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Human Rights Legislation in Egypt and Iran: A Comparative Historical Analysis

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Human Rights Legislation in Egypt and Iran: A Comparative Historical Analysis

Abstract

Egypt and Iran are representative of the Middle Eastern countries that have sought to develop human rights legislation for their citizens based on both the standards of international law and the values inherent in Islam-based culture. This thesis compares and contrasts the course of human rights legislation in Egypt, a secular state rooted in Islamic culture, and Iran, a Muslim theocracy, since the establishment of the current regimes in each country (1952 and 1979 respectively). The thesis explores the history of Egyptian and Iranian human rights laws in the areas of women's rights, the right to freedom of religion, and the right to freedom of speech and expression. It examines the similarities and differences present in such laws in both states. The thesis also includes an analysis of the various ways in which both countries' governments have utilized Islam to justify these laws, such as their interpretations of the Qu'ran. Additionally, evidence is presented that suggests that both Egyptian and Iranian leaders have attempted to restrict human rights in order to preserve the Islamic foundations of the countries' political systems. The thesis closes with a look at the most recent human rights developments in Egypt and Iran through 2003.

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ABSTRACT

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Western ideals versus Islamic values: This is the dilemma faced by many Middle Eastern countries as they attempt to create human rights legislation that is acceptable both to the international community at large and to their own citizens. In constructing their own human rights norms, Egypt, a secular republic with an overwhelmingly Muslim population, and Iran, an Islam-based theocracy, have developed legislation and taken steps to either promote or restrict human rights within their borders. Because both countries' values are shaped mainly by Islamic values, there are some similarities in their actions taken toward human rights, as well as their rationale for doing so. However, there is a number of notable differences between the two countries in things such as what is being restricted, the degree of restriction, and the religious arguments for these actions.

This paper explores the evolution of human rights legislation under the current regimes both in Egypt (since 1952) and Iran (since 1979). It compares and contrasts the legislation and laws in each state, focusing on three primary areas: the rights of women, the right to freedom of religion, and the right to freedom of speech and the press. In doing so, it looks at similarities and differences between the countries in these laws. This paper also contains an analysis of the Islam-based reasoning that many Egyptian and Iranian political leaders have used to justify these laws, both in their personal interpretations of Islam and the need to make all laws consistent with *sharia* (Islamic law). However, not only has Islam as a religion appeared to influence the development of such legislation, but evidence also suggests that both governments place restrictions on human rights as a means of defending the Islamic foundations of their respective states. The paper closes with an examination of the most recent human rights developments in

Egypt and Iran, especially the actions taken by both countries' governments for the advancement of human rights through 2003.

THE RIGHTS OF WOMEN

The rights of women in Egypt and Iran have been one of the most debated issues in the human rights field. Women's rights in nearly every aspect of life have been limited in one way or another by the governments. In both Egypt and Iran, political leaders have generally argued that Islam mandates that a woman's place is in the home with her family, although Egyptian women tend to enjoy more freedom economically and socially than Iranian women. This section will compare how the rights of women have been mainly restricted while providing them with some degree of freedom and the religious reasoning behind these restrictions.

Family Planning

Rights involving marriage and children have been among the most heavily restricted rights for women in both countries. Both Egyptian and Iranian officials have, at one point or another, been strong advocates of family planning. Gamal Abdul Nasser (1918-70), leader of the 1952 Egyptian revolution and first president of Egypt, was one such advocate. In writing the 1962 National Charter, Nasser argued that a population increase could be an obstacle to Egyptians' efforts to raise the level of income and that family planning was necessary to prevent this from becoming a reality.¹ In Iran, family planning has become part of the government's programs to ensure its citizens' well-being within the past ten years. In order to deal with a substantial population increase, the

¹Peter Mansfield, *Nasser's Egypt* (Baltimore: Penguin Books, 1969), 130-131.

Iranian government has begun implementing several changes in its social policies, including the distribution of contraceptives, opening birth control clinics, and cutting subsidies to large families.² These changes have not only allowed women some control over their bodies and personal lives, they have also benefitted the states by keeping population growth under control.

However, despite the pragmatism present in both Egyptian and Iranian officials' decisions to implement these policies, the religious justification for them is very different. Nasser, in seeking to create a socialist state free from the Cold War's alliances, did not like Communism as a form of government because "...Communism is in its essence atheistic; I have always been a sincere Moslem with an unshakeable belief in an outside force that we call God who watches over all our destinies."³ Nasser's religious beliefs influenced the form of government he believed Egypt should take, and that expanded into his social policies, including family planning. In Iran, however, officials have argued that Islam favors small families, meaning those with no more than two

²Ervand Abrahamian, *Khomeinism: Essays on the Islamic Republic* (Berkeley, CA: The University of California Press, 1993), 139-140.

³Gamal Abdul Nasser, interview with the London *Sunday Times*, June 1962, quoted in Mansfield, 226.

children.⁴ The rights of women regarding family planning have taken similar paths in Egypt and Iran in that they have received nearly the same level of protection, yet the religious rationale behind this is very different between the countries.

Marriage and Divorce

⁴Abrahamian, 140.

Women's marital and divorce rights have undergone numerous changes in both Egypt and Iran. Marital rights for Egyptian women drastically changed when the Egyptian government, acting under President Anwar el-Sadat's (1970-81) leadership, amended the state's laws relating to personal status. Polygyny could be considered legally harmful to a first wife if a man married multiple wives; to remedy the situation, a woman could sue for divorce within one year of learning of her husband's second marriage, as well as requesting compensation during divorce proceedings.⁵ A husband was also required to file for divorce before witnesses at a registrar's office and to inform his wife, who could then receive alimony.⁶ When the divorce was final, the woman was usually permitted to retain custody of her children under a certain age.⁷ All of these measures helped to protect Egyptian women's rights in marriage.

⁵“Egypt–Women's History.” Encyclopedia of Women's History. Available http://www.womenshistory.about.com/library/ency/blwh_egypt.htm 26 February 2004.

⁶Ibid.

⁷Ibid.

In 1985, that changed when a Supreme Constitutional Court ruling declared most of the 1979 amendments unconstitutional.⁸ In their place, the laws were amended to restrict women's marital rights: women lost their right to a divorce if their husband married a second wife, and divorces were granted only if a judge believed it to be in the family's best interests.⁹ A judge also became the final authority to determine the best residence for the divorced wife and children.¹⁰ This ruling made it much more difficult for women to obtain a divorce and keep custody of their children, and restricted their rights significantly.

Egyptian women, however, have enjoyed considerable freedom in marital and divorce rights when compared to their Iranian counterparts. Since the Iranian Revolution, women's rights in marriage and divorce have been heavily restricted, and punishments for female adultery are outlined in the Bill of Retribution. This repression of Iranian women's rights began in the early days of the Iranian Revolution, when Ayatollah Ruhollah Khomeini declared the 1967 Family Protection Law to be invalid and those who supported it as criminals.¹¹ Women had been allowed certain rights pertaining to marriage, divorce, family, and children under the Family Protection Act; with Khomeini's declaration of its invalidity, women's rights were vulnerable to governmental limitations. With the overturn of the Family Protection Act, court divorces for women

⁸“Egypt–Women’s History.”

⁹Ibid.

¹⁰Ibid.

¹¹Imam Khomeini, *Islam and Revolution: Writings and Declarations*, trans. Hamid Algar (London: KPI, 1981), 441.

became illegal, and any second marriages were to be considered adultery.¹²

¹²Ibid., 441.

The restrictions on women's marital and family rights did not end there. Girls' age of consent for marriage was dropped from eighteen to nine.¹³ The new Iranian constitution spoke of women's roles only within the context of the family.¹⁴ The Family Protection courts were dismantled, leaving women with no recourse to the judiciary on child custody and divorce matters, nor were they allowed to file for divorce on such grounds as incompatibility.¹⁵ Women were, however, still permitted to retain certain divorce rights. They still maintained their right to their *mahrs* (dowries), but this right was waived if a woman desired an irrevocable divorce.¹⁶ A three-month waiting period was mandated so that, as in Egypt, a husband could not simply divorce his wife without

¹³Azar Nafisi, "Rebels Without a Veil." *Reader's Digest* (May 2000): 180.

¹⁴Haleh Esfandini, *Reconstructed Lives: Women and Iran's Islamic Revolution* (Washington, D.C.: The Woodrow Wilson Center Press, 1997), 40.

¹⁵*Ibid.*, 41.

¹⁶Haleh Afshar, "Khomeini's Teachings and Their Implications for Iranian Women." *In the Shadow of Islam: The Women's Movement in Iran*, ed. Azar Tabari and Nahid Yeganeh (London: Zed Press, 1982), 84-85.

informing her first.¹⁷

¹⁷Ibid., 84-85.

In 1981, the Law of Retribution was approved.¹⁸ This bill outlined the varying definitions and punishments for adultery, including the stoning of women convicted of this crime and the recommendations for lashings in cases involving what the state had deemed inappropriate sexual practices.¹⁹ Under this law, women's testimony counted for less than men's in adultery trials.²⁰ Women could also be punished with one hundred lashes for engaging in *moseheqah* (lesbianism).²¹ The Law of Retribution further limited women's rights and status in Iran by making them inferior to men and its legalization of harsh measures for adulterers.

With regard to women's marriage and divorce rights, Egypt and Iran have utilized similar arguments in justifying the creation of these laws. In Egypt, the restrictions placed on women's rights have been often based on *sharia*—that under *sharia*, certain marital and divorce rights for women had to be regulated. A case in point is the changes in women's rights in family law, whereby the Egyptian government has stressed that women should be given certain rights in order to strengthen the family's role in society: “In Islam, the family is the nucleus of society, if the family is good the whole society will be good and vice versa.”²² The restriction of women's rights based on

¹⁸Azar Tabari and Nahid Yeganeh, ed., *In the Shadow of Islam: The Women's Movement in Iran* (London: Zed Press, 1982), 94.

¹⁹*Ibid.*, 94-97.

²⁰*Ibid.*, 95.

²¹*Ibid.*, 97.

²²“Egyptian Woman.” The State Information Service of Egypt. Available <http://www.sis.gov.eg/women/history/html/modern.htm> 9 March 2004.

sharia is the viewpoint that has been expressed by former Egyptian presidents Nasser²³ and Sadat,²⁴ and current Egyptian President Hosni Mubarak (1981-present).²⁵

²³Derek Hopwood, *Egypt, Politics and Society, 1945-90*, third ed. (New York; London: Routledge, 1992), 95.

²⁴Sami Zubaida, "Trajectories of Political Islam: Egypt, Iran, and Turkey." *The Political Quarterly*, vol. 71, no. 1 (2000), 70.

²⁵Hopwood, 188.

Sharia was also the basis for the limitations on women's marriage and divorce rights in Iran, although in a slightly different manner from Egypt. Ayatollah Khomeini, in declaring the 1967 Family Protection Act to be invalid in 1979, based his declaration on the grounds that the Act was not consistent with *sharia*.²⁶ He took this argument a step further by adding that the Act was merely an attempt by foreigners to destroy Muslim homes and family lives.²⁷ Women were to be the "pillars of the nation" by acting as models of virtue and chastity: motherhood was to be accorded a special status in society, sons were to be raised to become martyrs for the Iranian cause, and women were to be teachers within the family.²⁸ Women's rights regarding marriage and divorce, then, are very similar in both Egypt and Iran, as are the religious bases for these laws.

Equality Between the Genders: Political and Economic

In both Iran and Egypt, women are considered to be equal to men within the limits of Islamic jurisprudence.²⁹ Women in both countries have enjoyed some social, political, and economic rights relating to their status. But these rights frequently are

²⁶Khomeini, 441.

²⁷Afshar, 75.

²⁸Ibid., 75-90.

²⁹Khomeini, 263-264; Egyptian Constitution, art. 11.

scaled down compared to men's, due to both the constraints placed on them by Islam and cultural factors.

Iranian and Egyptian women have the right to participate in politics, albeit in limited ways. Iranian women are allowed to practice law and serve in the Majlis, yet they cannot be appointed as judges, run for the presidency, or serve in high-level governmental positions such as prime minister.³⁰ Islamic teachings have been the reason for these limitations,³¹ however, political leaders such as Khomeini have argued that Islam does accord women the right to political participation.³²

In Egypt, several laws have been passed to allow women political representation. Among these laws are Law 73 (1956), stipulating gender equity in candidacy and election; Law 38 (1972), stipulating gender equity in People's Assembly membership; and Law 120 (1980), stipulating gender equity in Shura Council membership.³³ In 1979, another law was passed guaranteeing women a proportionate number of seats in the People's Assembly.³⁴ Again, as was the case in Iran, these laws were based on the concept of *sharia* and religious teachings.³⁵ As of 2003, Iranian and Egyptian women have held the right to some political participation. but due to the Islamic culture present

³⁰Esfandini, 40-41.

³¹Hussein Mehrpour, "Legal Guarantees for Observing Human Rights in Iran." NetIran. Available <http://www.netiran.com/Htdocs/Clippings/Social/000000XXSO01.htm> 4 February 2004.

³²Khomeini, 263-264.

³³"Egyptian Woman."

³⁴Katerina Dalacoura, *Islam, Liberalism, and Human Rights* (London: I.B. Tauris & Co. Ltd., 1998), 124.

in both states, they have not possessed the same rights as men and consequently have not been considered equal to them in a political sense.

³⁵Egyptian Constitution, preamble and art. 11.

Economically, women have also held a number of rights in this area, but these are limited by the government's use of Islam as well. Egyptian labor laws have mandated that employees must provide gender equity to female employees with respect to their rights and obligations.³⁶ But this is balanced by a series of laws requiring women to balance their jobs with family lives: maternity leave, child care, and unpaid leave for family purposes are just a few of the things that have been addressed in these laws.³⁷ The basis for these laws lies in the Egyptian Constitution, which states, "The State shall guarantee the proper coordination between the duties of woman towards the family and her work in the society, considering her equal with man in the fields of...economic life without violation of the rules of Islamic jurisprudence."³⁸ The Egyptian government has also argued that the Qu'ran requires that a woman holds the right to work and to receive compensation for it, just as a man is.³⁹

³⁶"Egyptian Woman."

³⁷Ibid.

³⁸Egyptian Constitution, art. 11.

³⁹"Human Rights in Islam." The Egyptian State Information Service. Available

Women face similar laws in Iran; the Iranian Constitution mandates that “the government must ensure the rights of women in all respects, in conformity with Islamic criteria...”⁴⁰ To this end, the Iranian government has created laws not unlike those of Egypt, such as the Part-Time Work Law of 1981, which allowed women to work only half-time to support their families.⁴¹

<http://www.us.sis.gov.eg/eginfnew/humanrights/html/hr4.html> 4 October 2003.

⁴⁰Iranian Constitution, chapter III, art. 21.

⁴¹Esfandiari, 41.

It is here, though, that Iranian women's economic rights differ sharply from those of women in Egypt. During the Iranian Revolution, women were allowed to "retire" after fifteen years of employment, day-care centers were shut down, and women were pushed out of scientific and technological fields—all for the purpose of segregating women from public life and making them remain at home to take care of their families, as well as creating more jobs for men.⁴² Despite the fact that Egyptian and Iranian women have essentially the same political rights based on the same religious arguments, Iranian women's rights have been more heavily restricted due to the clergy-ruled Shii culture in which they live.

Egyptian and Iranian women have enjoyed nearly the same rights, although Iranian women are more limited in their freedom in many ways. Both countries' leaders have supported the laws regarding women by arguing that *sharia* calls for certain women's rights to be restricted or regulated in particular ways, leading to less freedom for women in both states.

RIGHT OF FREEDOM OF RELIGION

The right of freedom of religion is another one of the most controversial areas in human rights activity in Iran and Egypt. As both states are governed on Islamic principles, there have been many conflicts between the governments and religious minorities and their practices, which have led to the passage of legislation and acts to limit those minorities' rights. The following discussion focuses on one religious minority that has frequently been attacked in both countries, the Baha'is, and a general overview

⁴²Ibid., 41.

of the treatment of other religious minorities and governmental regulations regarding religious activity in each country.

As is to be expected, many of these laws have been based on Islamic doctrines clarifying how certain minorities are to be treated, be they Muslim, Christian, Jewish, Baha'i, or any of the other groups prominent in these countries. As a result of these doctrines, there have been varying levels of treatment for each minority, a common characteristic of both Egyptian and Iranian human rights law, despite stipulations in both countries' constitutions mandating that the government may not discriminate against a citizen on the basis of religion.⁴³ Iran has acted differently from Egypt in several respects because, as a theocratic state, Islam is part of the country's political system and culture. However, religion has not been the sole factor in determining the laws and restrictions placed on each religious group—the need for state security and to protect the current regime's foundations have been among the reasons cited for these restrictions as well. All of these have shaped each country's human rights policies over the years, and will be discussed in the sections below.

The Baha'is

Frequently viewed as “apostates”⁴⁴ throughout the Middle East, Baha'is have faced more discrimination than any other religious minority in Egypt and Iran. For mostly religious reasons, both the Egyptian and Iranian governments have outlawed the

⁴³The Iranian Constitution, ch. III, art. 23; the Egyptian Constitution, part III, art. 40.

⁴⁴Reza Afshari, *Human Rights in Iran* (Philadelphia: University of Pennsylvania Press, 2001), 120-121.

practice of the Baha'i faith and threatened its members with punishments for continuing to practice it. Some of these actions are outlined below.

In Egypt, President Nasser issued a decree banning all Baha'i activities in 1960.⁴⁵

This action was one of the many Nasser took during the course of his presidency to suppress not only his political opponents, but also those who posed a threat to Islam in Egypt.⁴⁶ Even today, the Baha'i religion has remained illegal in Egypt, and has been one of several "unorthodox" religions persecuted by the government.⁴⁷ The suppression of the Baha'i faith in Egypt has been done both as a way of protecting the Islamic culture in the country, as well as eliminating a possible challenge to the regime's legitimacy.

⁴⁵"International Religious Freedom Report." International Religious Freedom Report 2002: Egypt. Available <http://www.state.gov/g/drl/rls/irf/2002/13995pf.htm> 26 February 2004.

⁴⁶Zubaida, 67.

⁴⁷"International Religious Freedom Report," Egypt.

The Iranian government has followed a similar path in its treatment of Baha'i practitioners. Since Baha'is are considered to be "counter-revolutionaries"⁴⁸ in addition to apostates in Iran, they have been dealt with more harshly than in Egypt. Among the actions taken against them in recent years have been the kidnappings and killings of members of the Baha'i National Spiritual Assembly on charges of treason.⁴⁹ Many of them have been forced to recant their beliefs and convert to Islam.⁵⁰ Other restrictions the Iranian government has placed on the Baha'is include the following: the loss of the right to manifest their faith or worship in public; the destruction of their cemeteries; unfair treatment in court; little access to higher education; a lack of legal recognition of marriages and divorces between members; and the loss of inheritance rights.⁵¹ As it has been the case in Egypt, one of the most common Islam-based justifications the Iranian government has utilized in its treatment of the Baha'is is the need to protect the country's religio-political system. It has been argued that if the Iranian religio-political system is threatened, it has a legitimate right to deal with this threat.⁵² By labeling the Baha'is counter-revolutionaries, the Iranian government has justified its treatment of this group to protect the foundations of the regime.

Furthermore, by claiming the Baha'is to be apostates and denying them their

⁴⁸Afshari, 120-121.

⁴⁹Ibid., 121-122.

⁵⁰Ibid., 120-121.

⁵¹Ibid., 124-128.

⁵²Mehrpour.

rights, the Iranian government has asserted its right to protect itself from any dissension that might disturb its ideals. Prior to the 1979 revolution, Shah Reza Pahlavi had sought the Baha'is' favor to counter the Shii clergy and their growing power; after the revolution, a backlash against the Baha'is occurred because the Shah's attempts to win their favor was a symbol of the "domestic tyranny and foreign domination"⁵³ that characterized the monarchy.⁵⁴ Because of such restrictions, the Baha'is have become an example of extreme repression of religious freedom, and probably no other religious minority in either Egypt or Iran has been forced to deal with such a high degree of oppression.

Governmental Discrimination Against Other Religious Minorities

The Baha'is and the Egyptian and Iranian governments' treatment of them is only one example of the wider discrimination religious minorities in both states have faced. Many other religious groups—Christians, Jews, and Zoroastrians, to name the primary ones—also have received different treatment from the Muslim majority in both countries.

⁵³Iranian Constitution, preamble.

⁵⁴“International Religious Freedom Report,” Iran. International Religious Freedom Report 2002: Iran. Available <http://www.state.gov/g/drl/rls/irf/2002/13995.htm> 2 April 2004.

This, in turn, has led to differences in the restrictions the governments have placed on members of minority faiths.

In Iran, there are three major religious minorities that are recognized on the basis of Islamic tradition: Christians, Jews, and Zoroastrians.⁵⁵ These groups have been recognized as being free to practice their own religions within the limits of the law, in addition to receiving the right to have deputies in the Majlis.⁵⁶ But these groups have had a number of restrictions placed on their right to freedom of religion as well. These have included: careful monitoring of their freedom of expression, with no proselytizing permitted; not allowing Muslims to attend public gatherings held by members of these groups; and discrimination in hiring for governmental jobs.⁵⁷ Religious minorities in Iran

⁵⁵Afshar, 130-131.

⁵⁶Ibid., 130-131.

⁵⁷Ibid., 130-131.

have also been forced to accept Muslim religious instruction in their schools.⁵⁸

⁵⁸Ibid., 130-131.

A marked difference between Iranian and Egyptian human rights legislation addressing religious freedom issues is the treatment of Shi'i Muslims versus Sunni Muslims. The Iranian government has accorded "full respect" to Sunni Muslims;⁵⁹ however, in a country where Shi'i are considered to be part of a protected majority,⁶⁰ Sunnis have not always received equal treatment. Examples of this include restrictions on Sunnis practicing law or applying for government positions, in addition to being unable to build mosques in Tehran.⁶¹

Egyptian religious minorities have been subjected to similar treatment by the government as their Iranian counterparts, although with some slight differences. Among the recognized Egyptian religious minorities are Christians and Jews.⁶² As a general rule, members of non-Muslim religions have usually been free to practice their beliefs;⁶³ missionary groups have been allowed to remain in the country provided they do not actively proselytize.⁶⁴ Religious instruction is mandated in schools, as it is in Iran, but it is done according to the student's faith.⁶⁵ Discrimination against members of these religions has occurred in Egypt, just as it has in Iran; they have faced difficulty in finding

⁵⁹Afshar, 128-130.

⁶⁰Ibid., 132-134.

⁶¹Ibid., 128-130.

⁶²"International Religious Freedom Report," Egypt

⁶³Ibid.

⁶⁴Ibid.

⁶⁵Ibid.

jobs, being appointed to administrative posts in the higher educational system, and have been denied admission to al-Azhar University.⁶⁶

⁶⁶Ibid.

One notable difference in the rights of Egyptian religious minorities as compared to those in Iran is the application of family law. A 1995 Egyptian law required that family law, involving such matters as marriage, divorce, alimony, child custody, and burial, was to be based on a person's religion.⁶⁷ There is no record of a similar law in Iran.

There are several Islamic grounds on which Egypt and Iran have based legislation restricting the right to freedom of religion. The Iranian government, as it has argued in the case of the Baha'is, has also used the idea of needing to defend both the state and the state's religious system against any threats that may be posed to it.⁶⁸ The Iranian government's recognition of the other two major monotheistic religions, Christianity and Judaism, along with Zoroastrianism, is supported by Islamic doctrine stating that the members of these faiths are *ahl-a'kitab* (People of the Book)⁶⁹ and should be treated

⁶⁷Ibid.

⁶⁸Mehrpour.

⁶⁹Judaism, Christianity, and Islam all follow the same monotheistic tradition; Islam recognizes many of the same doctrines present in Judaism and Christianity, and their followers are viewed with special regard for participating in the same traditions that Islam follows.

accordingly.⁷⁰

⁷⁰“Some of the Islamic Sources of the Iranian Constitution.” NetIran. Available <http://www.netiran.com/laws.html> 19 March 2004.

Egyptian political leaders has followed the same arguments in restricting religious minorities' rights: "The Qu'ran recognizes the right to religious freedom not only in the case of other believers in God, but also in the case of non-believers in God (if they are not aggressive toward Muslims)." ⁷¹ This statement is representative of many of the actions the Egyptian government has taken to restrict religious freedom in its country's borders, in order to both protect the state's security and allowing the *ahl-a'kitab* to practice their religions in accordance with Islamic doctrine. For both Egypt and Iran, restrictions on religious freedom have come about as a result of defending the state's major religion and security.

RIGHT TO FREEDOM OF EXPRESSION AND PRESS

The right to freedom of expression and the press has been yet another heavily restricted human right in Egypt and Iran. Both countries have passed legislation placing boundaries on its citizens' speech and the press. In many of these laws, both countries have justified them as necessary to protect the Islamic and national interests of the state and maintain order within their borders. Some of these laws are outlined below.

Freedom of Speech and Expression

Several noteworthy laws addressing the right to freedom of speech and expression have been put into effect in Egypt and Iran. Many such laws have stipulated such things as the boundaries of acceptable criticism directed against the government and the content

⁷¹"Human Rights in Islam."

of public speeches. Islamic values, plus the governments' right to preserve order in their respective states, have typically been the basis for such laws.

In Egypt, some of the most important freedom of expression laws have included the Law of Practicing Political Activity (1979), which required that speeches had to conform to "principles" established by a national referendum,⁷² and Law 95 (1980), which made criticism of the Egyptian-Israeli peace treaty a criminal offense.⁷³ In justifying these laws, the Egyptian government has relied on an interpretation of part of the Qu'ran that recognizes the right to protection from defamation and ridicule.⁷⁴ This can be seen in such legislation as Law 95, which represented an attempt on Sadat's part to quiet the anti-treaty sentiment prevalent in Egypt at the time. Current Egyptian president Mubarak has also suggested that Islam encompasses certain basic human rights, among them the right to freedom of expression.⁷⁵ In restricting freedom of expression in

⁷²Naseer H. Aruri, "Disaster Area: Human Rights in the Arab World." *MERIP Middle East Report*, no. 149 (November-December 1987): 12.

⁷³*Ibid.*, 12.

⁷⁴"Human Rights in Islam."

⁷⁵Hosni Mubarak, "Mubarak's Address to Islamic Research Academy" (delivered on May 12, 2003), The Egyptian State Information Service. Available

Egypt, the most frequent source of justification has come from the Qu'ran itself.

Similar actions have been taken in Iran limiting Iranian citizens' rights to freedom of expression. The current regime, having been extremely sensitive to criticism, has punished individuals who have criticized it too strongly and passed several laws to limit such criticism. Ayatollah Khomeini believed that groups of people who stood for freedom of expression were among the most dangerous forms of association.⁷⁶ The Iranian government has taken a slightly different stance from the Egyptian government in basing its arguments on Islam; it has argued that it is a theocracy that the people have wanted, and because the majority of Iranian citizens practice Islam, it has been necessary to restrict the right to freedom of expression to make it conform with Islamic principles.⁷⁷ Ayatollah Ali Khomeini issued a *fatwa* (religious opinion) stating that people were free to express their thoughts provided they did not do so in public.⁷⁸ In addition to utilizing Islamic doctrine to justify these laws, the Iranian government has further argued the need to protect the state system and religion from disruption. In both Egypt and Iran, then, the right to freedom of expression has been restricted primarily on Qu'ranic ideas stating that human beings have the right to be free from ridicule and to see that others' expressions conform with Islamic ideas.

Freedom of Press

As with the right to freedom of expression, the right to freedom of press has been limited via legislation in Egypt and Iran. These laws have not addressed solely the

⁷⁶David Menashri, *Post-Revolutionary Politics in Iran* (London: Frank Cass Publishers, 2001), 133.

⁷⁷Mehrpour.

content in news articles, but have covered nearly everything associated with the news industry. Again, as in many other areas involving human rights law, the Iranian and Egyptian governments have justified these laws using Islamic principles and the state's sovereign rights. However, the laws and actual freedom of the press has differed between the two countries.

⁷⁸Afshari, 195-196.

Iranian journalists have faced severe restrictions since the 1979 revolution. Under Khomeini's leadership, the Iranian government passed a series of limitations on the Iranian press, such as the banning of non-conformist newspapers and sanctions against papers that did not adjust their publications to fall in line with Islamic ideology.⁷⁹ But the major law in Iran addressing freedom of the press has been the Press Law of 1986. The Press Law regulates nearly every aspect of the media in Iran, from content to who may work in media to newspapers' appearance.⁸⁰ A recurring theme in this law is the emphasis on making the media conform with Islamic principles.⁸¹

⁷⁹Menashri, 133-134.

⁸⁰Iran, the Press Law, 1986.

⁸¹Ibid.

Nearly ten years later, the Majlis proceeded to pass more laws limiting freedom of press in Iran. In 1995, a law was passed making “insults” offered against the current government a crime punishable by six months in prison and seventy-four lashings; insults offered against Khomeini were punishable by death.⁸² In 1999, the Majlis passed another law with new press restrictions. Among these restrictions were the requirement that journalists were obliged to reveal their sources; the refusal to allow opposition editors and journalists to participate in the news industry; the limiting of subsidies to reformist publications; and the right of the Revolutionary Court to intervene in media complaints.⁸³ Even the Iranian judiciary has played a role in policy making in this area: in 1999, it submitted a twenty-five point bill defining a political offense as any action taken against the Islamic republic’s sovereignty or that threatened citizens’ rights. Some examples of such actions listed in this bill included attempting to intensify differences between people

⁸²Afshar, 200.

⁸³Menashri, 140.

to threaten Iran's independence and the spreading of lies and rumors.⁸⁴

⁸⁴Ibid., 140.

The Iranian government has utilized Islamic values and the need to defend the theocracy's foundations as the bases for these laws. As with all other legislation, the laws limiting the freedom of the press have been based on *sharia*, which has meant that the Iranian government has written these laws to force journalists to follow Islamic criteria in their work.⁸⁵ Again, the Iranian government has placed these restrictions on the press to safeguard the theocracy and satisfy its citizens; Khomeini believed that the Iranian people wanted newspapers to conform with the nation's views.⁸⁶ More recently, conservative politicians have argued that defending Islam's boundaries are more important than defending the country's borders.⁸⁷ These laws have also been created in response to the need to protect state security. By limiting the freedom of the press, the Iranian government has been able to protect the regime's foundations from serious criticism.⁸⁸ Many of these press laws have also been designed to punish certain groups; a case in point is the Press Law, which was written to punish the secular Islamists protesting the theocratic regime during the mid-1980s.⁸⁹ The Iranian government has developed numerous laws to restrict the freedom of the press in the country in nearly every way imaginable.

Egypt has followed a path parallel to that of Iran, although the press there has

⁸⁵Mehrpour.

⁸⁶Menashri, 133-134.

⁸⁷Ibid., 133-134.

⁸⁸Afshari, 195-196.

⁸⁹Ibid., 210.

historically enjoyed more freedoms than their Iranian counterparts. During the early years of Sadat's presidency, freedom of the press was permitted within the bounds of a responsible press; this meant that left-wing journalism faced censorship.⁹⁰ The Egyptian press continued to enjoy this freedom until mid-1995, when President Mubarak began cracking down on them in an effort to thwart Islamic fundamentalists.⁹¹ One major press law that was passed in Egypt was Law 148 (1980), which made it illegal for certain people (usually the regime's opponents) to work in the newspaper industry.⁹² In a manner similar to that of Iran's, the Egyptian government has written some of these laws in an effort to stop the regime's opponents from gathering too much power, as it exemplified in Law 148. Egyptian political leaders have also argued the presence of a right against ridiculing or slandering other human beings, just as it has been in restricting

⁹⁰Dalacoura, 123-124.

⁹¹Ibid., 123-124.

freedom of expression.⁹³

Freedom of the press has been a very heavily-restricted right in both Egypt and Iran. Both governments have passed these laws in an effort to protect themselves from attack from their own citizens. The religious justifications, however, have differed somewhat: Egypt has argued the right not to ridicule other human beings takes precedence over the right of freedom of the press, while Iran has based its laws on the need to protect its religio-political system from criticism. Thus, freedom of the press has been limited in both countries to prevent public dissent and further cut back on the people's rights.

RECENT HUMAN RIGHTS DEVELOPMENTS IN EGYPT AND IRAN

Despite the numerous restrictions the Iranian and Egyptian governments have placed on human rights, there has been some advances made in this field in recent years. Some of these changes are discussed below.

⁹²Aruri, 12.

⁹³“Human Rights in Islam.”

Iran, which has undergone some liberalization since current president Seyed Muhammad Khatami took office in 1997, has made a number of noteworthy changes in response to Khatami's attempts for more reform in the country. While campaigning for office, Khatami ran on a platform that promised more respect for human rights, the right to question the government freely, and a need to uphold the constitution.⁹⁴ Several changes in Iranian social policy have occurred. The Iranian government has allowed Western and popular music to be played, and women are now allowed to wear colored *chadors*⁹⁵, Western clothing, and make-up.⁹⁶ In justifying allowing women more freedom in dress, Ayatollah Khomeini argued that God liked beauty and giving women this freedom was a symbol of that fact.⁹⁷ Newspapers have been permitted more leniency in their content, although opposition newspapers and those that have directly challenged the system's basic tenets have been shut down.⁹⁸ Other changes that have been made include the unbanning of certain books by the Ministry of Culture and Islamic Guidance; the removal of the requirement that film directors submit their scripts for governmental approval; and the awarding of permits to students for the purpose of protesting the government.⁹⁹

⁹⁴Ann Elizabeth Mayer, "The Universality of Human Rights: Lessons from the Islamic Republic." *Social Research* 67 (Summer 2000): 526.

⁹⁵A Muslim woman's head covering.

⁹⁶Abrahamian, 139-140.

⁹⁷Ibid., 139-140.

⁹⁸Menashri, 133-134.

⁹⁹Scott MacLeod, "Old Iran...vs. New." *Time* 65 (July 6, 1998): 73.

Perhaps the most significant sign of change in Iranian human rights policy is Shirin Ebadi, an Iranian human rights attorney and recipient of the 2003 Nobel Peace Prize. Ebadi, who initially served as a judge prior to the Iranian revolution, developed a reputation for her work in representing the families of those killed for speaking out against the government in court, which placed her in prison on several occasions. She received the 2003 Nobel Peace Prize for her efforts to promote human rights based on reformist Islam.¹⁰⁰ These are only a few of the many changes that have gone on in Iranian human rights policy in recent years.

¹⁰⁰“Shirin Ebadi–Biography.” The Norwegian Nobel Committee. Available <http://www.nobel.se/peace/laureates/2003/ebadi-bio.html> 20 March 2004.

Some equally important changes have begun to be made in Egypt as well. In 2003, President Mubarak announced his intention of forming an Egyptian National Council for Human Rights as a means of helping to improve the current human rights situation in Egypt and to enhance Egyptians' awareness of them.¹⁰¹ This council, which is expected to be affiliated with the Shura Council, will contain six permanent committees with the goal of protecting Egyptians' personal liberties in the Constitution.¹⁰² This is one change that has been announced in support of President Mubarak's desire for Egypt to become first in human rights advocacy.¹⁰³

The Egyptian government has also sought to rectify the country's involvement with female genital mutilation (FGM). In 1997, a law was passed outlawing the practice of FGM, but it was overturned by the Supreme Constitutional Court, which declared that the government did not have the power to regulate doctors' rights.¹⁰⁴ More recent efforts by the Egyptian government to address this issue have included signing onto a Cairo Declaration requiring signatory states to end FGM within their borders. Both President and Mrs. Suzanne Mubarak have been strong supporters of this statement.¹⁰⁵ As with

¹⁰¹“Mubarak Discusses Establishment of National Council for Human Rights.” The Egyptian State Information Service. Available <http://www.us.sis.gov.eg/online/html9/o220523.htm> 4 October 2003.

¹⁰²“Shura Council Approves in Principle Draft Law on Human Rights Council.” The Egyptian State Information Service. Available <http://www.us.sis.gov.eg/online/html9/o080623g.htm> 4 October 2003.

¹⁰³Hosni Mubarak, “Speech by President Muhammad Hosni Mubarak on the Occasion of the Prophet Muhammad's Birthday” (delivered on June 24, 1999). The Egyptian State Information Service. Available <http://www.sis.gov.eg/egyptinf/politics/preside/html/sc82.htm> 1 December 2003.

¹⁰⁴“Government Backlash to Campaign Against Female Genital Mutilation in the Gambia and Egypt.” Sisterhood Is Global Institute. Available <http://www.sigi.org/Alert/gamb0797.htm> 7 December 2003.

¹⁰⁵Cairo Declaration for the Elimination of FGM. The Center for Reproductive Rights. Available

Iran, the Egyptian government has been making major changes in its human rights policy as well.

CONCLUSION

Over the course of the lives of their current regimes, both the Egyptian and Iranian governments have passed legislation to restrict the human rights of their citizens in many ways. Some of the areas in which they have done so include the rights of women, the right to freedom of religion, and the right to freedom of press and expression. Nearly all of these laws have their basis in Islam, be it the government's interpretation of the Qu'ran, political leaders' personal attitudes and beliefs, or the need to protect the Islamic values upon which both regimes were founded.

The Iranian and Egyptian governments have written laws and taken actions by which they have restricted women's rights. In both countries, women have been limited in their rights involving family, marriage, and divorce; many of these laws have been justified in that the Qu'ran shapes women's rights in these areas. Women have also faced discrimination in employment and political participation in that they have been considered unequal to men, which has been justified by the governments' interpretation of the Qu'ran and leaders' personal beliefs as well.

With respect to religious freedom, many religious minorities have seen their

rights restricted because they are not members of either country's predominant faith. The Baha'is have had their rights heavily restricted because they are seen as members of a heretical religion by both the Iranian and Egyptian governments. The actions taken against them have been based on the grounds that Islam requires that "apostates" be punished and, in the case of Iran, eliminating a threat to the Shiite Muslim foundations of the regime. Other religious minorities in both countries, such as Christians, have faced discrimination in employment, education, and public assembly—although they have not been as harshly treated as the Baha'is by virtue of being *ahl-a 'kitab*, or followers of the same path as Muslims.

In the area of freedom of expression and press, both governments have acted to establish laws whereby their citizens must followed Islamic criteria in their statements out of respect for Islam, in addition to removing any possible threats to the religious bases of the Egyptian and Iranian regimes. Freedom of expression has been curtailed such as it has become very difficult for people to speak out against the regime, especially when a serious punishment has been attached to such statements. Freedom of the press has been restricted in both countries in order to promote the regime's Islamic values and act in accordance with what the majority of citizens wants.

Although both the Iranian and Egyptian governments have restricted human rights in many areas, there has been a recent trend in moving away from some of these restrictions and allowing people more rights. These changes have affected mainly women's rights and the right to freedom of expression and press, and represent further liberalization in human rights policies in both states. The human rights records of both

states remain mixed, a symbol of each country's attempts to balance its traditional Islamic values with those of the West.

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