and prohibited all public demonstrations. Only a few members of the ruling family had a voice in the choice of leaders or in changing the political system. The government ruled on civil and

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<sup>34</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61698.htm> on 10/07/06

religious matters within limitations established by the Basic Law, religious law, tradition, and the need to maintain consensus among the ruling family and religious leaders. During the year for the first time since 1963, the government organized elections throughout the country for half of the seats on municipal advisory councils.

## WOMEN

According to Amnesty International 2006 “women remained subject to discrimination in law and practice and were adequately protected against domestic and family violence. According to some female rights activists there were such constraints that not more than 5% of females were in paid employment. Exclusion of women from participation in municipal elections was widely criticized by women rights activists”<sup>35</sup>. The government has failed to uphold its obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), to which it acceded in September 2000. “The government banned women from running for office or voting in the municipal elections held earlier this year, in contravention of CEDAW, which guarantees women the right to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies. The government has not permitted women to participate in the formulation of government policy on equal terms with men”<sup>36</sup>. Women are excluded, for instance, from the weekly *majlis*, where senior members of the royal family listen to the complaints and proposals of Saudi citizens.

Religious police detain women of many nationalities for actions such as riding in a taxi with a man who are not their relative, appearing with their heads uncovered in shopping malls, and eating in restaurants with males who are not their relatives. The Criminal Procedure Law provides persons under investigation the right to a lawyer and permits lawyers to present arguments in criminal courts. The law also provides the right to inform convicts of their right to appeal rulings. A woman's testimony does not carry the same weight as that of a man. In a Shari'a court, the testimony of one man equals that of two women. Under the Hanbali interpretation of Shari'a followed in the kingdom, judges may discount the testimony of persons who are not practicing Muslims or who do

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<sup>35</sup> <http://web.amnesty.org/report2006/sau-summary-eng> on 14/06/06.

<sup>36</sup> <http://org/english/doc/2006/02/07/saudia12622.htm> on 16/05/06.

not adhere to Hanbali doctrine. Legal sources reported that testimony by Shi'a was often ignored in courts of law or was deemed to have less weight than testimony by Sunnis.

Female parties to court proceedings such as divorce and family law cases generally had to deputize male relatives to speak on their behalf. In the absence of two witnesses, or four witnesses in the case of adultery, confessions before a judge were almost always required for criminal conviction--a situation that has led prosecuting authorities to coerce confessions from suspects by threats and abuse. Women must obtain written permission from a male relative or guardian before the authorities allow them to travel abroad. The requirement to obtain permission from a male relative or guardian applied also to foreign women married to citizens or to the minor and single adult daughters of citizen fathers. Since 2001 women have been able to obtain their own identity cards; however, the government required that they obtain permission to receive a card from a male relative or guardian. Shari'a prohibits abuse and violence against all innocent persons, including women. Although the government did not keep statistics on spousal abuse or other forms of violence against women, such violence and abuse appeared to be common problems based on anecdotal and media information available regarding physical spousal abuse and violence against women. Hospital workers report that many women are admitted for treatment of injuries that apparently resulted from spousal violence; hospitals now are required to report any suspicious injuries to authorities.

Law and custom discriminate against women. Although they have the right to own property and are entitled to financial support from their husbands or male relatives, women have few political or social rights and are not treated as equal members of society. There are no active women's rights groups. Women were restricted in their use of public facilities when men were present. Women must enter city buses by separate rear entrances and sit in specially designated sections. Women risked arrest by the religious police for riding in a vehicle driven by a male who was not an employee or a close male relative. Women also were subject to discrimination under Shari'a as interpreted in the country, which stipulates that daughters receive half the inheritance awarded to their brothers. While Shari'a provides women with a basis to own and dispose of property independently, women often were constrained from asserting such rights because of

various legal and societal barriers, especially regarding employment and freedom of movement. In a Shari'a court, "the testimony of one man equals that of two women"<sup>37</sup>. Although Islamic law permits as many as four wives, polygamy was becoming less common due to demographic and economic changes. Islamic law enjoins a man to treat each wife equally. In practice, such equality was left to the discretion of the husband.

Women must demonstrate legally specified grounds for divorce, but men may divorce without giving cause. In doing so, men were required to pay immediately an amount of money agreed upon at the time of the marriage, which serves as a one-time alimony payment.

Women who demonstrate legal grounds for divorce also were entitled to this alimony. If divorced or widowed, a Muslim woman normally may keep her children until they attain a specified age: seven years for boys and nine years for girls. Children over these ages were awarded to the divorced husband or the deceased husband's family. Numerous divorced foreign women continued to be prevented by their former husbands from visiting their children after divorce. "Women had access to free but segregated education through the university level. They constituted more than 58 percent of all university students but were excluded from studying such subjects as engineering, journalism, and architecture. Men may study overseas; the law provides that women may do so only if accompanied by a spouse or an immediate male relative"<sup>38</sup>. Women who wished to enter nontraditional fields were subject to discrimination. Women may not accept jobs in rural areas if there are no adult male kin present with whom they may reside and who agree to take responsibility for them.

Most workplaces in which women were present were segregated by gender. Frequently, contact with a male supervisor or client was allowed only by telephone or fax machine. However, the degree of segregation varied by region, with the central region having the most restrictions and the eastern and western regions being more relaxed. Despite gender segregation, the law provides women the right to obtain business licenses for work in fields that might require them to supervise foreign workers, interact with male clients, or deal on a regular basis with Government officials.

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<sup>37</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61698.htm> on 25/05/06.

<sup>38</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61698.htm> on 25/05/06.

## MINORITIES

On November 14, 2004, a court in Qassim Province ordered 750 lashes, as well as a prison sentence of 40 months and a ban from teaching for Muhammad al-Harbi, a high school chemistry teacher, reportedly after accusations of "trying to sow doubt in a student's creed<sup>39</sup>" by speaking positively about his views on Christianity, Judaism, and analyzing the causes of terrorism. There continued to be cases in which religious police arrested and detained Christians for practicing their faith; some were charged with holding services in their homes, while others were apparently arrested arbitrarily. According to Amnesty International 2006, "In April, police and members of committee for the Propagation of Virtue and Prevention of Vice reportedly stormed a house in Riyadh and arrested 40 people of different nationalities, including Pakistani and Filipino migrants, for practicing Christianity"<sup>40</sup>.

The government continued to discriminate and commit abuses against members of the Shi'a Muslim minority. Government security forces, mostly religious police, reportedly arrested Shi'a based on scant suspicion, held them in custody for lengthy periods, and then released them without explanation. The government permitted Shi'a Muslims to use their own legal tradition to adjudicate cases involving domestic issues, inheritance, and Islamic endowments. "Islamic law considers Hindus to be polytheists and on this basis justify discrimination in calculating accidental death or injury compensation. According to the country's Hanbali interpretation of Shari'a, once fault is determined by a court, a Muslim male receives 100 percent of the amount of compensation determined, a Jew or Christian male receives 50 percent, and all others receive 1/16 of the amount a male Muslim receives. Women receive 50 percent of what men receive in each of these categories<sup>41</sup>".

The government continued to prohibit the public practice of non-Muslim religions and put limits on religious practices of Shi'a and Sufi sects. In general, the government has stated that non-Muslims are able to worship privately, but have not offered clear guidelines as to what constitutes private worship. In 1991 "The arrest of Christian

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<sup>39</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61698.htm> on 25/05/06.

<sup>40</sup> <http://web.amnesty.org/report2006/sau-summary-eng> on 14/06/06.

<sup>41</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61698.htm> on 25/05/06.

worshippers for the peaceful expression of their religious beliefs continued. In June and October at least nine nationals of the Philippines were arrested in Riyadh and Abha following their participation in prayer meetings. Abha was a Robinson Azucana Articulo, an office manager, who was arrested in June and held in Malaz prison in Riyadh<sup>42</sup>. Conversion by a Muslim to another religion is considered apostasy. Apostasy is a crime under Shari'a and, according to the government's interpretation, is punishable by death. In October 2004 a citizen, whom international NGO and local media reports claimed had converted to Christianity, was arrested in Hofuf and jailed. No further information was available at year's end. The Shi'a Muslim minority, estimated to be between 10 and 15 percent of the citizen population, lived mostly in the Eastern Province, although a significant number also resided in Medina in the Western Province and in Najran in the southwest. Its members were subjected to officially sanctioned discrimination of various forms. Many Shi'a view the ultimate jurisdiction of Shari'a (Sunni) courts over intra-Shi'a family matters as impinging on their religious freedom. An estimated 700 thousand Sulaimani Ismailis, a subset of Shi'a Islam, live in the country, primarily in Najran. Reportedly, at least 57 Sulaimani Ismailis are still in jail following rioting in Najran in 2000. Allegedly, the government discriminated against them by prohibiting them from having their own religious books, allowing religious leaders to declare them unbelievers, denying them government employment or restricting them to lower-level jobs, and relocating them from the Southwest to other parts of the country or encouraging them to emigrate.

Shi'a were not allowed to teach religion to classes higher than the elementary grade level, and the government did not allow Shi'a to open private schools for girls. There was discrimination in the availability of facilities for religious activities. The government issued permits to construct a few Shi'a mosques. The government prohibited public non-Islamic religious activities. Non-Muslim worshippers risked arrest, lashing, deportation, and abuse for engaging in overt religious activity that attracted official attention. Christians were detained for practicing their religion. For example, "the newspaper *Al-Jazeera* reported that 40 Pakistani citizens, including one Muslim, were arrested on April 12 after conducting Christian religious services in an apartment in

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<sup>42</sup>*Amnesty International Report 1994*, Amnesty International, London, 1993, p.255.

Riyadh”<sup>43</sup>. However, during the year, there were fewer raids, arrests, and detentions of Christians throughout the country than in the past. Proselytizing by non-Muslims, including the distribution of non-Islamic religious materials such as Bibles, was illegal.

The government continued to provide citizenship under Article 9 of the law on naturalization to some of the thousands of native residents who live in the country without possessing citizenship of any nation. They are collectively known as "Bidoons" "without" in Arabic, are descendants of foreign-born fathers who emigrated to the country before citizenship was institutionalized; and rural migrants whose parents failed to register their births. Because of their lack of citizenship, they were denied employment and educational opportunities, and had a limited ability to travel. Bidoons are among the poorest residents of the country and, reside at the margins of society.

## MIGRANTS

The government required noncitizens to carry legal resident identity cards (*Iqamas*), which contained a religious designation for "Muslim" or "non-Muslim." There were reports that individual members of the religious police pressured sponsors not to renew employment-based legal resident identity cards of individuals based on religious affiliation. "The majority of noncitizens in the kingdom were low-paid workers from developing countries (for example, the Philippines, India, and Ethiopia)"<sup>44</sup>. Foreigners typically were allowed to reside or work in the country only under the sponsorship of a citizen or business. Media reports in October announced an easing of this restriction for businessmen. The government required citizens and foreign residents to carry identification cards. It did not permit foreigners to change their workplace without their sponsor's permission. The Basic Law prohibits employers from retaining foreign workers' passports; however, in practice most sponsors reportedly often retained possession of foreign workers' passports. Foreign workers must obtain permission from their sponsors to travel abroad. If sponsors were involved in a commercial or labor dispute with foreign employees, they may ask the authorities to prohibit the employees from departing the country until the dispute is resolved. In some contract disputes, sponsors used this as a

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<sup>43</sup><http://www.state.gov/g/drl/rls/hrrpt/2005/61698.htm> on 25/05/06.

<sup>44</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61698.htm> on 25/05/06.



pressure tactic to resolve disputes in their favor by forcing employees to accept nominal amounts of the money owed to them or by having foreign employees deported.

Foreign embassies continued to receive many reports that employers abused foreign women working as domestic servants. Some embassies of countries with large domestic servant populations maintained safe houses to which their citizens may flee to escape work situations that included forced confinement, withholding of food, nonpayment of salaries, beating and other physical abuse, and rape. Foreign laborers', including domestic workers', passports were often illegally retained by their employers and can sometimes result in forced labor. Foreign nationals who have been recruited abroad have, after their arrival in the country, been presented with work contracts that specified lower wages and fewer benefits than originally promised. A reportedly small number of noncitizen women were thought to engage in prostitution, comprising a minor element of the trafficking problem in the kingdom.

There were many reports of workers whose employers refused to pay several months, or even years, of accumulated salary or other promised benefits. More foreign workers than in the past went to labor courts, which regularly ruled in favor of the workers. However, this was a long and difficult process and it was difficult to enforce judgments. Labor courts, while generally fair, sometimes took many months to reach a final appellate ruling, during which time the employer could prevent the foreign laborer from leaving the country. Often noncitizen workers engaged in a court case against their employers cannot legally work, placing an additional burden on them and compelling a negotiated settlement. Another tactic was for an employer to delay a case until a worker's funds were exhausted, and the worker was forced to withdraw his case in exchange for the employer allowing the worker to return to his/her home country.

While there is no official minimum wage for citizen workers. "For noncitizen workers, there was no official minimum wage. Where they exist, bilateral agreements set wages. Individual contracts also set wages which vary according to the type of work performed and the nationality of the worker"<sup>45</sup>.

There are at least "one million women from Indonesia, the Philippines, and Sri Lanka working legally in some of the lowest-paying jobs in Saudi Arabia. The

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<sup>45</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61698.htm> on 25/05/06.

overwhelming majority of them are domestic workers in private households. Others are employed as hairdressers, beauticians, seamstresses, and maintenance staff in gender-segregated public and private facilities. Smaller numbers of women from Africa and other Asian countries are also employed in these and other low-status jobs. Women and men in private domestic service in Saudi Arabia are not entitled to protections under the kingdom's labor law"<sup>46</sup>. Forced confinement of low-paid women migrant workers leaves them particularly vulnerable to sexual abuse, rape, and the possibility of contracting HIV/AIDS from male perpetrators. Women who have been victimized sexually must cope first with their own psychological trauma and possible physical injuries. In one case of discrimination, "Nour Miyati, an Indonesian woman employed as a domestic worker, was taken by her employer to a Riyadh hospital suffering from serious injuries which necessitated amputation of her fingers. She apparently alleged that her employer had tied her up for a month in a bathroom and assaulted her"<sup>47</sup>.

## BAHRAIN

In 2002, the government adopted a constitution that reinstated a legislative body with one elected chamber, the Council of Representatives (COR), and one appointed chamber, the Shura Council. Also in 2002, citizens selected representatives to the COR in free and fair multiparty elections. The constitution provides that the king is head of the executive, legislative, and judicial branches of the government. According to Bureau of Democracy Report 2005, the following human rights problems were reported: "inability to change the government; political parties prohibited; impunity; restrictions on civil liberties--freedoms of speech, press, assembly, and association; lengthy pretrial detention; lack of judicial independence; allegations of corruption in the judicial system; discrimination based on gender, religion, sect, and ethnicity; infringement of citizens' privacy rights; restrictions on freedom of religion and of movement; violence against women; trafficking and restrictions on labor rights"<sup>48</sup>. It has been asserted by 1999 Human Rights Watch report as well that "Individuals, associations, and trade and professional organizations

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<sup>46</sup> [http://hrw.org/reports/2004/saudi0704/5.htm#\\_toc75678057](http://hrw.org/reports/2004/saudi0704/5.htm#_toc75678057) on 25/05/06.

<sup>47</sup> <http://web.amnesty.org/report2006/sau-summary-eng> on 14/06/06.

<sup>48</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61686.htm> on 16/05/06.

continued to face severe restrictions on freedom of expression, association, and assembly”<sup>49</sup>.

Almost all citizens belong to the Shi'a and Sunni sects of Islam, with the Shi'a constituting approximately 70 percent of resident citizens. However, Sunnis predominate politically and economically. The royal family is Sunni and is supported by the armed forces and the security services, both of which contain very few Shi'a, and influential Sunni and Shi'a merchant families. Twenty-one Shura Council members were Shi'a Muslims and seventeen were Sunni. Five of the 20 cabinet ministers were Shi'a.

According to Amnesty International Report 1994 scores of arrests have taken place of political dissidents, “around 40 political prisoners, including possible prisoners of conscience, continued serving long prison terms imposed after unfair trials in previous years. Sporadic arbitrary arrests took place, principally of members of the majority of Shi'a community”<sup>50</sup>.

#### **CIVIL AND POLITICAL RIGHTS**

Bahrain does not have democracy, nor multiparty system. Hospitality to different ideas is the essence of democracy which lacks in Bahrain. Authoritarian system has little respect for civil and political rights in the Kuwait. Although constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. “Police must inform a misdemeanor suspect of the charges against him and transfer him to the Public Prosecutor's Office within 48 hours of arrest”<sup>51</sup>. A felony suspect must be charged and transferred to the Public Prosecutor's Office immediately. Within seven days of his arrest a detainee must appear before a judge in the Public Prosecutor's Office to determine the viability of continued detention regarding the case. If the judge decides the suspect is a flight risk or is a danger to society, he may rule for continued detention up to a maximum of 45 days while the investigation is carried out. At the end of 45 days the case must be reviewed by a second judge who may rule for continued detention up to a maximum of 45 days. This process may continue through reviews by a third and fourth judge, but detention may not exceed six months.

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<sup>49</sup> <http://www.hrw.org/wr2k/Mena-02.htm> on 29/06/06

<sup>50</sup> *Amnesty International Report 1994*, Amnesty International, London, 1994, p.66.

<sup>51</sup> <http://www.state.gov./g/drl/rls/hrrpt/2005/61686.htm> on 10/07/06

The constitution provides for a nominally independent judiciary; however, the judiciary was not independent, and courts were subject to government pressure regarding verdicts, sentencing, and appeals. The constitution provides that the king appoint all judges by royal decree. The king also serves as chairman of the Supreme Judicial Council, the body responsible for supervising the work of the courts and the public prosecution. The constitution does not provide a legislative branch confirmation process for judicial appointees nor does it establish an impeachment process.

The constitution provides for freedom from arbitrary interference with privacy, home, and correspondence except under the provisions of the law and under judicial supervision; however, the government continued to infringe on citizens' right to privacy. The government carried out some illegal searches. Telephone calls and personal correspondence remained subject to monitoring. Police informer networks were extensive and sophisticated.

The constitution provides for freedom of speech and of the press, but the government placed limitations on the exercise of these rights. The election law prohibits speeches at most public locations and limits the areas where campaign materials can be placed. In 2002, the king decreed a press law. The government began implementing the law but later "froze" it due to a public outcry. Although suspended, the law was enforced at the government's discretion. The suspended press law provides for restricted freedom of speech and press. The law provides for prison sentences in three general categories of offenses: criticizing the state's official religion; criticizing the king; and inciting actions that undermine state security. In addition, the law allows fines up to \$5,225 (2,000 dinars) for 14 other offenses, including publicizing statements issued by a foreign state or organization before obtaining the consent of the minister of information; publishing any news reports that may adversely affect the value of the national currency; reporting any offense against the head of a state that maintains diplomatic relations with Bahrain; or publishing offensive remarks towards an accredited representative of a foreign country because of acts connected with the person's position.

Local press coverage and commentary on international issues was open, and discussion of local economic and commercial issues also was relatively unrestricted. Newspapers covered opposition politics in detail and also published Friday mosque

sermons, both Shi'a and Sunni, even when critical of the government. However, there was both censorship and self-censorship. Representatives from the Ministry of Information actively monitored and blocked local stories on sensitive matters, especially those related to sectarianism, national security, or criticism of the royal family, the Saudi royal family, and judges. At the same time, newspaper coverage of a wall built illegally by a senior royal family member in a Shi'a village resulted in the government ordering the wall's removal. Public demonstrations over foreign policy, unemployment, personal status laws, housing shortages, human rights abuses, and other issues were covered in the print media but not always on government-owned television. Radio and television broadcasts in Arabic and Farsi from countries in the region were received without interference.

The Political Rights Law of 2002 “regulates election campaigns and prohibits election meetings at worship centers, universities, schools, government buildings, and public institutions. The government periodically limited and controlled political gatherings.<sup>52</sup>” On February 10 2004, a second constitutional conference was held, but only representatives of the four political societies that had boycotted the 2002 elections attended. The media reported that several other political societies were involved in the early planning for the conference, including Al-Minbar (Muslim Brotherhood) political society. However, disagreements over the agenda and the perception that the boycotting societies would not accept the views of the others resulted in Al-Minbar and the other political societies voluntarily withdrawing their participation in the conference. There were allegations that the police confiscated posters and banners advertising the conference.

The constitution provides for the right of free association; however, the government limited this right. The government does not allow the formation of political parties, though it has authorized political societies through the new Political Societies Law of July to run candidates and participate in other political activities. There were no government candidates in the 2002 elections. The Political Rights Law and the Election Law, both promulgated in 2002, restrict the freedoms of speech and association. Approximately 250 trained local volunteers from Bahrain Transparency Society, BHRS, and others not affiliated with any political society, observed both municipal elections and

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<sup>52</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61686.htm> on 10/07/06

both rounds of the parliamentary elections. They reported that the election campaigning and voting was generally free and fair. They also reported that some candidates were not allowed to visually observe ballot counting and that there was incomplete reporting of election results.

## **WOMEN**

Women have the right to vote and run for public office. Women accounted for 52 percent of voters in the 2002 municipal council election. The government did not publish the percentage of women voters in the legislative election. No women were elected in either election. The king has appointed six women to the Shura Council. Spousal abuse of women was widespread, particularly in poorer communities. In August 2004, a prominent clinical psychologist conducted a scientific study of 605 women of varying ages, social statuses, and educational backgrounds, and concluded that 30 percent of the country's married women had been subjected more than once to verbal, physical, or psychological spousal violence. "There were very few instances of women seeking legal redress for violence, and there was little public attention towards or discussion of the problem. Incidents usually were kept within the family. No government policies or laws explicitly addressed violence against women. Rape is illegal and the press reported some cases of men being arrested for rape"<sup>53</sup>. The law does not address spousal rape. Although the number of convictions was not available, during the year there were 331 cases of sex-related crimes referred to the public prosecutor, including sexual harassment, sexual assault, and rape. In 2004, 374 cases were referred to the public prosecutor's office. Amnesty International 2006, "urged the Saudi government to adopt legislation to prevent and punish violence against women and amend domestic Decree 56 to ensure that there is no impunity for officials who have perpetrated or acquiesced in torture and other cruel and inhuman or degrading treatment"<sup>54</sup>.

Shi'a and Sunni women have the right to initiate a divorce; however, religious courts may refuse the request. Women of either sect may own and inherit property and may represent themselves in all public and legal matters. In the absence of a direct male

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<sup>53</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61686.htm> on 16/05/06.

<sup>54</sup> <http://web.amnesty.org/report2006/bhr-summary-eng> on 14/06/06.

heir, Shi'a women may inherit all property. Sunni women without a direct male heir inherit only a portion as governed by Shari'a; the balance is divided among the brothers or male relatives of the deceased. In practice, better-educated families use wills and other legal maneuvers to ameliorate the negative effect of these rules. In divorce cases, the courts routinely grant Shi'a and Sunni mothers custody of daughters under age nine and sons under age seven. Custody usually reverts to the father once the children reach those ages. Regardless of custody decisions, the father retains guardianship, or the right to make all legal decisions for the child--until the child reaches the legal age of 21. A non-citizen woman automatically loses custody of her children if she divorces their citizen father. A Muslim woman legally can marry a non-Muslim man if the man converts to Islam. In such marriages, the children are automatically considered to be Muslim.

“Labor laws prohibit discrimination against women; however, discrimination existed in the workplace, including inequality of wages and denial of opportunity for advancement”<sup>55</sup>. The influence of religious traditionalists sometimes has hampered women's constitutional rights despite their participation in the work force.

## **MINORITIES**

The constitution declares Islam as the official religion, and all other religious groups must obtain a permit from the Ministry of Islamic Affairs in order to operate and hold religious meetings. Depending on a group's activities, it may also need approvals from the Ministry of Social Development, the Ministry of Information, and/or the Ministry of Education. There are numerous Christian churches of different denominations, four Sikh temples, and several official and unofficial Hindu temples located in Manama and its suburbs. The only synagogue has been closed since 1948. The government funds, monitors, and subjects all official religious institutions to some controls. The government may appropriate or withhold funding in order to reward or punish particular individuals or places of worship although reports of this were not common.

The government rarely interferes with what it considers legitimate religious observances. The government permitted public religious events, most notably the large

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<sup>55</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61686.htm> on 16/05/06

annual two-day national Shi'a holiday of Ashura, but police closely monitored these gatherings. There were no restrictions on the number of citizens permitted to make pilgrimages to Shi'a shrines and to holy sites in Iran, Iraq, and Syria. The government monitored travel to Iran and scrutinized carefully those who chose to pursue religious study there. "Proselytizing by non-Muslims is illegal and the government prohibited anti-Islamic writings"<sup>56</sup>.

Discrimination against the majority Shi'a population remained a problem. Sunnis received preference for employment in sensitive government positions and in the managerial ranks of the civil service. The defense and internal security forces were predominantly Sunni. Shi'a citizens were allowed to hold posts in these forces, though not positions of significance. Shi'a consistently complained of discrimination, especially in public sector jobs and positions at the university. Although the percentage of Shi'a students was close to the relative Shi'a population in the country, only about 40 percent of university faculty was Shi'a. In the private sector, Shi'a citizens were employed in lower paid, less skilled jobs. Shi'a still composed a disproportionately high percentage of the country's unemployed. Educational, social, and municipal services in most Shi'a neighborhoods, particularly in villages, were inferior to those found in Sunni urban communities.

In 2002 National Elections opposition groups claimed that the naturalization process was politically driven to manipulate demographics for voting purposes and to keep Shi'a out of the police and defense forces, which are allegedly dominated by naturalized Sunnis from foreign countries. Although naturalization requirements and process are clearly defined, they were not applied impartially, and adjudication of naturalization applications was not transparent. Shi'a and non-Arab applicants reportedly experienced longer delays in the processing of their cases.

The government "drew the electoral districts in both the municipal council and the legislative elections to protect Sunni interests by creating several districts with small populations likely to elect a Sunni candidate. In contrast, districts where a Shi'a candidate

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<sup>56</sup> <http://www.state.gov./g/drl/rls/hrrpt/2005/61686.htm> on 16/05/06.



was likely to win were drawn to include large numbers of voters, a formula that diluted the voting strength of the Shi'a community”<sup>57</sup>.

The Ministry of Islamic Affairs has repeatedly denied a Baha'i congregation a license to function. The ministry views Baha'ism as an inauthentic offshoot of Islam and blasphemous, and it therefore refuses to recognize the congregation. The Baha'i congregation continued to practice its faith without government interference.

## **MIGRANTS**

It was not uncommon for foreign women working as domestic servants to be beaten or sexually abused by their employers and recruiting agents. Numerous cases were reported to local embassies, the press, and the police; however, most victims were too intimidated to sue their employers, although they had the right to do so. If the victim brings a suit against the employer, the plaintiff cannot leave the country for the duration of the case. The Migrant Worker Protection Society (MWPS) has supported several victims who have taken their cases to court, but awards to victims were reportedly very low. According to Bureau of Democracy report 2005, in 2003 Anita, a 28-year-old Indian domestic servant, was hospitalized after being abused by her employer for 3 months. She had received less than one month's full pay. She sued her employer for damages and back pay. By year's end the case was still not resolved. Although Anita has repeatedly indicated her desire to return to her family in India, she was not permitted to travel unless her former employer signs Anita's exit papers.

The law does not specifically prohibit trafficking in persons, and there were reports that some foreign workers were recruited for employment on the basis of fraudulent contracts and then forced to work under conditions different from what was promised. According to government statistics, foreigners make up approximately 60 percent of the workforce. “Workers from Southeast Asia, South Asia, Ethiopia, and the former Soviet Union and Eastern Bloc reported being forced into conditions that amounted to trafficking”<sup>58</sup>. Some of these victims reported being sexually exploited or being forced to work as prostitutes; however, the most common forms of trafficking in

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<sup>57</sup> <http://www.stategov./g/drl/rls/hrrpt/2005/61686.htm> on 16/05/06.

<sup>58</sup> <http://www.stategov./g/drl/rls/hrrpt/2005/61686.htm> on 16/05/06.

persons involved unskilled construction laborers and domestic workers. There are approximately 50,000 foreign housemaids working in the country, and labor laws do not apply to domestic workers.

Up to half of low and unskilled expatriate workers were subjected to contract substitution and this was often due to the duplicity of recruiting agents in the worker's home country. Victims of trafficking experienced withholding of passports by employers, alteration of contracts without their consent, nonpayment of salaries, inadequate meals, physical abuse, and/or extremely long working hours. There were also allegations from runaway housemaids that some recruitment agencies make it a practice to rape incoming housemaids.

Bureau of Democracy 2005 reports that, in March, Indian tailor Madhu Babu committed suicide after his employer, a factory that makes clothing for J.C. Penney, allegedly held him in solitary confinement for 15 days when he contracted chicken pox and then forced him to work while he was still sick. According to same report the Embassy of the Philippines reported that 210 distressed Filipino workers were repatriated in the first 6 months of the year. The workers claimed that they faced a range of problems including maltreatment, physical and sexual abuse, and non-payment of salary. The Philippine Embassy's shelter for victims of abuse reported that it received 466 individuals (mostly women, but also a number of men) who ran away from their sponsors for reasons of alleged abuse. Statistics on other nationalities were not available.

The Workers Trade Union Law grants workers, including non-citizens, the right to form and join unions. The law provides for the right to organize and bargain collectively. Unions can be formed at establishments of any size. Employers and the government are required to treat unions as independent juristic entities. The law states that the right to strike is a legitimate means for workers to defend their rights and interests; however, the law also restricts this right. "The law requires arbitration before a vote to strike and that three-quarters of a union's members approve the strike in a secret ballot"<sup>59</sup>. It is not clear whether the arbitration is binding.

Foreign workers, in many cases arrived in the country under the sponsorship of an employer and then switched jobs while continuing to pay a fee to their original sponsor.

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<sup>59</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61686.htm> on 16/05/06.

This practice made it difficult to monitor and control the employment conditions of domestic and other workers. The government issued new regulations granting foreigners more freedom to change jobs, but the process is legally cumbersome and many foreign workers remain unaware of their rights and obligations under the law. After one year in a position, a foreign worker is allowed to break this contract and look for other work. Prospective employees must present the new employer with a "No Objection Certificate" (NOC) from the previous employer. After two years in a position, expatriate employees may change jobs locally without the approval of the original sponsor and within the duration of their contract period, provided the original employer was notified in writing months in advance. Many foreigners have been unable to obtain NOCs to get a new job.

It was estimated that there were "50,000 foreign housemaids working in the country who are predominantly of Sri Lankan, Indonesian, Indian, Bangladeshi and Filipino origins. During the year, there were several incidents of seriously abused housemaids reported in the press"<sup>60</sup>. Housemaids who have no embassy representation in the country (Indonesian and Sri Lankan) are often subject to the worst types of physical and sexual abuse. With no diplomatic mission to protect them and no established victim assistance shelter, runaway housemaids have often been returned by untrained police to abusing employers.

The Society for the protection of Migrant Workers' Rights, a group made up of Bahrainis and expatriates, has been issued a licence by the Ministry of Labour and Social Affairs. It has said, the group is "dedicated to helping migrant workers through difficult situations and restoration of their basic rights,"<sup>61</sup> The group works mainly with housemaids and labourers who face abuse in the workplace. The group will focus on helping preventing abuse, counterselling and rehabilitation of workers, the statement said. A key plan is to run a halfway house for abused maids who have nowhere to go when they run away from their employers. The volunteers formally worked as Migrant Workers Group under the now disbanded Bahrain Centre for Human Rights (BCHR).

As far as Indian migrant workers are concerned Indian diplomatic mission are taking active interest in checking exploitation of workers. Paramjeet Singh Sahai and

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<sup>60</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61686.htm> on 16/05/06.

<sup>61</sup> Gulf News, Gulf 13, Dubai, 31/12/04.

Krishan Chand write that “Labour Attaches have been appointed in major receiving countries in the Gulf. In other cases, Consular Officers perform such functions. They frequently visit work places and inspect living conditions of migrants. Special steps have been taken by the missions in Gulf countries. The missions in Gulf countries maintain an advisory for intending migrants. The Consul General of India at Jeddah has prepared an exhaustive advisory, which can serve as a model for missions in other countries. The NRI community is also playing an important role, with Indian Associations abroad migrant workers in distress. NRI’s in Qatar have set up Indian community Benevolent Fund”<sup>62</sup>.

### QATAR

Qatar is a monarchy governed by the ruling al-Thani family through Emir Sheikh Hamad bin Khalifa al-Thani, who deposed his father in 1995. Shari'a (Islamic law) is the main source of legislation, and the Emir generally legislates after consultation with leading citizens, an arrangement institutionalized in the appointed 35-member Advisory Council (Majlis al-Shura) that assists the emir in formulating policy. The new constitution, which came into force on June 6, provides for continued hereditary rule by the emir's branch of the al-Thani family. The constitution provides that, after elections, expected in 2007, the Advisory Council will possess direct legislative power. In April 2003 citizens elected all 29 members of an advisory Central Municipal Council whose members serve a four-year term. While the elections were generally regarded as free and fair, only 30 percent of eligible voters participated. The condition of human rights has not been commendable. Amnesty International 1994 and other reports talk about arbitrary arrests made by Qatari authorities. Its report of 95 talks about “two prisoners of conscience were arrested and held without trials for several weeks”<sup>63</sup>.

According to the US State Department’s Bureau of Democracy Report 2005, although there were improvements in a few human rights areas, serious problems remained and new ones emerged. The following human rights problems were reported:

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<sup>62</sup> Ahn Pong-Sul (ed), *Migrant Workers and Human Rights: Out- Migration from South Asia*, (International Labour Organisation, Geneva, 2004), pp.81-82.

<sup>63</sup> *Amnesty International report 1994*, Published by Amnesty International, London, 1994, p.246.

- “• restriction of right of citizens to peacefully change their government
- civil liberties: restricted freedoms of speech, press, assembly, and association
- limited freedom of religion
- government revocation of citizenship
- government corruption and lack of transparency
- legal discrimination against women
- trafficking in persons
- severely restricted worker rights.<sup>64</sup>”

### **CIVIL AND POLITICAL RIGHTS**

In Qatar also civil and political rights remain at the mercy of the monarchs in the country. It does not have democracy. It does not have multi party system. Qatari law prohibits torture, and there were no reports that government officials employed torture. However, the government administered most corporal punishment prescribed by its interpretation of Islamic law. Amputation was not allowed. Punishments were not administered publicly. The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions in practice; however, these rights were restricted by Law No. 17 implemented in 2002, which was used to "protect society." In other cases, the government detained persons, who, after having been stripped of their nationality, lacked legal residence status in the country.

In practice criminal suspects are charged within 48 hours and must appear before a judge within 4 days of their arrest. The judge may order the suspect released, remanded to custody to await trial, held in pretrial detention pending investigation, or released on bail. Judges may also extend pretrial detention for one week at a time to allow the authorities to conduct investigations. The accused is entitled to legal representation throughout the process. There were no provisions for state-funded legal counsel for indigents. Suspects who were detained in security cases generally were afforded access to counsel; however, they may be detained indefinitely while under investigation.

The law provides for freedom of speech and of the press; however, the government restricted these rights in practice. In addition, journalists continued to self-

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<sup>64</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61697.htm> on 16/05/06.

editor due to social and political pressures when reporting on government policies, the ruling family, and relations with neighboring states. Although citizens expressed many of their views freely and in public, they avoided discussing sensitive political and religious issues. The much larger foreign population did not express itself as freely or as publicly. During the year the government supported a series of public debates, called the "Doha Debates,"<sup>65</sup> addressing political issues of the day, such as separation of mosque and state and regional democratic reform. The government did not prosecute anyone for the expression of views considered offensive.

Customs officials screened and censored imported print and electronic media for items on government policies, pornography, materials deemed hostile to Islam, and the ruling family, but officials no longer blocked the personal importation of non-Islamic religious items. The law provides for criminal penalties and jail sentences for libel. All cases involving the media fall under the jurisdiction of the criminal courts.

Law No. 18 of 2004 provides for and regulates freedom of assembly; however, a permit is required for such public gatherings. A number of restrictions and conditions must be met in order to acquire a permit, one of which is the permission of the public security director general, whose decision is immune to appeal. The government generally did not allow political demonstrations and there were none during the year. However, a peaceful demonstration following the March theatre bombing was allowed to take place. Law No. 12 of 2004 regulates the right to form private societies and professional associations, and the government severely limited this right in practice.

The law prohibits forced exile of citizens. However, the government revoked the citizenship of as many as six thousand persons, principally from the Al-Ghufran branch of the Al-Murra tribe, who the government claimed possessed Saudi citizenship.

The emir exercises most executive powers, including appointment of cabinet members. In 2003 citizens elected all 29 members of the Central Municipal Council, which addresses local issues such as street repair, green space, trash collection, and public works projects. Its role is to advise the Minister of Municipal Affairs and Agriculture. The council does not have the authority to change policy. The elections were

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<sup>65</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61697.htm> on 10/07/06

generally regarded as free and fair, although only 30 percent of eligible voters participated.

## **WOMEN**

According to Amnesty International 2006, “women remained subject to gender discrimination under a range of laws and practices. Women must obtain approval from their husband or guardian before traveling, and children of Qatari women who marry foreign nationalities do not qualify Qatari citizenship”<sup>66</sup>. According to Bureau of Democracy Report 2005, a total of 318 cases of domestic abuse against women were reported during the year; however, there were no publicized arrests or convictions for domestic violence. The maximum penalty for rape is death. Shari'a provides no punishment for spousal rape. Foreign domestic servants experienced sexual harassment and maltreatment; however, most domestic servants did not press charges for fear of losing their jobs.

Traditions and the interpretation of Shari'a restricted activities of women. The government adhered to an interpretation of Shari'a that recognizes that Muslims have the automatic right to inherit from their Muslim spouses; however, non-Muslim spouses (invariably wives, since Muslim women cannot legally marry non-Muslims) do not inherit unless their spouse formally wills them a portion (up to one-third of the total) of their estates. A Muslim husband similarly does not automatically inherit the property of a non-Muslim wife. Muslim wives have the right to inherit from their husbands. Women may inherit more or less than other male family members depending on their relation to the deceased; however, in the cases of siblings, sisters inherit only one-half as much as their brothers. In cases of divorce, young children usually remain with the mother, regardless of her religion, unless she is found to be unfit. Interpretations of Shari'a stipulate that girls remain with their mother until the age of 16 and 14 for boys. The tendency is to allow girls to remain with their mothers until marriage, and there is greater flexibility for boys.

Women may attend judicial court proceedings but generally were represented by a male relative; however, women may represent themselves. “The testimony of two women

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<sup>66</sup> <http://web.amnesty.org/report2006/qat-summary-eng> on 14/06/06.

equals that of one man”<sup>67</sup>, but the courts routinely interpreted this on a case-by-case basis. A non-Muslim woman is not required to convert to Islam upon marriage to a Muslim, but many make a personal decision to do so. A noncitizen woman is not required to become a citizen upon marriage to a citizen. Children born to a Muslim father are considered to be Muslim.

## **MINORITIES**

The constitution provides for freedom of worship in accordance with the law and the requirements of protecting the public order and morality; however, the government continued “to prohibit proselytizing of Muslims by non-Muslims and placed some restrictions on public worship”<sup>68</sup>. Of the non-Muslim religions, the government permitted only Christians to rent space to hold their services publicly. However, adherents of other faiths may privately practice their religion.

The government has given legal status to Catholic, Anglican, Orthodox, Coptic, and many Indian Christian denominations; other Christian congregations may request recognition. However, the government does not allow the building of any new places of worship without permission. The government provided congregations with registration numbers that allow them to open bank accounts and sponsor clergy for visas. In May representatives of Christian churches in the country signed an agreement with the government for a 50-year lease on a large tract of property on the outskirts of Doha on which they will erect six churches at their own expense.

The government regulated the publication, importation, and distribution of non-Islamic religious literature; however, individuals were allowed to import Bibles and other religious items for personal use. Government officials only monitored Islamic religious literature and copies of the Koran. Religious materials for use at Christmas and Easter were available readily in local shops. However, Bibles were not available in Arabic.

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<sup>67</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61697.htm> on 16/05/06.

<sup>68</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61697.htm> on 16/05/06.



## MIGRANTS

The average wage of noncitizen workers did not provide a decent standard of living for a worker and family. According to Planning Council statistics, the average monthly wage in 2001 was \$795 (2,902 riyals). The law prescribes a 48-hour workweek with a 24-hour rest period, although most government offices followed a 36-hour workweek. Employees, who worked more than 48 hours per week, or 36 hours per week during the holy month of Ramadan, were entitled to overtime pay. Government offices and major private sector companies adhered to this law; however, it was not observed with respect to unskilled laborers and domestic and personal employees, the majority of whom were foreigners. Many such workers frequently worked 7 days per week, and more than 12 hours per day with few or no holidays, no overtime pay, and no effective way to redress grievances.

Some employers mistreated foreign domestic servants, predominantly those from South Asia, Indonesia and the Philippines. Some foreign embassies provided temporary shelter for 48 hours to their nationals who left their employers as a result of abuse or disputes before transferring the case to local government officials. According to source country embassies, the majority of cases were resolved amicably within 48 hours. Those not resolved within 48 hours were transferred to the Criminal Evidence and Investigation Department of the Ministry of Interior for a maximum of seven days. Cases not resolved within seven days were transferred to the court. "The embassies of the Philippines and Indonesia combined received a total of 600 complaints from housemaids alleging mistreatment by their employers during the year. Complaints included sexual harassment, physical torture or torment, overwork, imprisonment, and maltreatment. Abused domestic servants usually did not press charges for fear of losing their jobs"<sup>69</sup>. According to Indonesian officials, a total of 553 Indonesian housemaids ran away from their sponsors during the year.

The Penalty Law of 2004 prohibits forced or compulsory labor, including by children; however, foreign workers in some cases were employed under circumstances that constituted forced labor. More than three-quarters of the workforce were foreign workers who, dependent on a single employer for residency rights, were vulnerable to

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<sup>69</sup> <http://www.state.gov/drl/rls/hrrpt/2005/61697.htm> on 16/05/06.

abuse. For example, employers must give consent before exit permits are issued to any foreign employee seeking to leave the country. Some employers temporarily withheld this consent to force foreign employees to work for longer periods than they wished. Unskilled workers and domestic servants were particularly vulnerable to nonpayment or late payment of wages. During the year compulsory labor by children occurred. Noncitizens were not eligible to form worker or general committees.

### UNITED ARAB EMIRATES

The seven Emirate rulers constitute the Federal Supreme Council, the highest legislative and executive body. Traditional rule in the emirates generally is patriarchal, with political allegiance defined in terms of loyalty to the tribal leaders, to the leaders of the individual emirates, and to the leaders of the federation. There are no democratically elected institutions or political parties. There are no general elections; however, citizens may express their concerns directly to their leaders through traditional consultative mechanisms, such as the open *majlis*, or council. A consultative body, the Federal National Council (FNC), consists of 40 advisors appointed by emirate rulers for two-year terms. Conditions of women, minorities and expatriates in UAE can be delineated as follows.

**Amnesty International** talks of “Four prisoners of conscience, all Indian nationals, continued to serve sentences imposed for allegedly insulting Islam, while six others, also Indian nationals, were released pending an appeal. Prisoners of conscience, all Indian nationals remained imprisoned on account of their involvement in a play staged at the premises of the Indian Association in Sharjah in May 1992. The play was considered by the authorities to be insulting to the Prophet Mohammad and Jesus”<sup>70</sup>. There are frequent executions in UAE, Amnesty International urged the authorities to replace executions with other forms of punishment.

### CIVIL AND POLITICAL RIGHTS

In UAE people do not have right to vote. There is no multi party system. It is monarchy where civil and political rights remain at the mercy of the rulers. Despite all there were no reports that the government or its agents committed arbitrary or unlawful killings.

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<sup>70</sup> *Amnesty International Report 1994*, Published by Amnesty International, London, 1994, p. 302.

There were no reports of politically motivated disappearances. The constitution prohibits arbitrary arrest and detention; however, there were reports that the government held persons in official custody without charge; and that the government charged individuals but denied them a preliminary judicial hearing within a reasonable period. The law permits indefinite incommunicado detention without appeal. The law prohibits arrest or search without reasonable belief, but the government did not always observe these provisions in practice. There were credible reports that security forces failed to obtain warrants in many cases. Indefinite detention without charge is permitted upon judicial review. There is no formal system of bail; however, authorities can release detainees temporarily who deposit money, an important document such as a passport, or an unsecured personal guarantee statement signed by a third party. Those arrested on non-security charges were generally allowed to telephone third parties while in detention.

The constitution provides for an independent judiciary; however, its decisions are subject to review by the political leadership. “The judiciary, composed largely of contracted foreign nationals potentially subject to deportation, was not generally considered independent”<sup>71</sup>. The law prohibits women from serving in the judiciary. The constitution does not provide accused persons the right to a speedy trial, but does provide the right to a fair public trial. Civil defendants at times demanded same-day disposition of the cases filed against them. Authorities generally brought criminal defendants to trial within two to three months, with the exception of more slow-moving drug-related cases, in which authorities are required to inform the office of the ruler for the emirate in which the offense was committed. There were credible reports that these cases often took more than six months to go to trial. Defendants have a limited right to legal counsel. Defendants are presumed innocent until proven guilty. All trials are before judges, not juries, and trials are public, except for national security cases and those deemed by the judge likely to harm public morality. By law all prosecutions are conducted in Arabic; the defendant has no right to a translator.

Article 30 of the constitution provides for freedom of speech and of the press; however, the government restricted these rights in practice. The UAE Print and Publication Law prohibits, under penalty of imprisonment, criticism of the government,

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<sup>71</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61701.htm> on 10/07/06

ruling families, and friendly governments, as well as other statements that threaten social stability; however, the law was rarely enforced because journalists practiced self-censorship. The government tries complaints against journalists under the Penal Code. Two of the country's newspapers, *al-Ittihad* and *al-Bayan*, were government-owned. The ministry is informed of the appointment of editors and is responsible for issuing editors their press credentials. The Press and Publications Law governs press content and contains a list of proscribed subjects. Government officials reportedly warned journalists when they published material deemed politically or culturally sensitive. In “2002 de facto ban prohibiting 10 prominent intellectuals from publishing opinion pieces in the country's Arabic and English language media continued”<sup>72</sup>.

Article 33 of the constitution provides for freedom of assembly and association. Organized public gatherings require a government permit. “No permits were given for organized public gatherings for political purposes”<sup>73</sup>. In practice, the government did not regularly interfere with informal gatherings held without a government permit in public places, unless there were complaints. There are no political organizations, political parties, independent human rights groups, or trade unions . All nongovernmental organizations (NGOs) are required to register with the Ministry of Labor and Social Affairs.

## **WOMEN**

There were very few women in senior government or business positions. There were no female members of the FNC or the judiciary. The Federal Judicial Authority law prohibits women from working as judges or public prosecutors. During the year 2005, there were 32 women serving as diplomats in the Ministry of Foreign Affairs, comprising approximately 10 percent of the diplomatic corps. Although there was no law prohibiting women from being diplomats, no women served as diplomats prior to 2001. In Sharjah, 7 women served on the 40-seat Consultative Council and 2 women served as directors of local departments. In the other emirates there were no women in non-federal senior government positions.

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<sup>72</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61701.htm> on 10/07/06

<sup>73</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61701.htm> on 10/07/06

There is broad legal and societal discrimination against women. Shari'a, or Islamic law, governs the personal status of women, but civil law governs their activities in the civic and commercial sphere. "The government was generally not effective in enforcing women's rights and protecting women from abuse"<sup>74</sup>.

Domestic abuse against women has been a pervasive problem, with one study in February 2004, indicating that as many as 66 percent of all women permanently residing in the UAE had been subjected to domestic abuse. Almost 34 percent of respondents age between 18 to 30 claimed to have been abused by a family member. And over 50 percent in the same group of respondents said that they witnessed their mothers being abused in the home. Abuse and rape are criminal offenses, and offenders are prosecuted and penalized. There were press reports of spousal abuse, including a case reported in July 2004, in which a man was convicted for beating his wife to death, although he was only found guilty of involuntary manslaughter because the court found that he was within his rights to beat her as a form of discipline. Forcible rape in the UAE is punishable by death under the Penal Code, but is often not recognized in Shari'a courts. Assault without intent to kill is punishable by 10 years in prison, seven years if it only results in disability, and one year if only resulting in temporary injury.

The law protects women from verbal abuse and harassment from men outside the family; however, "male guardians within the family have a positive legal right, in the Penal Code, to discipline women and children family members at their discretion, including use of physical violence"<sup>75</sup>. Violators outside of the immediate family are subject to criminal action, including up to one year in prison, a fine of not more than \$2,750 (10,000 dirhams) and deportation if not a citizen. During the year, the press reported incidents of men being arrested and prosecuted for harassing women in public.

Police units are stationed in major public hospitals so that victims of abuse may file complaints, which fall under the jurisdiction of the Shari'a courts. In addition, attending physicians may call police to interview suspected victims of abuse. Social workers and counselors, usually female, also maintained offices in public hospitals and police stations. However, women sometimes were reluctant to file formal charges for

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<sup>74</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61701.htm> on 16/05/06.

<sup>75</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61701.htm> on 16/05/06.

social, cultural, and economic reasons. All Dubai police departments, and many police departments in other emirates, have human rights and social support offices that provide assistance to women and children who are victims of abuse. When abuse is reported to local police, authorities may take action to protect the complainant; however, the government was generally not effective in protecting women from abuse. There were several reports that police authorities refused to protect women and instead encouraged them to return home. In some cases the authorities contacted the allegedly abusive husbands to transport their wives home.

Identifying victims relies almost exclusively on the willingness of a victim to take the initiative in filing a complaint against a trafficker. The government has not developed an effective method to screen and identify real or potential trafficking victims at ports of entry or after arrests, unless they come forward on their own. The government grouped trafficking victims with other human rights cases. Some local and foreign employers physically and sexually abused female domestic servants.

No law prohibits female genital mutilation (FGM), which was primarily practiced among Somali, Omani, and Sudanese expatriates. The Ministry of Health prohibits hospitals and clinics from performing FGM; however, “some private clinics in the northern emirates and rural areas continued to carry out the procedure”<sup>76</sup>.

The government's interpretation of Shari'a is applied in personal status cases and family law. The law permits men to have more than one wife, but not more than four at any time. When a woman marries, her separate property (including her dowry, which is set by presidential decision at a maximum of approximately \$13,700 (50,000 dirhams) and the income of her separate property remain under her control and are not commingled with the separate property of her husband. However, there were several cases during the year where a woman's dowry exceeded this maximum amount, ostensibly to make it far more difficult for a woman to pay it back should there be a divorce. During the marriage, the husband is legally obliged to provide a marital home and necessities for his wife and children. In the event of divorce, a woman takes her separate property, any amount she receives in a property settlement with her husband, plus any allowance granted for her and her children's maintenance.

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<sup>76</sup><http://www.state.gov/g/drl/rls/hrrpt/2005/61701.htm> on 16/05/06.

Laws of inheritance according to the government's interpretation of Shari'a apply equally to men and women, although laws of distribution may differ. For example, women normally inherit less than men; a brother inherits double what the sister inherits when a parent dies.

Divorce is permissible, "although often very difficult for a woman to obtain"<sup>77</sup>. A woman may be granted a divorce if she can prove that her husband has inflicted physical or moral harm upon her. A woman also may sue for divorce if her husband has abandoned her for a minimum of three months, or if he has not maintained her upkeep or that of their child. According to Amnesty International 2006, "women unlike men can not pass on their UAE nationalities to their children if the spouses are foreign nationals. These children in consequence suffer serious restrictions and are considered migrant workers for employment purpose"<sup>78</sup>.

## MINORITIES

The constitution provides for freedom of religion in accordance with established customs, although these customs restrict this right in practice. The constitution declares that Islam is the official religion of all seven emirates. According to the country's first census in 2001, 76 percent of the 4.04 million total population was Muslim, 9 percent was Christian, and 15 percent belonged to other religions. There is a small resident Jewish population of unknown size; there are no synagogues. There were no reports of anti-Semitic acts or statements.

The government controlled all Sunni and Shi'a mosques, prohibited the proselytizing of Muslims. A "British national and an Iranian national, both of them Christians were reportedly arrested in separate cases for proselytizing. The former reportedly sentenced to six months"<sup>79</sup>. Government restricted freedom of assembly and association, thereby limiting the ability of religious groups without dedicated religious buildings to worship and conduct business. The government funded or subsidized approximately 95 percent of Sunni mosques and employed all Sunni imams; approximately 5 percent of Sunni mosques were entirely private, and several prominent

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<sup>77</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61701.htm> on 16/05/06.

<sup>78</sup> <http://web.amnesty.org/report2006/are-summary-eng> on 14/06/06.

<sup>79</sup> *Amnesty International report 1994*, Published by Amnesty International, London, 1994, p.302.

mosques have large private endowments. A committee of the Ministry of Justice, Islamic Affairs, and Endowments, drafts and distributes all Friday sermons to Sunni and Shi'a imams. The government monitors all sermons for political content. During the year, the ministry distributed Friday sermons that condemned terrorism and extremism and encouraged moderation in Islam. The effort was covered widely in print and broadcast media.

The government supports a moderate interpretation of Islam; however, as the state religion, "Islam is favored over other religions and conversion to Islam is viewed favorably"<sup>80</sup>. All Sunni imams are employees of either individual emirate departments or of the federal Ministry of Justice, Islamic Affairs, and Endowments. Dubai's department of Islamic affairs and endowments has approval authority over preachers in that emirate's private mosques.

Several non-Muslim groups own houses of worship where they can practice their religion freely, although the local ruler owns the land. Groups that did not have their own buildings were limited in their ability to assemble for worship and required to use the facilities of other religious organizations or worship in private homes. The police or other security forces did not interfere with these gatherings.

Individual emirates exercised considerable autonomy in religious matters. There did not appear to be a formalized method of granting official status to religious groups. Facilities for Christian congregations were far greater in number and size than those for other non-Muslim groups, which significantly outnumber the Christian population. There are 24 Christian churches in the country, and Christian primary and secondary schools operate in four emirates. There is one temple for both Sikhs and Hindus located in Dubai. There are no Buddhist temples; however, Buddhists, along with Hindus and Sikhs in cities without temples, conducted religious ceremonies in private homes without interference. There are only two cremation facilities and associated cemeteries for the large Hindu community, one in Dubai and the other in Abu Dhabi. Official permission must be obtained to use the facilities in every instance, which poses a hardship for the

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<sup>80</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61701.htm> on 16/05/06.



large Hindu community. In October, the government refused to allow the Hindu community in Abu Dhabi to cremate the body of an Indian construction worker.

The government prohibits Muslims from converting to other religions. "Although non-Muslims in the country are free to practice their religion, they are subject to criminal prosecution, imprisonment, and deportation if found proselytizing or distributing religious literature to Muslims"<sup>81</sup>. There are no specific laws against missionary activities, and there were no reports of authorities revoking residence permits of persons suspected of such activities. On February 21, 2004, two foreign women on a mission trip with the Tom Cox World Ministries were arrested by Dubai Police while passing out Bibles and religious CDs during the Dubai Shopping Festival. They were charged with possession and distribution of religious materials (26 CDs and 19 Bibles), and being an "affront to Islam." Dubai Police released the two women within hours of their arrest, but confiscated their passports. On March 3, both women departed the country. Missionaries have performed humanitarian work since before the country's independence in 1971. There is no restriction on proselytizing non-Muslims.

## **MIGRANTS**

Societal discrimination against noncitizens, while not legally sanctioned, was prevalent and occurred in most areas of daily life, including employment, housing, social interaction, and healthcare. National origin played an important role in employment, immigration, and security policies, as well as cultural attitudes towards noncitizens, who comprised approximately 85 percent of the national population. More than 50 percent of foreign workers were estimated to have come from the Indian subcontinent. In 1994, Amnesty International talks that "Shara Shankar, an Indian reportedly detained in Dubai with alleged anti-Islamic activities after video cassettes, books and pamphlets promoting Hinduism were allegedly found in his possession"<sup>82</sup>.

Noncitizens were denied access to many free or reduced-cost services provided by the government to citizens, including child and adult education, health care, housing, and social and recreational club memberships. "While citizens who contract HIV are afforded

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<sup>81</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61701.htm> on 16/05/06.

<sup>82</sup> *Amnesty international Report 1994*, Amnesty International, London, 1993, p.302.

full, continuous, and free health care, noncitizen migrant workers who contract the same disease are denied health care and deported”<sup>83</sup>.

The labor law does not explicitly prohibit strikes or collective bargaining units for private sector employees, nor does it state explicitly that they are permitted; however, the law does provide for collective work dispute resolution, which took place. Professional associations, organized by profession (e.g., teachers, jurists, engineers, medical professionals, and social workers), are the only workers' associations that currently exist in the country. Most members of these associations are citizens. Although foreign workers may belong to these associations, they do not have voting rights and cannot serve on the boards of these organizations.

The MOL distributed information to foreign workers, both directly and through their sponsoring companies' public affairs offices, outlining their rights under the labor law and how to pursue labor disputes, whether individually or collectively. The information was generally available in Arabic and English, and usually Urdu. Employees may file individual or collective employment dispute complaints in Arabic with the MOL, which serves as the mediator between the parties. If the dispute remains unresolved, the employee may file a complaint with the labor court system. The labor law gives the ministry two weeks to resolve the dispute or refer it to the courts, although in practice, it generally takes a month or more. In all cases, complaints must be filed with the ministry before they can be submitted to the court for consideration. Parties in a collective work dispute may file complaints with the MOL. During the year, the ministry settled approximately 80 percent of complaints.

The Ministry of Interior's Naturalization and Residency Administration mandates use of standard contracts for noncitizen domestic servants, clearly listing the salary, work requirements, and duration of employment. Domestic workers may bring work-related disputes to Conciliation Committees organized by the Ministry of Interior or to the Court of First Instance, and the Ministry of Interior settles most disputes between employers and domestic servants.

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<sup>83</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61701.htm> on 16/05/06.

The “government does not impose a minimum wage or have minimum wage guidelines”<sup>84</sup>, but in practice MOL officials are required to inspect all contracts covered by minimum wage, which cover about half of the work force, in order to ensure compliance with legally required benefits, allowances, and time of payments. Officials do not approve any labor contracts that stipulate substandard wages. Salaries depended on the occupation and employer and ranged from \$109 (400 dirhams) per month for domestic or agricultural workers to \$164 (600 dirhams) per month for construction workers to much higher salaries for highly skilled and white-collar employees. Compensation packages generally provided housing or housing allowances; however, low-skilled employees were often provided with substandard living conditions, including overcrowded apartments or lodging in unsafe and unhygienic "labor camps," lack of electricity, lack of potable water, and lack of adequate cooking and bathing facilities. Some low-paid workers did not receive these benefits, even if stipulated in their contracts.

## OMAN

The Sultanate of Oman is a hereditary monarchy with a population of approximately 2.3 million people, ruled by Sultan Qaboos Al Bu Sa'id. In 1996 the Sultan, who acceded to the throne in 1970, issued a royal decree promulgating a "Law of the State," characterizing the country as "Arab" and "Islamic." The law can only be amended by royal decree. The country has no political parties; however, the 83-member Consultative Council (Majlis Al-Shura) is a representative advisory institution whose members in 2003 were elected directly, freely, and fairly by all adult citizens, except military and security personnel. With 59 members appointed by the sultan, the State Council (Majlis Al-Dawla), along with the Consultative Council, forms the bicameral body known as the Council of Oman (Majlis Oman). According to Amnesty International Report 1994, “In June hundreds of people were arrested reportedly for setting up an illegal Islamic organization and distributing leaflets criticizing authorities for hosting a conference

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<sup>84</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61701.htm> on 16/05/06.

attended by Israeli delegates. Those arrested included Omanis, Jordanians and Egyptian nationals”<sup>85</sup>.

According to Bureau of Democracy Report 2005, although the government respected a number of rights, many human rights problems remained. The following human rights problems were: inability of citizens to change the government; arbitrary arrest; arbitrary and incommunicado detention; restrictions on the exercise of civil liberties-freedom of speech (including academic freedom), the press, assembly, and privacy; limitations on the right of association, particularly for human rights groups; restrictions on religious freedom; discrimination and domestic violence against women; and restrictions on labor rights.

### **CIVIL AND POLITICAL RIGHTS**

There were no reports that the government or its agents committed arbitrary or unlawful killings. There were no reports of politically motivated disappearances. The law prohibits torture and other cruel, inhuman or degrading treatment or punishment such practices, and the government generally respected these provisions in practice; however, there were accusations of police employing unnecessary force to disband protestors and of investigative judges threatening physical harm to uncooperative detainees. The police are not required to obtain warrants prior to making an arrest. Within 48 hours of arrest, the police must either release the accused person or refer the matter to the public prosecution. The public prosecution must then, within 24 hours, either formally arrest or release the person. Authorities must obtain court orders to hold suspects in pretrial detention. Judges may order detentions for 14 days to allow investigation and may grant extensions if necessary. The authorities post the previous week's trial results near the magistrate court building.

According to Amnesty International (AI), there was one political detainee during the year. On July 12, 2004, “the government held incommunicado writer and human rights activist Abdullah Al-Riyami on accusations of instigating civil unrest, urging people to change the laws, committing acts prejudicial to public order, encouraging dissent, damaging the unity of the nation, and committing treason for contacting

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<sup>85</sup> *Amnesty International Report 1995*, Published by Amnesty International, London, 1995, p.230.

international human rights organizations while expressing views critical of the government. International nongovernmental and human rights organizations criticized the government for his detention. Al-Riyami did not have access to family or a lawyer; police authorities released him on July 20 without filing charges”<sup>86</sup>.

The law provides for an independent judiciary; however, the various courts were subordinate to the sultan. The sultan appoints all judges, who serve at his discretion through royal decree. The sultan can act as a court of final appeal and intercede in cases, such as those concerning national security.

On July 13, 2004, former parliamentarian Taybah Al-Ma'wali received a one-and-a-half year sentence for insulting a public official and using a mobile phone to send allegedly slanderous and libelous text messages, which criticized the government's arrest of Ibadhi activists. The government did not permit access by family during the detention and trial. AI and Reporters Without Borders voiced strong objections to the detention, trial, and conviction. Both domestic and international supporters petitioned the government for the activist's release. On August 7, a court of appeals reduced Al-Ma'wali's sentence to six months in prison.

The law does not require police to obtain search warrants, although the police often obtained them; however, the public prosecutor, not the court, issues them. The law provides for freedom of speech and of the press "within the limits of the law"; however, the law itself and government practice generally restricted freedom of speech and of the press. The law prohibits criticism of the sultan in any form or medium, or the publishing of material that leads to public discord, violates the security of the state, or abuses a person's dignity or his rights. “The government charged former parliamentarian Taybah Al-Ma'wali with violating the Telecommunications Act based on her mobile phone messages that criticized the government”<sup>87</sup>. Journalists and writers generally exercised self-censorship due to fear of government reprisal. Various media companies reportedly refused to publish articles of several journalists. Censors enforced the Press and Publication Law, which authorizes the government to censor all domestic and imported publications. Ministry of Information censors may act against any material regarded as

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<sup>86</sup><http://www.state.gov/g/drl/rls/hrrpt/2005/61696.htm> on 10/07/06

<sup>87</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61696.htm> on 10/07/06

politically, culturally, or sexually offensive. Editorials generally were consistent with the government's views, although the authorities tolerated some criticism regarding foreign affairs issues. Citizens were publicly critical of GCC policies, which the country participates in determining.

The government owned three radio stations and one television station, which generally did not air politically controversial material. Customs officials confiscated videocassette tapes and erased offensive material. Such tapes may or may not have been returned to their owners. Government censorship decisions were changed periodically without any stated reason. The confiscation of books and tapes at the borders from private individuals and restrictions on popular novels reportedly eased. Government blocked numerous Web sites that it considered pornographic, politically sensitive, or competitive with local telecommunications services. As use of the Internet for expressing views normally not permitted in other media grew, the government took additional measures to monitor and censor it. The government placed warnings on Web sites that criticism of the sultan or personal criticism of government officials would be censored and could lead to police questioning, which increased self-censorship.

The government restricted academic freedom, particularly regarding publishing or discussing controversial matters, such as domestic politics. Professors could be dismissed if their work exceeded government boundaries; in November one professor was dismissed from Sultan Qaboos University.

## **WOMEN**

The law does not specifically address domestic violence against women; however, Shari'a prohibits all forms of physical abuse. There was no evidence of a pattern of spousal abuse, although allegations of such abuse in Shari'a courts were reportedly common. Battered women may file a complaint with the police but often sought family intervention to protect them from violent domestic situations. Likewise, families sought to intervene to keep such problems from public view. Some employers reportedly sexually abused domestic servants. There were no government programs for abused women. Omanis laws and practices continued to discriminate "women in a number of important aspects, including personal status, employment and participation in public life. Domestic violence

remained a concern”<sup>88</sup>. The law prohibits rape, “and the government enforced the law effectively. Approximately 132 persons were convicted of rape during the year. There is no law prohibiting female genital mutilation (FGM); however, doctors in hospitals were not permitted to perform the procedure. Local women primarily performed FGM in villages. According to a UN Children's Fund (UNICEF) and World Health Organization study, FGM was broadly socially accepted”<sup>89</sup>

Prostitution was illegal and was not widespread due to strict cultural norms and immigration controls. While progress has been made in changing laws and attitudes, women continued to face many forms of social discrimination.

Illiteracy among older women hampered their ability to own property, participate in the modern sector of the economy, or inform themselves of their rights. Women may own property. However, government officials applied different standards to female applicants for housing loans, resulting in fewer approvals for women.

Aspects of Islamic law and tradition as interpreted in the country also discriminated against women. “Shari'a favors male heirs in adjudicating inheritance claims. Many women were reluctant to take an inheritance dispute to court for fear of alienating the family. Women married to noncitizens may not transmit citizenship to their children”<sup>90</sup>.

Women have equal opportunities for education. In addition, female students represented 63 percent of the national undergraduates studying abroad. A 2003 UNICEF report praised the country's achievements in closing the gender gap in education. Educated women have attained positions of authority in government, business, and the media. Approximately 33 percent of all civil servants were women. In both the public and private sectors, women were entitled to maternity leave and equal pay for equal work. The government, the country's largest employer of women, observed such regulations, as did many private sector employers. However, many educated women still faced job discrimination. The Ministry of Social Development is the umbrella ministry for women's affairs.

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<sup>88</sup> <http://web.amnesty.org/report2006/omn-summary-eng> on 13/06/06.

<sup>89</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61696.htm> ON 16/05/06.

<sup>90</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61696.htm> ON 16/05/06 .

## **MINORITIES**

On June 9, the sultan pardoned 31 Ibadhi Muslim citizens convicted on May 2, 2004, of belonging to a secret organization and plotting to overthrow the government. On July 18, the sultan also pardoned 206 citizens and 162 foreigners convicted of various crimes. On November 17, the sultan pardoned an additional 232 citizens and 43 foreigners convicted of crimes. The law provides for freedom of religion within the limits of the law; however, the government generally restricted this right in practice. The law provides that Islam is the state religion and that Shari'a is the source of all legislation. Most citizens were Ibadhi or Sunni Muslims, with some Shi'a and a few non-Muslim citizens. The government permits worship by non-Muslim residents. All religious organizations must be registered with the government, and some of their activities were restricted.

Non-Muslims were free to worship at churches and temples built on land donated by the sultan. "Although the law does not prohibit proselytizing, the government prohibited non-Muslims from proselytizing Muslims, while proselytizing of non-Muslims by Muslims was allowed"<sup>91</sup>. The government also prohibited non-Muslim groups from publishing religious material, although religious material printed abroad could be brought into the country. Members of all religions and religious groups were free to maintain links with members abroad and undertake foreign travel for religious purposes. Foreign clergy were allowed to visit religious groups.

The government required all imams to preach sermons within the parameters of standardized texts distributed monthly by the Ministry of Religious Affairs and Endowments. The government monitored mosque sermons to ensure that imams did not discuss political topics or instigate religious hatred or divisions and stayed within the state-approved interpretation of Islam. Imams may be suspended or dismissed for exceeding government boundaries; there were no reported suspensions or dismissals during the year. The government also monitored sermons of non-Muslim clergy.

## **MIGRANTS**

The 2003 labor law provides workers the right to form a representational committee with

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<sup>91</sup> <http://www.state.gov/g/drl/rls/hrrpt/2005/61696.htm> on 16/05/06.



the goal of taking care of their interests, defending their rights, and representing them in all matters related to their affairs. There is an unofficial estimate that 25 committees representing 9.1 percent of wage-earners in the private sector have been registered since 2004. The provisions of the labor law apply to women and foreign workers.

At times foreign workers were reportedly placed in situations amounting to forced labor. Employers sometimes withheld documents that released workers from employment contracts and allowed them to change employers. Without such a letter, a foreign worker must continue to work for his current employer or become technically unemployed, and consequently a candidate for deportation. Many foreign workers were not aware of their right to take such disputes before the LWB(Labor Welfare Board). Others were reluctant to file complaints for fear of retribution from unscrupulous employers. In most cases the LWB released the worker from service without deportation and awarded compensation for time worked under compulsion. In addition to reimbursing the worker's back wages, guilty employers were subject to fines.

## CONCLUSION

There have been violations of civil and political rights in GCC countries. These countries do not have democracy. In the name of democratic experiment they have rudimentary appointed *majlis*. In many cases people are arrested without being informed. There is severe press censorship in these countries. Citizens do not have right to information. In Kuwait discrimination can be noticed in both public and private areas of the state. Women have voting right but very few contest elections because they are not encouraged to contest. Violence against women continued unabated. Domestic women servants faced discrimination in terms of wage and employment. They face sexual exploitation as well. Kuwait has done little to modify the numerous provisions in its domestic legislation which discriminate on the basis of gender. Kuwait Personal Status Law discriminates against women in terms of their inheritance rights. According to this law a woman is never free to make marriage decisions freely. Because of discriminatory Penal Laws violence against women are not fully controlled. In Saudi Arab also women do not enjoy full freedom. Common sight of Burqa can be seen there which symbolizes women incarceration in Saudi society. They are not supposed to go for public employment. Four

walls are preferred destination of women. They are not even allowed to drive. They do not have voting right nor can they claim for it. Two women witness is equal to one male witness. Women are represented by male members of their families in court. Law and custom both discriminate against women. There is prevalence of polygamy which is in other GCC countries. Expatriates women too face discrimination. In Bahrain discrimination against women equally extends to Shia and Sunni Muslims. Women of either sect inherit property and represent in public and legal affairs. Discrimination in political fields remain. In case of Qatar discrimination remains in various fields. Laws concerning marriage, inheritance and custody of children remain discriminatory. In judicial proceedings women are represented by male relatives. Testimony of two women equals one male. In UAE there are broad social and legal discrimination. Sharia remains discriminatory against women as it is in other GCC countries. Polygamy, divorce and inheritance remain the problem for women in UAE. In case of Oman, its laws continue to discriminate against women in areas of personal status, employment and public participation.

There have been violations of rights of minorities in GCC countries. In Kuwait there have been violations of rights of Shia minority. The representation of Shias in political and the field of employment are negligible. The case of Saudi Arab is no less good. The religious activities of Shias are monitored. Shias are not allowed to preach freely in the kingdom. The people of other religions are not allowed to preach and practice their religions in Kuwait and Saudi Arab as well. Shias have in their various declarations have demanded their representation in employment. In Bahrain where Shias constitute majority but minority Sunni rules in the kingdom. Shias Ashura festival is closely monitored in Bahrain. They are discriminated in employment and in political fields. In GCC countries conversion to Islam is allowed but not the reverse is the case. In Qatar religious minorities face problem. Conversion of Muslims to non-Islamic religion is banned. Religious activities of followers of other religions are monitored. Buddhist and other Hindus have their religious congregation in private houses and not in their religious places. In UAE Islam is the official religion and proselytizing of Muslims is banned. Freedom of assembly and association of non-Muslims is controlled. Buddhist and Hindus have their religious activities in private hired places. Non-Muslims can not

proselytize Muslims. In Oman Islam is the state religion and Sharia is the source of all legislations. Non-Muslims are prohibited from proselytizing Muslims. Government requires all Imams to preach within the parameters of Ministry of Religious Affairs.

Problem of migrant workers is obvious in GCC countries. In none of the GCC countries migrant workers have substantial rights. Due to split labour system migrant workers salary is less than local workers. They face the accommodation problem. They work in excess of 48 hours with no leave and rest. In case of Saudi Arabia migrant workers carry cards of their respective faiths. Domestic female workers and low skilled workers do not get their just wage. There is no minimum wage system. Foreign workers are recruited on fraudulent contract basis which always keeps them on razor's edge. In Qatar in some cases foreign workers face the situation same to forced labour. Cases of sexual assault on domestic female servants and their running away from employers are frequently reported. In UAE and Oman as well foreign workers face problems. In UAE foreign workers are denied access to reduced government services to its citizens. In UAE when non-citizens are contacted with AIDS are deported. There is no minimum wage system in GCC countries.

## CHAPTER 4

### HUMAN RIGHTS DEBATE: WEST VERSUS ISLAM

In a sense “Human Rights are the rights against the state.”<sup>1</sup> Established forces like absolute rulers in some societies generally see those Universal Human Rights (UHRs) as a threat to their otherwise unrestricted authority. The debate is otherwise more serious. Arguments against the universal application of a single set of Human Rights are needed to be examined carefully and critically. Most of the arguments are in the line of cultural specifics and relativism. The debate between universalism and relativism has made Human Rights issue complicated and particularly in Islamic societies this debate has generated some very serious obstacles in the development of human rights.

The debate on the character of Human Rights in Muslim countries is an important part of the much larger debate going on in the world politics. Specificism and Particularism are widely used by Islamists against the universal application of the Human Rights. According to them, the so called universal set of human rights is nothing else, but Western attempt to impose their norms and practices in order to maintain their hegemony. This stand is getting strength from the fact that in history “the universalistic claims were rhetorical strategies to justify political shifts in power within specific historical contexts”.<sup>2</sup> The anger against United States is also a part of reason of their rejection to the universal Human Rights as an American conspiracy. They see America leading every convention on Human Rights or promoting it in the name of democracy. But, they also notice its double speak; most of the international conventions on Human Rights are not signed or ratified by the US, which it wants others to respect. ‘Anti-Americanism’ as it is termed by many, has very strong basis. Here we can differentiate between states opposing universal application of UHRs and actors beyond state authorities; who are against the application of UHRs. In most of the Muslim countries Islamists are using anti-American card strongly to get popular support. Despite all this, many Muslim countries have

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<sup>1</sup> For detail definitions of human rights see, Shaw, Malcolm, *International law*, (Cambridge University Press, London, 2003).

<sup>2</sup> Fields, A.Belden; Wolf-Dieter Narr, “Human Rights as a Holistic Concept”, *Human Rights Quarterly*, vol. 14, no. 1 (Feb; 1992), p.3.

accepted and implemented the universal declaration of Human Rights and Bill of rights and others conventions and treaties on Human Rights.<sup>3</sup> But, this is only exceptional. Countries like Tunisia and Kuwait are very few. In the Arab world and particularly in the Gulf Cooperation Council (GCC), the debate is getting complex, day-by-day. Human Rights are accepted by all but what are those rights are not yet widely accepted. This has deprived many from their basic rights for a long time.

As we have just seen, in the GCC context, universal vs. particular debate has been a much dividing and delaying tactics in the implementation of much needed Human Rights regimes in the region. Kuwait is the only country which has not only signed almost all UN conventions on Human Rights; it has also attempted to implement them together with *Sharia* and other religious (Islamic) principles. Rest of the members of GCC along have either not signed the conventions or left their implementation undone if signed.<sup>4</sup> Al Barudi the then Saudi ambassador to the UNGA had opposed the universal declaration of Human Rights in 1948. Since then that has been the Saudi official position on the Human Rights. This will be discussed later in detail.

Islam is not averse to Human Dignity. Human dignity is the core of all human rights regimes. The question one can ask, does Islam really has a set of Human Rights in a modern sense? Given the fact that there are grave violations of human rights in the Muslim countries can we rely on Quran only to solve all these problems? We all know that in the case of women and religious minorities, the Muslim world is way behind the rest of the world. People do not have their basic rights to choose their rulers and stand against anything which they do not like. Freedom of expression and opposition are highly restricted in these countries. It is not the case of West propagating the wrong picture of these countries. The people of these countries are demanding these basic immunities. They no longer consider same old traditional values compatible to their present day needs. According to Arab Human Development Report, there are three major deficits in the present day Arab world. Freedom is one of them; the need of women empowerment is another besides the knowledge deficits.<sup>5</sup> Can we rely on arguments of relativism in the field of Human Rights because the Gulf Monarchs on the one side are preaching

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<sup>3</sup> See chapter 2,p.10-22.

<sup>4</sup> See chapter 2,p.10-22.

<sup>5</sup> *Arab Human Development Report: 2003* was the second report on the same topic. First was in 2002.

Specifism in field of human rights, while on the other they themselves are enjoying universal treatments and are not ready to share the same with their own people. This chapter will try to expose the wrong intentions of the rulers, the arguments of the so called Islamists in the field of human rights, the relativists' arguments regarding the same. Finally we will try to establish the fact that Human Rights should be universally applied.

### **ISLAM, MODERNITY AND HUMAN RIGHTS**

“Like all major religions in the world Islam also has its own set of laws. The major feature of Islamic laws is that, it is a part of religion and not a separate body of knowledge as it is with the west”<sup>6</sup> The biblical saying of give Caesar what is of Caesar and give God what is of God depicts and seeds the secularity in the Christianity but there is nothing like that in Islam. It is a comprehensive and almost complete set of ideas which regulate every part and behavior of human life. As Arzt says “the religion of Islam specifies not only what its adherents must believe, but also how they must behave.”<sup>7</sup> Being against the arguments like, Islam is incompatible to modernity; one can still see that Sharia is the prevalent form of law in the Muslim societies, including GCC countries. Sharia means literally “the way to follow.” Sharia is not a fundamental thing of Islam. It was mainly codified in the present form during the Abbasid Caliphate period around 1000AD. Before that, *Quran* and *Hadith* commonly known as *Sunna* were the source of law and there was a big space between these sources and the real application of principles of these texts. There was a scope for *Ijma* which means ‘reinterpretation of texts.’ So, for a long time Islamic laws were as flexible as modern day laws in the West are. But gradually it became codified as *Sharia* and *Ijma* was almost prohibited from being used. Earlier Islamic laws were the contributions from *Quran*, *Sunnah*, *Qiyas* (analogical reasoning), *Ijma* (consensus) and *Ijtihad* (personal interpretation or judgments or early Khalifas and jurists). Later on it became a codified, dogmatic law which denied every chance of its development.<sup>8</sup>

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<sup>6</sup> Arzt, Donna E; “The Application of International Human Rights Law in Islamic States”, *Human Rights Quarterly*, vol. 12, no. 2 (May, 1990), p. 203.

<sup>7</sup> *Ibid*, p. 203

<sup>8</sup> Esposito, L, John; *Islam and Politics*, (Syracuse University Press, New York, 1984) pp. 17-21.

Despite this codification and institutionalization of Sharia, Islamic law are still not universal even within the Islamic world. There are at least four major schools of Islamic law which see the same *Koranic* or *Sharia* codes differently.<sup>9</sup> Anyway, so far as human rights are concerned, the search of universal Muslim human rights began with the perceived danger of universal declaration of human rights. Earlier Saudi opposition became the line of argument of latter Islamists in 1970s and 1980s. The rise of Islamists is mainly related to failures of modern Muslim regimes to deliver the promises of development and modernity. Their greed to keep their position anyhow helped the Islamists to expose them before the masses. The rise of Islamists (fundamentalists in other words) in Muslim states has not only forced them to take strong steps which is most of the time against the basic principles of human rights. In other words in orders to protect their regimes, rulers are opposing the human rights regimes. The rulers in these societies are also using the same ideas and slogans which are used by these Islamists against the state. This peculiar situation has forced the rulers of these countries to create some alternative ways to cope with the international as well as domestic pressures on the human rights issue. The universal Islamic declaration of human rights in 1981 in Paris was the first step in this direction. This was followed by many other documents.

There is a debate within Islam that whether Human Rights mentioned in Quran are individual rights or group/community rights? It is obvious that Islam hardly recognizes any rights to an individual. Rather it recognizes duties to an individual. If there are rights accepted in Quran they are only community rights. Again, the rights are not universally applicable within a society. These Quranic rights like all religious practices are only for believers. For those who are non-believers there is another set of rights and duties.<sup>10</sup> Anyway, if we are following the *Quran* and *Hadith* we would note that Islamic concepts of Human Rights are in fact only religious preachings. There is the concept of *Shura* which means consultation in Quran. This is perceived by Islamists as a kind of civil and political rights in Islam, they are not the case. These are only exclusive

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<sup>9</sup> These schools are the Hanafi, the Shafi, the Maliki, and the Hanbali. These different schools of Islamic law have been differentiated according to the area, scholars and periods of their origin. They have from soft to hard approaches. For more detail, see Esposito L. John's "Islam and Politics" (Syracus University Press, 1984).

<sup>10</sup>. Dona Arzt, Op.cit p. 205.

to Muslims of a society; it is also not binding on the rulers.<sup>11</sup> Again there are no economic rights as such. Islamic religious texts are discriminatory between believers and non-believers, women and men. This is against the essence of Human Rights which are rights for all sections of human kind without any discrimination. The political, cultural, economic, social and even legal rights are not universally applicable on the members of a society in the present day Islamic societies. No doubt Quran was a progressive step in the pre-modern or medieval history of human kind and it has principles which were much ahead of that time. But in today's world Koranic principles need reinterpretation.

The claim of Islamists about Islamic human rights as an alternative to universal human rights is in fact simplistic and bogus. Here we should consider some of the major thinkers in Muslim theology in order to understand not only what human rights means for the present day Islamists who are more or less followers of these early thinkers but also to understand the base of Islamic particularism in the human rights field. From Sayyid Jamal al-Din 'al-Afghani' (1838/9-1897) to the Edward Said, Islamic thought and thinkers have produced many versions of relative thinking on various issues, including the human rights. One thing that is very encouraging about these thinkers is that they argue with the reasons which make a lot of sense. Thus "Afghani influenced a variety of trends that reject both pure traditionalism and pure Westernism."<sup>12</sup> This shows that the reason why Islamic version of human rights is not totally based on Sharia. But, it also creates a problem of defending those Islamic principles which are more or less out of date. Despite all reforms suggest and initiated by the people like Afghani, Abduh, Rida and others in Islamic thinking, they still seem conservative and in most part unacceptable to modern day Universalists.

The rejection of western thoughts and practices are not new in the Islamic societies. Muhammad Abduh's analysis says that "the condition of weakness and backwardness was due both, to external factors, a consequence of European hegemony that threatened the very existence of Muslim societies, and to internal realities, the situation which Muslims brought themselves".<sup>13</sup> This outright rejection of the West has

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<sup>11</sup> Dona Artz, Op.cit p. 207.

<sup>12</sup> Keddie, N.R, "Jamaluddin Afghani" in Rehnema, Ali (Ed), *Pioneers of Islamic Revival*, (Zed Books, London, 1994) P.13.

<sup>13</sup> ibid, Haddan, Y, "Mohammad Abduh" in Rehnema, Ali, p. 35.



been changed into some more moderate and scholarly thoughts like Orientalism in Said's thinking. The long period between Abduh and Said has not changed the essence of suspicion against the West. The experience of the Muslim societies with the West in the last hundred years or more has done only one thing; it has divided the anti-West people into two, moderates and radicals. Edward Said, Sayyid Qutub, Rida, Afghani and others can be accepted as moderates; Khomeneini, Osama and others as radicals. There is hardly anyone in these societies who clearly stand in the support of the West or western ideas. Every thing coming from West is conspiracy, hegemonic tactics or attempt of suppression.

So far as the Islamic version of Human rights is concerned, we can find first major signs of that in Muhammad Abduh's writings. He firstly described the need of the essential accountability of the rulers to their masses, independent judiciary, abolishment of polygamy, justifiability of divorce. All these proposals from Abduh are to make Islamic societies 'modern'. Though he looked in the Quran for all these and supported the idea of male domination within the family, he supported the idea of close relationship between politics and religion.<sup>14</sup> His ideas are the bases for supporters of the particular and specific application of modern day human rights principles.

Unlike Abduh, Mawdudi (1903-1979) is more particularistic, he is a strong supporter of Sharia practices regarding women, minorities and economic rights. According to Mawdudi a man has human rights simply because he is a human being. He describes about: right to life; right to the safety of life; respect for chastity of women; right to freedom; right to justice and equality of human beings and, right to cooperate and not to cooperate<sup>15</sup>. He supports discrimination against minorities in the Islamic state. He maintains that Purdah is necessary for the protection of morals. Purdah means the sartorial and procedural codes and roles which separate women from men.<sup>16</sup> While describing right to life Mawdudi delineates that retaliation for murder can be described by competent court of law only. According to him, a man may be ill or wounded, irrespective of his race or nationality, he should be given help. And if he is dying of

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<sup>14</sup> Ibid , p. 54-61

<sup>15</sup> Mawdudi, Sayyid Abul Ala *Human Rights in Islam*, (Markazi Maktaba Islami Publishers, new Delhi, 2004) pp.21-31.

<sup>16</sup> ibid, Nasr, S.V.R, "Mohammad Ala Mawdudi" in Rehnema, Ali, p. 108-110.

hunger, it is one's duty to feed him. Maududi stresses that Islam forbids capturing of free man, and to make him slave and to sell him. He says that justice which Islam talks about is not limited to its followers, or to one tribe or nation but for all the humanity. Islam not only recognises absolute equality between men irrespective of any distinction of colour, race or nationality, but makes it an important and significant principle, a reality. Maududi's morals about Islam are not found in reality in Islamic societies. Hasan al Bana (1906-1949) an Egyptian Islamic thinker emphasized the need of economic rights of the people within the Islamic states in order to neutralize the ideological attractions of the West. This emphasis is totally Islamic and according to him Islam has more economic rights for its followers than what it proposes to give. Banna's state would have high Islamic morality. This, in other words means severe restrictions on freedom of expressions, restricted roles to women and so on.

When Edward Said argue about the biases of the West to the Orient, he also identify the need to understand the Muslim societies in their specific context and not try to see everything with the spectacles of the Western norms and culture. Said's argument of treating Orient with Orient's instruments, in an oriental way, is quite reasonable. But, here the difficulty of drawing the line between universal and specific appears again. Here Universalists can argue in Reza Afsharis words "for a Muslim country, as for all complex state and 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 façade."<sup>17</sup> All these Particularists arguments have been challenged by Universalists like Huntington, Fukuyama, Halliday and others.

The concept of human rights is a new phenomenon. Every one knows that before the Second World War even the so called west did not have any idea of human rights. There was high discrimination prevailing in the Western societies between the slaves and the masters, the blacks and the whites, women and men, Christian and others, and so on. Concepts such as anti-Semitism and holocaust, apartheid, black vs. white and 'White Men's Burden' were widely accepted and practiced. So, even West could not claim that they had human rights in any sense. There were thinkers like Locke, Green, Rousseau

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<sup>17</sup> Afshari, Reza, in Halliday, Fred, Op.cit, p. 133.

and Laski etc who were proposing rights to humans. But that were also not widely held views until 20th century. Islam on the other hand had well defined rules and regulations of life which was widely practiced. Since Abbasids Islam became gradually dogmatic, all the provisions regarding women's rights, minorities' rights and others became none practiced.

During the inter war period and after the Second World War some Muslim countries adopted the western laws in order to modernize their societies, but with the rise of Islamists in 1970s and 1980s as we have seen earlier, those steps were taken back in many countries. Rise of Islamism came much earlier in GCC countries and Saudi Wahhabism influenced other small neighbors to stick to *Sharia*. When the Universal Declaration of Human Rights was passed in UN General Assembly almost all Muslim countries were in favor of it except Saudi Arabia. Saudis were particularly opposed to article 18 and 16 which give religious freedom to all and freedom of marriage according to choice. This debate between universalism and particularism got its present shape only since 1980s. Iranian Revolution of 1979 and weakening of communism stimulated this debate because for now Islamists were strong enough. The fall of the Soviet Union strengthened the Universalists arguments about the applicability of these rights. At the same time most of the authoritarian regime in Muslim world felt threatened by the rise of Islamism and started incorporating Universalists views. In other words, since "1970s the relations of Islam to human rights has grown hostile. When Islamic revolution in Iran rose up against tyrannical modernization imposed by the Shah, Islamic figures began to question the universal writs of western human rights norms. They have pointed out that the western separation of church and state, of secular and religious authority, is alien to jurisprudence and political thought of Islamic tradition. And they are correct. The freedom articulated in the UDHR make no sense within the theoretical biasd Islamic political thought. The right to marry and to establish a family, to freely choose one's partner, is a direct challenge to the authorities in Islamic society that enforce the family choice of spouse, polygamy and other restrictions on women's freedom. In Islamic eyes, universalizing rights discourse implies a sovereign and discrete individual, which is

blasphemous from perspective of Koran”<sup>18</sup>. In the field of Human Rights, because universal concepts are insensitive to cultural and social specifics of Muslim societies, “they are considered inferior; they are American hegemonic tactics and attack on the Islam”.

While concluding this section one can see that there is a debate within Islam on Human Rights. Islamic notion of rights gives priority to God’s will over free will of persons; duties and obligations over rights. There is hardly any right to individuals. Every right is for community.

### **POINTS OF DISAGREEMENTS**

“The concept of human rights is closely allied with ethics and morality. Those rights that reflect the values of a community will be those with the most chance of successful implementation.”<sup>19</sup> The argument of cultural relativism is presented by Islamists is largely based on the principle quoted above. They argue that when Human Rights are rights against the state of an individual how can it be universal? Every society has its own way of living and development. Islamic states, for example, are not created by the individual and rulers have no obligation to the people. It has obligation only to God and even people have no obligation and no rights to the state. They have duties only. In this context how can one imagine human rights in the Islamic countries? This argument goes on in many fields like position of women and minority, position of non-believers.

Human rights according to “Western perspectives are literally the rights one has simply by virtue of being human being, “the rights of man”. Rights create claims that have a special force and carry real value. They give legitimacy to claims if enjoyment of those rights is threatened or denied. In western traditions, the conception of rights was originally theological but it became secular after 1970, during enlightenment period. The atomized, private individual, abstracted from social and political context of his or her surrounding, is seen as a product of rationalizing aspects of modernization and spread of

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<sup>18</sup>Ignatieff, Michael, “The Attacks on Human Rights” *Foreign Affairs*, Vol. 80, No.6, November-December 2001, pp.103-114.

<sup>19</sup> Shaw, Malcolm, *International Law* (Cambridge University Press, London, 2001) p. 248.

science and technology”<sup>20</sup>. Some might regard that most of the clauses of Universal Declaration of Human Rights and other international treaties and conventions are reflections of western norms and they are there only to preserve the Western, particularly hegemony in the world. John Gerard Ruggie accepts this argument to some extent. He says “UDHR expressed the American liberal tradition more faithfully than any other nation.”<sup>21</sup> But, this is not true.

By contrast, in “Islamic traditions human rights are entirely owned by God, and individuals (as vice regents of God) can enjoy them in their relationship with God; conceptual postulates of human rights are teleological, and their modern underpinnings are theological; and they can be observed if obligations to God have been fulfilled. Human rights are a function and not antecedent of human obligations. One perspective notes that Islamic thought has always embraced a discourse on the rights of God (*haquq allah*) and the rights of man (*haquq adam*), with the former having precedent over latter. This explains why traditional tenets stress five pillars of Islam: the confession of faith, prayer, alms, fasting during Ramadhan and pilgrimage. Mohammad Arkoun wrote that the faithful acknowledges the rights of God by fulfilling these obligations and being obedient. The realization of human rights is linked closely with respecting the rights of God”<sup>22</sup>.

Traditional Islamic thinkers have placed more emphasis on social justice than on human rights. Modern Islamic thinkers describe five basic rights Islam should guarantee to all citizens: right to life, health, and protection from illness, liberty, right to knowledge, right to dignity and right to property<sup>23</sup>.

When UDHR was passed by General Assembly (GA) on 10 December 1948 only Saudi Arabian ambassador al Barudi opposed it. He opposed it only partially. In his opinion, article 18 of the UDHR which deals with religious freedom, is against the Islamic principles and Quran. According to him, religious freedom, the right to choose

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<sup>20</sup> Monshipouri Mahmood, *Islamism, Secularism, and Human Rights in the Middle East*, (Lynne Rienner, Boulder London, 1988), p.72.

<sup>21</sup> Ruggie, Gerard, quoted in Conway Henderson, “Human Rights and Regime: A Bibliographical Essay”, *Human Rights Quarterly*, Vol.10, No.4, Nov.1988, p. 532.

<sup>22</sup> Mahmood Monshipouri, *Op.cit*, p.72.

<sup>23</sup> Denise Lardner Carmody and John Tully Carmody, *How to Live well: Ethics in the World Religions*, (Wadsworth Publishing Company, Belmont California, 1988) p.76.

and change his or her faith, is not permitted in Quran and it is un-Islamic.<sup>24</sup> Another point of objection was art. 16 of UDHR that is about the question of marriage. The Saudi delegation made argument that has resonated in future Islamic encounter with western human rights declarations, “the author of the draft declarations had, for most part, taken into consideration only the standards recognised by western civilizations and had ignored more ancient civilizations which have passed the experimental stage, and the institutions of which, for example marriage, had proved their wisdom through the centuries. It was not for the committee to proclaim the superiority of the Western civilization over all others or to establish standards for all the countries of the world (sic)”<sup>25</sup>. This Saudi official position is considered by many as political rather theoretical. According to Halliday “responses to the human rights pressures identified above can be seen as disembodiment or theological interpretations of a holy text, but as political responses, in a context where power is being promoted domestically and internationally. States have embraced Islamic discourses above all, where this has served to consolidate power at home or to promote the state’s interests vis-à-vis other Muslim states or the west.”<sup>26</sup> One can easily include anti-state domestic Islamists in this list.

Related to above argument is the argument regarding the specificity of Islam and its own set of human rights which is an alternative to the Western set of human rights. As discussed earlier, there is hardly any universal set of Islamic human rights on which all Muslims agree. Since the Universal Islamic Declaration of Human Rights in Paris in 1981 there are other Islamic declarations too on the subject. “There have been recurrent attempts including Islamic Declarations of human rights, to reconcile Islamic and western traditions by putting more emphasis on family duty and religious devotions and by drawing on distinctively Islamic traditions of religious and ethnic tolerance. But these attempts at fusion between Islamic world and the west have never been entirely successful: agreement by parties actually trades away what is vital to each side. The resulting consensus is bland and unconvincing”<sup>27</sup>. In most of Islamic declarations UDHRs principles are applied superficially. Islam has been used by the rulers to protect

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<sup>24</sup> Dona Artz Op.cit. p. 216.

<sup>25</sup> Michael Ignatieff Op.cit. pp.102-103.

<sup>26</sup> Fred Halliday Op.cit p. 150.

<sup>27</sup> Michael Ignatieff Op.cit p.103.

as well as promote their regimes. Human rights in this context are also not an exception. Still, it is quite unreasonable to think that Islam is against modernity and human rights. The irony of Islam is that it has been interpreted and used in a wrong way.

In response to the Islamic challenge the “West has made the mistake of assuming that fundamentalism and Islam are synonymous”<sup>28</sup>. But in fact Islam speaks in many voices, some more anti-western theocratic than others. National contexts may be more important in defining local Islamic reactions to western values than are broad theological principles in the religion as a whole. Where Islamic societies have managed to modernize, create a middle class and enter global economy, Egypt and Tunisia being examples a constituency in favour of basic human rights can emerge. In Islamic countries the governing elite which rode to power after bloody anti-colonial revolutions failed to modernize the country, faces an opposition, led by Islamic militants, that has taken anti-western and anti-human rights stance.

#### **UNIVERSALISTS COUNTER ATTACKS**

According to Halliday, Muslim scholars are themselves not united on the nature of human rights. About the relationship between Islamic societies and the concept of human rights, Muslim scholars can be divided into five categories. Those who completely oppose to the idea of human rights in Muslim world (Rejectionists, Incompatibility theorists) those, who argue about superiority of Islamic concepts of human rights vis-à-vis “Western concept” (Islamists); those who ask about partial acceptance of human rights (Relativists); those who ask for amendments in the universal set of human rights according to specific conditions (Specifists), and those who argue in the favor of universal human rights (Universalists).<sup>29</sup>

Whether Muslim world needs it or not, human rights would not be in danger. So, Universalists argue that all noises made by some persons about Western hegemony and cultural Specifism and so on is not well intentional but only a safe way to avoid one’s duties to his/her people. For those, who called themselves protector of Islam,

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<sup>28</sup> Michael Ignatieffe Op.cit. p.104.

<sup>29</sup> Fred Halliday Op.cit. pp. 135-137.

Universalists has simple logic; they are people living still in old days. Neither they know nor they are willing to know the demands of their people. For any society, to cope with the fast moving world rights are necessary across the religious differences. Democracy, freedom, protection against state's atrocities etc are the need of the time. Ken Booth argues strongly against culturalism in the field of the human rights. He says "it, by giving a totalizing picture of specific cultures, produces a false view of the world."<sup>30</sup> In his article "Three Tyrannies", Booth concludes that ethnocentrism should not be accepted but at the same time sensibility to the cultural values of others should not be allowed to degenerate into the dogma of culturalism.<sup>31</sup>

Fred Halliday says that the opposition of universal human rights on the name of cultural Specificism is illogical because there is first, no universal Islamic culture. The Muslim world has 53 or more countries which are located at different places on the globe. They have their different cultural, historical structures. So, when Islamists argue about the Islamic rights they are ignorant of the fact that there is no universal Islamic society and therefore any universal Islamic human rights are as unwanted to some Muslim societies, as most of them oppose the universal human rights.<sup>32</sup> As the Syrian writer Aziz al-Azmeh has written: "Islamic law is not a code. This is why frequently heard call for its 'application' is meaningless, most particularly when calls are made for the application of Sharia – this last term does not designate law, but is a general term designating good order, much like *nomos* or *dharma*.... Calls for the 'application of Islamic Law' have no connection with the Muslim legal tradition built upon multivocality, technical competence and existence of an executive political authority which controls the legal system. It is a political slogan, not a return to a past reality"<sup>33</sup>.

Second, whenever, Halliday say, there is violation by either a Muslim country against other or a Western country against a Muslim country; almost all Muslim countries blame the West that they are not implementing the international agreements. When Bosnian war erupted Muslim countries took the stand that West should implement human rights laws against Serbia. This shows that Muslim countries are trying to be indifferent

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<sup>30</sup> Booth, Ken, "Three Tyrannies" in, *Human Rights in Global Politics* (ed), J.Wheeler, Nicholas, Tim Dunne, (Cambridge University Press, London, 1999), p. 37.

<sup>31</sup> Ibid, pp. 31-70.

<sup>32</sup> Halliday, Fred, Op.cit. p.148.

<sup>33</sup> Aziz al-Azmeh, *Islam and Modernities* (Verso, London, 1993) p.12-14.



in implementing human rights laws but wanted others to implement those. This is a double standard.

Most of the Muslim countries do accept human rights through their own declarations with certain modifications which suits their interests. Like concerning rights of minorities Islamic Declarations of Human Rights quotes Qur'anic principle that "There is no compulsion in religion" shall govern the religious rights of non-Muslim minorities. Although it conforms to UDHR principles but in practice in almost all of these countries non Muslim minorities face discrimination while practicing and professing their beliefs.

While there are some countries who have adopted universal human rights without any reservations like Indonesia and Tunisia, there are many who oppose it still today. Most of these countries have the history of strong authoritarian rule. Most of them also have very stronger opposition movement. Islamists are using every thing including Islam in order to destabilize the established regimes. Common people have been seeing the use and misuse of religion by both the forces. They themselves have initiated some movements in order to get their basic rights. Because society in most of these countries has been Islamic and Islam has been the major source of social stability no one can fully deny the role of it. It would be quite unreasonable too to fully ignore the Islam and its traditions in these societies. But as Booth argues we should draw the line between the social norms and changing needs of the people. One should not be allowed to use former against latter only to fulfill his or her own selfish objectives. People in most of these societies are struggling to get their democratic space. Iraqi Saddam regime had as bad human right records as Iranians have. Saddam's treatment of its Kurdish minorities, Iranian treatment with its opposition groups are incidents, highly objectionable to the outside world. The status of civic and political human rights is as bad. Saudi Arabia is known for its intolerable stand against any opposition voice. Most of the GCC countries except Kuwait do not follow any Human Rights regimes.

Arguments of specific treatment get exposed when these regimes try to surround and defeat Israel on the human rights front. Israeli treatment to Palestinians receives huge criticisms from these countries. They criticize West for not taking proper action against Israel when it violates the human rights of the Palestinians. But they always forget their own behavior. Egyptian treatment to their Coptic Christian minorities,

Turkey's treatment to their Kurdish minorities, Bahrain's treatment to its Shia majority population and Saudi treatment to its Shia minorities are some cases which show the reasons of their opposition to the application of universal human rights.<sup>34</sup>

Universalists reject the charge of hegemony in the field of human rights. U.S. itself does not accept various treaties and was an apartheid practitioner till 1966. It was forced to accept the UDHR and implement it. Can we imagine a situation when Martin Luther King junior and his followers were fighting on behalf of blacks without any international backing? South African regime, a close ally of the U.S. had been boycotted by the world community; can one argue that South Africa would have been allowed to practice apartheid because it was their culture? Ruggie says ultimately "hegemony in the human rights area seems almost nonsensical."<sup>35</sup> Some more issues of disagreements between Islamists and Universalists in the field of human rights are briefly discussed below.

## **RIGHTS OF WOMEN**

Universalists wanted to implement the principle that men and women are equal in every field whether it is political and civil rights or cultural, economic, and social rights. Women should be treated equally. Cultural relativists argue that women have had different positions in their different societies historically. Islamic relativists argue that Islam has been most progressive towards women. It was the first social system which has provided to women the rights in social and economic fields. When in all over world women were treated next only to slaves it was Islam which provided them right to property. Particularists would like to defend present status of women in Muslim societies through their historical and cultural experiences. Universalists while accepting the historical facts, still argue that on all modern criteria women are treated very badly in Muslim societies which needed to be abolished and reformed. The cultural context should be sidelined, according to Universalists, if a human being is facing discrimination on the name of gender and other such basis. The status of women is very critical even according to the Islamic criteria. Women cannot vote neither they can stand in elections. Women

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<sup>34</sup> Reports of the *Amnesty international* are the main sources of these allegations.

<sup>35</sup> Conway Henderson (Eds), *Op. cit.* p.533.

have very few rights in marriage and they are legally half to men according to Sharia. This discrimination is endless. In Saudi Arabia women cannot go abroad alone, they cannot even drive. In present day Islamic societies this discrimination is also not universal. In Kuwait and Iran women are enjoying far better status than most of other fellow societies. Use of veil is not an Islamic tradition but it is highly in practice in most of the Muslim countries except turkey. Universalists are not ready to accept these practices on the name of Specificism. The debate is inconclusive to date but, it is largely accepted even by Muslim scholars that women should be treated in better manner. Infact Arab human development report 2003 identifies treatment of women in Arab societies as one of the main reasons of the backwardness of the region.

Table 1:1

#### Ratification of Women's Rights

Country	Convention on Elimination of all Forms of Discrimination Against Women	Convention of Political Rights of Women	Convention on Nationality of Women	Convention on Consent to Marriage, Minimum age to Marriage, and Registration of Marriage
Bahrain				
Kuwait	+			
Oman				
Qatar				
Saudi Arab				
UAE				

**Source:** United Nations, Human Rights: International Instruments, Chart of Ratifications as at 31<sup>st</sup> December 1994, New York, United Nations, 1995, pp.1-10. As cited in Monshipouri, Mahmood, *Islamism, Secularism, and Human Rights in the Middle East*, p.81.

## **RIGHTS OF MINORITIES**

Second grad citizenship to non Muslims had been a practice in the Islamic world. They in history had been paying *jazia* in order to be protected by the Muslim rulers. Even non-believers are divided in their treatment. They were divided into two categories; people of books and others. This historical practice has been still in practice in many Muslim countries in one way or other. Specifists had been defending these practices in the name of peculiar social conditions and experiences. It is an accepted fact that despite of all discriminations towards minorities they have been treated far better than their counterparts in the European countries. This argument is not acceptable to Universalists. They argue that minorities are also entitled to equal treatment and discrimination against them on the name of religion is inhuman. Minorities in many Muslim countries do not have political and cultural rights. This fact is quiet disturbing because in most of the Muslim societies these minorities are contributing a lot. Though some of the countries have changed their laws to provide minorities' equal treatment, it is not a common practice.

## **EXPATRIATES**

The question of expatriates' rights is another challenging task in the debate of West versus Islam. In the West the rights of expatriates are respected more than what we see in the Islamic world. In this direction we notice that none of the major international labour rights instruments have been ratified or implemented by the GCC countries. These instruments include ILO Migration for Employment Convention-97 of 1949; ILO Migrant Workers (Supplementary Provisions) Convention No. 143 of 1975; and 1990 International Convention on the Protection of the Rights of All Migrant workers and Members of Their Families. WTO does not have any substantial impact on the rights of workers in GCC countries. Although these countries are authoritarian ones where workers do not enjoy concrete rights, there have been movements for workers rights in these countries. It can be particularly gauged from workers, recent protests for their rights in Dubai and Bahrain.

## **DEMOCRACY AND RULE OF LAW**

The rule of law and Democracy are the most important prerequisites for implementation of human rights. Most of the Muslim countries are neither Democratic nor they have anything like rule of law. These both concepts have nothing against Islam. Most of the rulers of this region do not want to loose their grip on power and therefore they are opposing these as against Islam and local practices. They say western concept of democracy is not suited to their particular societies. Universalists argue that political democracy is the real guarantee of human rights and it should be practiced. Sharia and monarchy are outdated concepts according to the Universalists.

## **LAWS AND PUNISHMENT**

Sharia and punishments like chopping off hands are not considered human in the present day world. But in the most of the Muslim societies Sharia is commonly accepted as a source of law. Punishments like hanging publicly, stone beating, chopping up of body parts etc are inhuman practices common in many Muslim countries. These punishments should be abolished according to Universalists. This is a major issue of debate.

## **CONCLUSION**

What we have seen so far reveals one thing very clearly. The opposition to universal human rights regimes is not well intentional in the Muslim world. The arguments of cultural relativism and insensitivity to local norms and practices are somewhere easy pretensions to avoid the global pressure. Generally some rulers and some groups in particular are using Islam in order to preserve their dominant positions. They also have the fear to loose their legitimacy in the eyes of their people if they accept the universal human right norms. Infact, Islam is a scapegoat, as Arzt says “human rights in the region are affected not only by Islam but also by political and economic relations with the West, the rise of pan-Arabism, the Palestinian self determination struggle, and other factors.”<sup>36</sup> What she forget to add is that the ruler’s appetite to hold their power positions. They do not want anyone to question their authoritarian acts and position.

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<sup>36</sup> Dona Arzt, Op.cit. p. 202.

To a large extent these all are true but one should also not go extreme of the other side of the argument. Universalism in its pure form cannot be applied no matter what happens, in the Muslim world. It will be more fair to say that it cannot be applied everywhere as it is. There must be some adjustments keeping both the essence of human rights and the essence of local culture, in the mind. In this matter Field and Narr have a simple but important way out. They say “mediation between the universal and specific is required. To the extent that the human being is naturally a social and political animal, human rights have universal applicability. But at the same time human rights must be context sensitive”. They further say, “we must start with a careful assessment of a specific situation in which an individual (including ourselves as both participants and observers) or group is involved. We must then examine the claims to freedom, social recognition, equal position, and integrity made within that context, the claim is made in such a way that it interferes too much with the claims of other; we would not accept this as a valid appeal to universal human rights norms. If, in that context, the claim is respectful of others’ claims, we would accept it.”<sup>37</sup>

As we have seen, what Malcolm Shaw has proposed, can be some kind of right criteria. We know that most of the Muslim societies are lacking education, economic well being and democracy. They are almost ruled by outdated regimes. In both the Arab Human Development Reports(2002,2003) three basic deficits have been recognize in the Arab World namely: knowledge, freedom and women’s rights<sup>38</sup>. These are written by Arab scholars. The tone of these two reports is intone with human rights regimes. Recently it has been noticed that in most of the Muslim world opposition to rulers on the line of democracy and human rights are increasingly getting stronger in last decades. World community, UN, other international NGOs and IGOs and some strong countries like US and EU are forcing those rulers to reform. One should not be over optimistic because some times involvement of some actors like US makes the case of human rights weak. It is not only because of traditional hostility towards US in the masses because of its history of supporting, anti-people authoritarian regimes, but also because of its double speak and bad human right records. People in the Muslim countries see actors like US as

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<sup>37</sup> Field, Narr & other, “Human Rights as a Holistic Concepts”, *Human Rights Quarterly*, Vol.14, No.1 (Feb., 1992), 1-20.

<sup>38</sup>See *Arab Human Development Report 2003*.

hegemonic which itself is immune from any human right regimes only because of its overwhelming power. It will be pertinent to say that Americans defended Apartheids regime in South Africa when world was opposed to it. It is still not a party of International Criminal Court. It is not fully committed to UN Convention on Economic, Social and Cultural Rights.

The domestic reform movements working from inside the Muslim societies: reforms in *Sharia*, reintroducing *Ijtihad* and strengthening the judiciary which is otherwise weak in most of the Islamic countries are the acts identified by JND Anderson as “reforms from inside.”<sup>39</sup> In the long and sustainable terms this ‘reform from inside’ is the ultimate remedy. We should encourage them.

The universal-particular debate is going on in the world. It will be in future as well. But, we should also know the basic fact that any debate should not be for the sake of debate only. The western world’s emphasis on civil and political rights must be balanced and re-examined vis-à-vis Islamic world emphasis on socio-economic and cultural rights. There must have some conclusion acceptable to all the parties. “For a holistic concept of human rights, its legitimacy must be promoted in all cultures. For the concept to be universally accepted and implemented, it must be based on equal respect and mutual understanding between competing cultures. Individual, civil and political rights are as integral to basic rights as socioeconomic and collective rights are to development and self determination”<sup>40</sup>. No one should be allowed to dominate other because of its physical power and any other reason. When Islamists argue about their specific context we should sympathetically listen and tries to understand them. Bargaining should be done in the greater human interest. In the end we can see that in the last two or three decades Muslim countries have accepted several universal human rights norms through their own declaration on human rights. In order to keep this trend going this debate should go on.

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<sup>39</sup> Dona Arzt Op.cit. p. 228.

<sup>40</sup> op.cit. Monshipouri, Mahmood p.87.

## CHAPTER 5

### CONCLUSION

Human rights in GCC countries have been a complex issue. The basic problem of human rights arises in these countries because of the problem in understanding of the emergent liberal framework by the Islamic world and vice versa. The emphasis of the West Asia has been on the rights of human beings in conformity to the God. Community is more important than an individual. On the, the Western /liberal world emphasizes more on individual rights rather than sacrificing it at the alter of community. It does not take into account supernatural subservience of the individual. It is because of this dichotomy that Islamic world has problem in ratifying and especially in implementing the various human rights instruments. Grim situation of human rights in GCC countries is also because of the authoritarian regimes in these countries. Because of the lack of democratic experiments none of these regimes have human rights institutions.

Human rights regime constitutes human rights institutions and declarations. United Nations Human Rights Council and Office of the High Commissioner of Human Rights are two important human rights institutions. Human Rights Council's main purpose is to address human rights violations. This body has replaced the earlier United Nations Commission on Human Rights. Office of the High Commissioner of Human Rights promotes international solidarity for the cause of human rights at international level and facilitates universal ratification and implementation of human rights standards. Among the Gulf Cooperation Council Countries Qatar is the only country which by a decree in 2003 created Human Rights Committee. It addresses the cause of protection and promotion of human rights in Qatar. Saudi Arabia has also announced the creation of National Human Rights Institutions. This body receives human rights complaints and looks after the Saudi compliance with the international standards.

There are various declarations at the international level. Universal Declaration of Human Rights is the first and the most important declarations of all. It declares rights and freedom of all people without distinction of religion, race, color, political opinion, social origin, birth or other status. Declaration on the Rights of Persons Belonging to National



or Ethnic, Religious and Linguistic Minorities; International Convention on the Elimination of all Forms of Racial Discrimination; International Convention on Protection of Rights of All Migrant Workers and Their Families; Convention on the Elimination of all forms of Discrimination against Women; International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention Against Torture and Other Cruel, Inhuman or Other Degrading Treatment or Punishment, are important conventions for the protection of human rights at international level.

There have been various shortcomings in the implementation of these conventions in GCC countries. As per the data available Qatar has ratified International Convention on Elimination of Racial Discrimination; International Covenant on Civil and Political Rights; and, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The UAE has only ratified International Convention on Elimination of Racial Discrimination; International Covenant on Civil and Political Rights; and, Elimination of All Forms of Discrimination against Women. Bahrain has ratified, International Convention on Elimination of Racial Discrimination; International Covenant on Civil and political Rights; Convention on Elimination of All Forms of Discrimination against Women; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and, Convention on Prevention and Punishment of Crime of Genocide. Kuwait has acceded to all the above conventions which Bahrain has acceded apart from International Covenant on Economic, Social and Cultural Rights. Saudi Arabia has acceded to International Convention on Elimination of Racial Discrimination; International Covenant on Civil and Political Rights; Convention on Elimination of all Forms of Discrimination Against Women; Convention Against Torture....and Degrading Treatment; and, Convention on Prevention and Punishment of Genocide. Oman has acceded to International Convention on Elimination of Racial Discrimination; and, International Covenant on Civil and political Rights.

None of the major International Labour Organization's conventions have been ratified by the GCC countries. Thus Migration for Employment Convention No. 97 of 1949; Migrant Workers Convention No.143 of 1975; and, 1990 International Convention

on the Protection of the Rights of All Migrant Workers and Members of their Families, all of them have not been ratified by any of the GCC countries.

The situation of human rights has not been good in GCC countries. In Kuwait penal law, men who kill female relatives in so-called honour crimes, serve a maximum three-year sentence and are not prosecuted for murder. Until recently women were banned from voting and standing for election. They are still barred in practice from many public positions, including serving as judges. The Penal Code has reduced or eliminated punishments for violent crimes committed by men against women, and abortion even when it is necessary to save a woman's life is punishable. The law does not specifically prohibit domestic violence, although cases are tried as assault. Shari'a discriminates against women in judicial proceedings, freedom of movement, and marriage. Under the law, a woman is never free to make a marriage decision on her own. Unlike a man, she is not free to contract her own marriage but must have a male guardian (*wali*) contract on her behalf, regardless of her age.

Muslim women are prohibited from marrying non-Muslims, while Muslim men have more freedom to choose a spouse. This pattern of discrimination extends to the marriage's dissolution. Penal Code mandates execution or life imprisonment in cases of murder. A husband who murders his wife and/or her sexual partner after apprehending them in an adulterous act is only subject to the penalty for manslaughter. Discrimination of Shia's has been order of the day in Kuwait either in jobs or religious affairs. Country's Shi'a population was not permitted to publicly celebrate religious festivals. Kuwait practices a system of institutionalized discrimination against its residents known as Bedoons, who are longtime inhabitants who have been denied Kuwaiti citizenship and are rendered stateless. Due to nonamending of the labour laws and to crack down on the illegal trade in work visas, millions of foreign workers faced serious restrictions on their ability to organize and bargain collectively, and had few legal remedies against abuses by employers. Foreign labourers employed as domestic servants constitute one-third of the noncitizen workforce and are specifically excluded from the right to associate and organize. Women migrant workers were specially vulnerable to abuse because of discriminatory legislations and practices and exclusion from protection of labor laws. They suffered gender-based violence, including rape.

The Saudi Government's human rights record remained tardy in spite of some progress. Women remained subject to discrimination in law and practice and were inadequately protected against domestic and family violence. The government has not permitted women to participate in the formulation of government policy on equal terms with men. Shari'a prohibits abuse and violence against all innocent persons but that does not reflect in practice. In a Shari'a court, the testimony of one man equals that of two women. Women had access to segregated education through the university level. The government continued to discriminate and abuse rights of members of the Shi'a Muslim minority. Government security forces frequently arrested Shi'as on suspicion, and held them in custody. There continued to be cases in which religious police arrested and detained Christians for practicing their faith. The government continued to prohibit the public practice of non-Muslim religions and put limits on religious practices of Shi'a and Sufi sects. Conversion by a Muslim to another religion is considered apostasy. Shi'a were not allowed to teach religion to classes higher than the elementary level. Bidoons continued to face discrimination in terms of being granted citizenship. The government required noncitizens to carry legal resident identity cards (*Iqamas*), which contained a religious designation as "Muslim" or "non-Muslim. Employers generally abused foreign women working as domestic servants. In many cases for many months foreign workers are not paid. Forced confinement of low-paid women migrant workers leaves them particularly vulnerable to sexual abuse, rape, and the possibility of contracting sexual disease from perpetrators.

In Bahrain overwhelmingly majority of citizens belong to the Shi'a and Sunni sects of Islam, with the Shi'a constituting approximately 70 percent of resident citizens. Sunnis dominate politically and economically. Women have the right to vote and run for public office but no women could be elected to the assembly. There have been cases of rape and domestic violence where perpetrators have been let off free. Shi'a and Sunni women have the right to initiate divorce; however, religious courts may refuse the request. A non-citizen woman automatically loses custody of her children if she divorces her citizen husband. A Muslim woman legally can marry a non-Muslim man if the man

converts to Islam. Apart from Islam all other religious groups must obtain a permit from the Ministry of Islamic Affairs in order to operate and hold religious congregations. Proselytizing by non-Muslims is illegal. Sunnis received preference for employment in sensitive government positions and in the managerial ranks of the civil service. It has been alleged that the government draws the electoral districts in both the municipal council and the legislative elections to protect Sunni interests to the detriment of Shia's. There are approximately 50,000 foreign housemaids working in the country, and labor laws do not apply to domestic workers. Foreign workers, who make up approximately 60 percent of the workforce, continue to pay a fee to their original sponsor.

In case of Qatar also there have been cases of human rights violations. Women remained subject to gender discrimination under discriminatory laws and practices. Shari'a provides no punishment for spousal rape. Foreign domestic servants experienced sexual harassment and maltreatment. Testimony of two women equals that of one man. Government prohibits proselytizing of Muslims by non-Muslim. Government does not allow the building of any new places of worship without permission. Government regulated the publication, importation, and distribution of non-Islamic religious literature. Foreign workers in some cases were employed under circumstances that constituted situation like forced labor. Unskilled workers and domestic servants were particularly vulnerable to nonpayment or late payment of wages.

There have been cases of human rights violations in the case of UAE also. There is broad legal and societal discrimination against women. Shari'a, or Islamic law, governs the personal status of women. Domestic abuse against women was a pervasive problem. Male guardians within the family have a positive legal right in the Penal Code to discipline women. Some local and foreign employers physically and sexually abused female domestic servants. Constitution provides for freedom of religion in accordance with established customs, although these customs restrict this right in practice. Government restricted freedom of assembly and association. But there are two Hindu temples and one Gurdawara with their own buildings in Dubai. The government monitors all Shia sermons for political content. There are no Buddhist temples; however,

Buddhists, along with Hindus and Sikhs in cities without temples, conducted religious ceremonies in private homes. Among expatriates low-skilled employees were often provided with substandard living conditions, including overcrowded apartments or lodging in unsafe and unhygienic "labor camps," lack of electricity, lack of potable water, and lack of adequate cooking and bathing facilities.

There have been reports of human rights violations in Oman as well though not very serious ones. Here also in case of women, expatriates and minorities the track record of the Omani government has not been satisfactory. The law does not specifically address domestic violence against women. Women in different spheres of life, including personal status, employment and participation in public life continue to face discriminations. Islamic laws and tradition as interpreted in the country also discriminate against women. There have been cases of repression of even Ibadhi Muslims. All religious organizations must be registered with the government. The government prohibited non-Muslims from proselytizing Muslims, while proselytizing of non-Muslims by Muslims was allowed. The government also monitored sermons of non-Muslim clergy. At times foreign workers were reportedly placed in situations amounting to forced labour. Employers sometimes withhold documents that release workers from employment contracts and allow them to change employers. Without such a document, a foreign worker must continue to work for his current employer or else become technically unemployed, and consequently a candidate fit for deportation.

Situation of human rights in GCC countries can be classified into two categories, one where serious violations of rights take place, and second where violations are not so serious. In the first category we can place the countries like Saudi Arabia, Kuwait, and the UAE, and in the second category are countries like Qatar, Bahrain and Oman. The human rights question is closely linked with human rights development in these countries. Democratic experiments in Bahrain and Qatar which may not be full fledged somewhat lessens the severity of human rights violations. Kuwait has also experimented with democracy but has yet to go long way.

The question of human rights regime and human rights violations are closely related with the human rights debate in GCC as well as in West Asia.

Three major international documents attempt to define universal rights are: the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights (ICCPR), and, International Covenant on Economic, Social and Cultural Rights (ICESCR). These documents provide the means by which the individuals, regardless of their culture and nationality, can ground claims and demand actions regarding human rights.

The content of international human rights has evolved and expanded through three generations of rights. The first generation of human rights emerged from the Western tradition of superiority of natural law over human law and the latter came to be understood as a person's rights against his or her government. These rights, which are known as civil-political rights, included among others freedom of speech, legal equality, and the right to political participation. The second generation of rights involves the right to food, to work, to social security, to the enjoyment of highest attainable standards of physical and mental health, to an adequate standard of living, to take part in cultural life, and to enjoy the benefit of scientific progress.

An increasing number of Muslim countries are pressing for third generation of rights (solidarity rights), including the right to development, to healthy environment, to peace, to humanitarian aid, and to the benefit of a common international heritage. In fact new social movements in the Third World are advancing the idea that development is a human right. But according to the Western World the struggle for human rights becomes far more complex, if it means revising the international economic policies in addition to combating domestic governmental actions.

The rights outlined in the UDHR are based on a moral vision of human nature that treats human beings as equal and autonomous individuals who are entitled to equal concern and respect. Perhaps the most problematic aspect of the UDHR is its abstract values. The broad understanding and application of the UDHR is universal and its core human rights are immune to cultural interpretations. Its narrow application based on strict ideological orientations, however, will doubtless continue to invoke allegation of cultural intrusion by both Islamic and non-Islamic Third World countries. For instance, the individualism common in the liberal conception of rights runs counter to the collectivism characteristic of many non-Western cultures. Despite the universal legal and moral status

of these covenants (UDHR, ICCPR, ICESCR), the Western superiority given to civil and political rights has caused some Western states to avoid ratifying the ICESCR.

These three covenants set the parameters within which human rights can be universally defined. Those limits are acceptable to some Islamic scholars and reformers. Differences on priority will exist, but they will be relatively negligible. Some Western scholars emphasize the primacy of civil and political rights, whereas growing number of Third World observers tend to view socioeconomic and cultural rights as equally important.

Western debate on human rights is related with liberal framework of the rights of the people. In the liberal/western debate individual rights are supreme. In western debate religious discourse is kept out from the realm of individual freedom. In West Asia in Islamic debate of human rights, Islamic values hold important place. Islamists argue that universal declarations of human rights are nothing more than Western world's attempt to impose their norms and values on the Islamic world. Since the basis of human rights in GCC countries is on non-secular basis and it does not have liberal foundations, there is scant attention on the human rights question in these countries. *Sharia* is the basis of law in these countries which is just opposite to liberal values. It is because of this reason that most of the international human rights standards are not implemented fully. In most of the cases they are not ratified and in many cases they are not signed. In Islam rights are community rights and not universal rights. They are particularistic/specific rights which are suitable to particular societies. There have been some liberal trends among Islamists as such as Hasan, al Bana and Muhammad Abduh. For example Bana supports economic rights of the people. Similarly Muhammad Abduh supports rulers accountability to the people in autocratic Muslim societies.

Islamists argue that if the human rights of an individual is against the state then how can it be universal. Every society has its own way of living and when states are not created by individuals then how can rulers be accountable to people. According to this logic people should not have claim over rulers. And the legitimate authority of obedience of ruler is God. According to western perspective one has rights simply by virtue of being human being. Rights created have special value and when threatened they lose the relevance. In Islam rights are derived and enjoyed in relations with God but in Western

traditions human beings enjoy rights because they are rational beings and they have intrinsic values. Traditional Islamic thinkers have placed more emphasis on social justice than on individual human rights. Modern Islamic thinkers describe five basic rights that Islam should guarantee to all citizens: right to life, health, and protection from illness; the right to liberty; the right to knowledge both spiritual and material; the right to dignity; and, the right to own property.

Although Islamic societies recognize the right of individual to practice the religion of their choice, *ridda* (apostasy), historically as well as in present-day political Islam as practiced in some Muslim countries, is strictly forbidden and is punished by death. The Sharia law of apostasy has often been abused and applied to suppress political dissent. Arguably, punishing a person for apostasy is a blatant violation of article 18 of the UDHR, which clearly recognizes the right of freedom of thought, conscience, and religion.

Except Qatar and Kuwait none of the GCC countries have human rights institutions. Apart from International Convention on Elimination of Racial Discrimination 1965 and International Covenant on Civil and Political Rights 1966, none of the international human rights instruments or covenants has been ratified by all GCC countries. Conventions and Covenant which have been ratified have not been implemented fully. International Labour Organisation's conventions have not been ratified by any of the GCC nations. Due to lack of democratic experiments these societies are authoritarian and orthodox. In this situation human rights violations accentuates. There is a lack of civil and political rights. In Kuwait in recently concluded elections none of the women could get themselves elected. Despite of democratic experiments in Kuwait, Qatar and Bahrain, they have miles to go to fulfill human rights aspirations. Women, minorities and expatriates face discrimination in these societies. In Kuwait honour killing has three years maximum sentence. In Saudi Arabia's Sharia court testimony of one man is equal to two women. In some cases expatriates lead the life of a forced labour like situation in these countries. Domestic servants face rape and torture in many cases. Minorities are closely watched and regulated. Their proselytizing of Muslims can bring severe punishment. Violations of Shias' rights in Saudi Arabia and



Bahrain; and of Ibadis Muslims are outstanding examples of minority rights violations. To hide human rights violations GCC countries have created their own human rights debate which is different from liberal debate. Islamists argument is that since the God has created state, a ruler should pay obedience to Him only and not to the people. Thus human rights violations can not be questioned by subjects. Liberals say that a man has got human rights simply because a human being has intrinsic value.

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