



rights activists, lawyers and judges, who hale from various countries in the Arab world, Iran, the United States, Great Britain and Germany.

There are a total of fourteen separate chapters, of varying length and quality. The book is not lengthy – including notes and authors' biographies, it is 180 pages long. The average length of each chapter is between ten and fifteen pages. Despite the diversity of countries surveyed, all the essays are concerned with generic questions regarding the rule of law, whether in a theoretical sense, viz., whether the notion that legitimate governmental action is limited to those acts that are deemed lawful by a pre-existing set or rules, or in a practical sense, viz., assuming that the formal legal regime of a given state recognizes the rule of law in a theoretical sense, whether the coercive apparatus of the state in fact recognizes legal limitations on its conduct.

Perhaps the most interesting (it is certainly the most lengthy, at 35 pages), and most important, essay in this work is the very first one, authored by Adel Omar Sherif, an Egyptian judge, wherein the author provides a digest of the landmark decisions of the Egyptian Supreme Constitutional Court. While the work can be criticized for taking on the appearance of a mere survey of decisions, without taking a critical perspective to the Court's precedents, it is nonetheless a very valuable contribution for those lawyers and scholars who cannot read Arabic but nonetheless wish to gain insight into Egypt's legal culture. The modest task of relating the decisions of Egypt's Supreme Constitutional Court is especially important given the clichés regarding the absence of effective judicial institutions in the Arab world. Sherif's contribution effectively dispels that myth. His article reveals the Egyptian Supreme Constitutional Court to be a vibrant institution that takes its constitutional duties seriously, and discharges those duties with integrity, and when it finds that the government has acted unlawfully, it will strike down the offensive legislation, or rule against the government.

The second chapter, authored by Kilian Balz, deals with the interesting subject of the interaction between Islamic law as understood by the State, on one hand, and as popularly understood in civil society, on the other, and the legal resolution of conflict between the two in contemporary Egypt. He uses as a case study the legal controversy regarding female circumcision that was sparked by the Ministry of Health's ban on the practice, and the immediate challenge thereto that was brought before the Egyptian Administrative Court, on the ground that the Ministry's decree was repugnant to the Egyptian Constitution which enshrines the *Shari'ah* as

the major source of legislation for the State. The author finds that the ultimate resolution of the case establishes two fundamental points. First, individual citizens enjoy "standing" to challenge governmental laws on the basis that they contradict the *Shari'ah*. Second, while Islamic law is recognized by the Egyptian courts as a relevant limiting factor on positive legislation, it is the courts' interpretation of Islamic law that is authoritative from the perspective of the legal system. In this case, for example, the Egyptian Supreme Administrative Court concluded that in the absence of an unequivocal religious command to perform female circumcision, general legal principles of preserving bodily integrity, and the Islamic legal principle of prohibiting harm, were sufficient to render the Ministry's decree consistent with the *Shari'ah*. Accordingly, the author concludes that any discussion of the relationship of "human rights" to "culture" must take into account the mediating role institutions like courts play in constructing "culture."

Chapter 3 presents case studies centering on the protection of human rights in the two most legally advanced states of the Middle East, Egypt and Israel. The author, June Ray, concludes that despite the advanced legal systems of both countries, basic human rights, such as freedom from torture, are absent. In the case of Egypt, while there is a legal commitment to the values of human rights as enshrined in international agreements, the Egyptian government has failed to demonstrate the political will to eliminate use of arbitrary and unlawful practices habitually employed by state security services. In Israel, on the other hand, the government has actually institutionalized and legalized the use of torture.

In Chapter 4 Lynn Welchman presents the inherent contradiction between the Oslo peace process and the rule of law, insofar as the former has failed to take into account notions of international legitimacy represented by the principals of international law, in favor of the political "realities" on the ground. The author specifically cites the failure of the Oslo process to guarantee that Israel will abide by the requirements of the Fourth Geneva Convention, including recognition of the illegality of its settlements in the Occupied West Bank and Gaza Strip and its annexation of East Jerusalem. The author is also critical of the European Community for its failure to take active steps to insure that Israel abide by the Fourth Geneva Convention in the face of the United States' support for Israel.

Chapter 5 reviews the legal situation of Palestine during the Oslo peace process. Eugene Cotran points out that the lack of a Basic Law

(constitution) has resulted in a de facto situation in which the executive wields most of the power to the detriment of the legislative and judicial branches.

Chapter 6 presents an overview of the 'Iraqi legal situation, interspersed with comments on the devastating effects the United Nations sanctions regime has had upon the country. After giving a historical survey of law in 'Iraq, Sabah Al Mukhtar explains how the sanctions regime has effectively deprived the state of 'Iraq of any of the mechanisms available to states, such as banking, postal services, and even intellectual property protections. As a consequence the author concludes that there is no rule of law in today's 'Iraq.

Chapters 7, 8 and 9 give overviews of the legal systems in operation in Jordan, Kuwait and post-unification Yemen, with a focus on how the legal systems of each country operates to protect fundamental values of the rule of law. The three authors of Chapter 7, 'Abd al-Naieem Abu Wendi, Rateb Wazani, and Adeeb Halasa discussed, respectively, the lack of effective judicial review of the constitutionality of legislation in Jordan; the role of courts in the protection of human rights, including references to several cases decided by the Jordanian courts vindicating basic human rights; and a criminal defendant's due process rights. Mahmoud Sami Gamal El-Din's article on Kuwait, however, maintains a purely theoretical outlook. El-Din does not provide any practical examples where Kuwaiti courts apply the provisions. As far as we know, the provisions of law discussed by the author could be completely ignored in practice. Najib Shamiry in Chapter 9 offers an interesting discussion of the manner in which Yemeni courts incorporate Islamic law in their decisions.

Chapter 10 discusses the paradox of the rule of law in Saudi Arabia. While the article is short, Frank Vogel makes an insightful comment on how two different models of the rule of law will affect our judgment as to the existence of the rule of law in Saudi Arabia. One model of a rule of law is derived from moral theory and emphasizes individual moral accountability, a model which the author terms "vertical law-making", and the other model, which refers to the operation of law across all members of society, is something the author terms "horizontal law-making". The author argues that the tradition of "vertical law-making", based as it is on case-by-case decision making rooted in the traditions of Islamic law, is very much alive and well in Saudi Arabia. The tradition of "horizontal law-making", however, although theoretically legitimate in Islamic law under

the notion of *siyasa shar'iyya*, has remained relatively underdeveloped, for largely historical reasons. The unfortunate consequence of this failure to develop a rigorous notion of rule of law in this horizontal context has led, in the modern era, to a consolidation of tremendous power in the hands of the king, something the traditional, pre-modern model of government could not have countenanced.

In Chapters 11 and 12 Mai Yamani and Fatima Gailani discuss women's rights in Saudi Arabia and human rights in general in Afghanistan, focusing on the contradictions between Islamic law and popular culture in both countries which support restraints on individual freedoms that in many cases are considerably more burdensome than those contemplated by Islamic law as such. In Chapter 13 Martin Lau discusses how, in the wake of Pakistan's Islamization program, Islamic law became paramount over even textual provisions of the Pakistani constitution. With the rise of public interest litigation in Pakistan, however, the result has been to develop a legal discourse that synthesizes the secular vocabulary of fundamental human rights with that of Islamic law. Finally, the book concludes with a short essay by Gamil Mohammed El-Gindy that argues for the necessity of understanding the Islamic concept of *shura*, consultation, as the functional equivalent of democracy.

Inevitably in a work such as this, the quality of the various articles is uneven. Nevertheless, many of the contributions are solid pieces of scholarship that go beyond the recitation of mere clichés and provide insightful analysis or information that heretofore had not been readily available in English. Most of the articles are of a non-technical nature, and therefore will be useful principally to those who wish to gain an overview of the basic issues surrounding legal systems in the Middle East. As a general introduction to the field, the work fills an important gap in the literature and does so competently.

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