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Sheila Carapico

University of Richmond, scarapic@richmond.eduFollow this and additional works at: <http://scholarship.richmond.edu/polisci-faculty-publications>Part of the [International and Area Studies Commons](#), and the [Political Science Commons](#)

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Chapter 9

Some Yemeni Ideas About Human Rights

Sheila Carapico

Yemeni intellectuals voiced human rights concerns throughout the twentieth century. Of course, as elsewhere, the early incarnations of a human rights movement in this most populous corner of Arabia did not use the term *huquq al-insan* (human rights), popularized only in the 1990s. Moreover, the emphasis was consistently on limiting arbitrary governance and justice. Still, Yemenis tackled issues such as social equality, popular participation, judicial autonomy, due process, prison conditions, and intellectual freedom, among others. This chapter explores how a fragmented yet tenacious intellectual movement grounded in indigenous political culture produced writings intended to breach authoritarianism for over half a century. Contemporary Yemeni human rights activism draws on Arab and/or Islamic precedents and texts to articulate many of the principles expressed in international covenants. Concepts of human rights surfaced as intellectuals, jurists, and other political elites challenged tyranny and oppression, often in ways affected by Yemen's geographic position at the crossroads of Africa, Asia, and the Arab world, but always with reference to indigenous religious and societal values. Far from being some sort of alien Western construct superimposed on a Muslim Arab context, values now referred to collectively as human rights are deeply woven into Yemeni political culture and scholarship.

Rights are claims individuals or groups make on states. It is useful to distinguish positive from negative rights, as in "freedom to" and "protection against." Political and civil rights, also known as citizen rights, first-generation rights, or bourgeois liberties, are often distinguished from the so-called second-generation or social and economic rights. The evolution of rights in Europe began when an emerging bourgeoisie

asserted privileges previously enjoyed only by the aristocracy. Eventually citizen rights became a cornerstone of the “social contract” between governments and the people they ruled, and complex codes evolved to guarantee freedoms of expression, participation, association, and the like, as well as protections against arbitrary justice or cruel treatment. These rights, then, are firmly entrenched in Euro-American political philosophy, and were the basis of the Universal Declaration of Human Rights issued after World War II and the covenants affirming socioeconomic and collective rights of workers, women, and other social groups brought before the world in the 1960s and 1970s by socialist and Third World governments. These themes found their way into Yemeni writing and activism about the same time.

Even before the infamous Abu Ghraib prison torture scandal, many Arabs rightly pointed to a double standard applied by Westerners to human rights abuses in the Middle East. European colonial sermons about human dignity and nonviolence masked sometimes ruthless practices. During the cold war era, officials, media, and independent groups in the United States and other NATO countries lambasted human rights abuses in the Soviet Union, the People’s Republic of China, the People’s Republic of (South) Yemen, and other states of socialist orientation, often simultaneously overlooking egregious offenses committed by friends and allies of the West. Yet all the while intellectuals and activists in Africa, Asia, Central Europe, and Latin America clamored for legal protections, political freedoms, and other rights. Apparent victories by rights activists from Moscow to Manila and from Berlin to Buenos Aires in the late 1980s and early 1990s emboldened journalists, attorneys, teachers, and others around the world. In the last decade of the twentieth century, there was a deepening and widening of the international consensus on the universality of moral claims to basic protections and freedoms even as neoconservatives in the Arab world triumphed over a discredited Arab socialism. As we will see, in vociferous debates on good governance, Yemenis teased anticolonial, socialist, and liberal internationalist messages from the Arabic classics in which they were trained even as their own national history—British colonialism followed by Marxist revolution in the South and very gradual modernization in the North, culminating in unification in 1990—echoed world politics.

Perhaps the most salient fin-de-siècle challenge to the universalization of human rights came from some Islamic leaders and thinkers who rejected international norms as another form of Occidental political and cultural interference.¹ Various known as *jihadi* or *salafi*, these Muslim scholars that claimed human rights as understood in the West is antithetical to Islam. Such “rejectionists,” as a prominent Yemeni human rights advocate calls them,² falsely claim to speak for all Muslims. Both

Western cultural essentialists and Islamist rejectionists typically frame the disjuncture in terms of a sort of universal Islamic law discerned from selected passages in the Qur'an, the Hadith, and various fatwa on shari'a, with such particular emphasis on dissonant matters of corporal punishment and family law that larger commonalities in ideas of justice and fairness are obscured. Less attention is given to Arab Muslim scholars, jurists, journalists, and others whose works have defined, debated, and asserted legal and moral rights throughout the twentieth century. Some observers both in the Arab world and abroad automatically assume that human rights considerations are a product of Western influence. This chapter traces some of the high points in the development of a human rights consciousness in a corner of the Arabian Peninsula relatively insulated from Western influence since the British left Aden. My focus is on the exposition of human rights concepts and reasoning in some well-known Arabic documents and manuscripts by prominent Yemeni scholars, jurists, and politicians. The articulation of human rights concepts does not translate automatically into implementation, of course, but is nonetheless probably an important prerequisite.

Although the Ottomans established a few schools in North Yemen and the British trained some Adenis (of Indian or Somali as well as Yemeni parentage) for colonial administration, European educational influence was minimal in southwest Arabia. There were no Christian or colonial colleges, universities, or schools, so the intellectual elite were trained in classical Arabic and Islamic law, literature, and sciences. Even late in the twentieth century, only a fraction of professors, jurists, and writers were Western educated, others having studied in Cairo, Baghdad, Khartoum, Moscow, Prague, Bombay, or Singapore. At Sana'a and Aden Universities and in Yemeni schools, Egyptian, Iraqi, Saudi, Kuwaiti, and Sudanese influences were far more salient in most fields than European or American models. Overall, then, the intellectual conversations were framed in Arabic, with reference to Yemeni, Muslim, Arab legal traditions, informed by perspectives that were international without being Western. These conversations were grounded in the two main Yemeni sectarian traditions, Zaydi Shi'ism (technically, the Hadawi school), based in the large high plateau region around Sana'a, and the Shafi'i (Sunni) sect predominant along the Red Sea and Arabian Sea/Indian Ocean coasts. Many writers referred explicitly or implicitly to the great seventeenth century Yemeni jurist Muhammad 'Ali al-Shawkani, whose political writings sought the common jurisprudential ground between Shafi'i and Zaydi precepts.³ I take up this conversation in the early twentieth century as Yemeni writers and activists criticized many traditional practices and advanced a series of proposals for "sacred" or "national" charters guaranteeing citizen rights and limiting the powers of govern-

ments. Although writings and even constitutional declarations were not translated into actual practice, there is evidence of widening and deepening popular support for such a social contract to protect people from government.

Reform Within Tradition

The Arabian Peninsula, of course, was the cradle of Islam. At the dawn of the twentieth century, several different forms of Islamic law were in effect in different parts of the peninsula. The austere doctrine of Wahhabism that formed the ideological basis of the emergent Saudi kingdom was quite distinct from the Sunni Ottoman laws introduced in Yemen from Istanbul. The Zaydi Shi'ism of North Yemen's imams differed from the Ibadi Shi'ism of Omani imams, and the Shafi'i sultans of South Yemen's coastal region and Shafa'i scholars in North Yemen interpreted Sunni Islam in ways different from all of the above. These various schools of Islamic law held different positions on matters such as governance, taxation, education, and descent from the Prophet. (Systems of customary tribal law were also in effect in rural southern and central Arabia.) Each sect and polity trained jurists and legal scholars in its particular judicial and scholarly traditions. These were not stagnant but constantly developing interpretations and precedents. And within each polity, rulers attempted to impose central interpretations on academic training and judicial practice.

The cliché that “in Islam there is no separation of church and state” obscures the potential and sometimes real independence of religious institutions including *zakat* (a tithe), *waqf* (endowment), religious education, and judicial appointments and interpretations. Historically, various imams and sultans asserted their prerogative to collect and expend the religious tithe on wealth and production, but Shafi'i and even Zaydi communities often resisted its centralization. Eventually tax farming, surcharges, and other abuses had distorted a pious obligation beyond recognition. Regimes further attempted to control the considerable wealth of *waqf* funds as well as the intellectual content of the institutes, libraries, and mosques they supported. In the mid-1920s, North Yemen's Imam Yahya redirected the resources of Shafa'i schools into pro-imamic Zaydi institutions that trained jurists and teachers in an effort to mold legal and scholarly opinions. In South Yemen, too, at least one of the Hadrami sultans transferred administration of a school funded from an endowment in Singapore out of the hands of local religious scholars who protested that their academic standards were compromised.⁴ In short, state control of religious institutions and interpretations was always controversial.

A new generation of the educated elite that came of age in the 1920s and 1930s criticized the status quo⁵ and pressed for reforms that touched directly on what would later be considered human rights concerns. Influenced by trends in Egyptian, Sudanese, and even Indonesian education, North Yemeni liberals founded a couple of modern model schools, and an early Islamist reform movement in the Hadramawt defied the elite monopoly on reading and writing by educating the sons of ordinary tribesmen. Such schools became sites for the performance of ironic morality plays and the reading of political poetry. A range of Yemeni and foreign books and essays, many of them officially banned, circulated among the slowly expanding reading public. Themes of liberty and justice echoed in literary production and reverberated the punishment for dissent. The al-Akwa' brothers in Ibb, the elder of whom was a jurist, teacher, and playwright, were arrested for participation in a Reform (Islah) Society and sent to the infamous Hajjah prison with other intellectuals.⁶ Detainees wrote pleas for leniency, conciliatory compositions to the imams, eulogies for slain colleagues, tributes to other scholars, poetry, history and works of protest or parody, and even issued two hand-written newspapers.⁷ The famous Zaydi poet and jurist Muhammad al-Zubayri was exiled to Cairo for advocating a consultative imamate, and imprisoned on his return. Zubayri's writings, especially a 1952 pamphlet entitled "The Demands of the People" and another called "The Imamate and Its Menace to Yemeni Unity," developed the ideas of popular sovereignty and individual rights and freedoms as an alternative to personalized rule. It was a wide-ranging polemic, denouncing status differentiation, abuse of the religious tithe, and other injustices.⁸ Muhsin al-'Ayni, another prominent republican, wrote a review of the Qur'anic account of the ancient Yemeni Queen Bilqis (the Queen of Sheba) to make the case that the original, Islamic, and true form of government was and ought to be a republic.⁹ Some other young scholars accused by the administration of altering the Qur'an were acquitted by a Sana'a appeals court judge—who, with colleagues, subsequently issued a legal brief challenging forced payment of *zakat*, uncanonical taxes, tax farming, and trade monopolies, and demanding the pardon of political exiles.¹⁰

One of the most important public documents of the prerevolutionary period was a Sacred National Charter published in February 1948, wherein a group of mostly Zaydi religious scholars, some of whom had contacts in the Egyptian Muslim Brethren, called for modern constitutional rule. The charter began by saying that "to safeguard the True Religion and Our Independence, the representatives of the Yemeni nation of the different classes have convened in the form of a Congress to discuss the matter of establishing a good and legal regime." It called

for the immediate establishment of a constitutional Council to design a monarchy along the lines of those then in power in Egypt and Iraq, with a legislature elected via universal adult suffrage and including representatives of towns, tribes and provinces, and émigrés. In the meantime, a seventy-person Consultative Council and a Council of Ministers should run things alongside an elected imam.

Although the precise shape of government was left to be determined, Articles 27 through 32 called for certain kinds of rights: “Injustice and oppression of the subjects must be quickly abolished”; “Life and property of all shall be assured”; “All the Yemen people shall be of the same level in respect of absolute equality”; “They shall be ruled according to true Moslem law, which shall be applied to all without any distinction.” Moreover, “Freedom of opinion, speech, sufficiency (sic) and meeting” and freedom from “ignorance, poverty, and disease” were to be guaranteed.¹¹ There was also a call for “connections with the civilized world.” Issued ten months before the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations at the end of 1948, the document unsurprisingly does not echo all its provisions, and it does have a couple of disconcerting phrases about punishment of traitors. But it offers evidence that Yemeni intellectuals were conversant with contemporary pan-Arab and international discussions of rights and freedoms.

In 1955, Yemeni exiles in Cairo and Aden continued their constitutional campaign, according to another republican writer, emphasizing “a bill of rights as a basis for the government. In a pamphlet they drew up a new proposed national pact based on the [universal] declaration of human rights.”¹² In South Yemen, where Great Britain had colonized the port city and signed protectorate treaties with rural sultans, the issues were different. Inside Aden Colony, a bustling commercial hub and naval base, a full-fledged anticolonial struggle developed. Newspapers representing a wide range of conservative, liberal, Arab nationalist, and socialist viewpoints stimulated political awareness and debate, perhaps especially when colonial authorities shut them down. The concerns of disenfranchised Yemeni immigrants to the city were best represented by the trades unions. From the beginning, white-collar leaders of the Aden Trades Union Conference set out to draft a “constitution” and publish a newspaper.¹³ In 1958 the union newspaper was banned and its leaders arrested. Nevertheless an expanding syndical movement expanded and organized hundreds of strikes over the next decade to protest the absence of voting rights, inflation, and British actions elsewhere in the Middle East. In response to these pressures, limited elections for a newly created Aden Legislative Council occurred in October 1964 amid widespread political detentions and a ban on public meet-

ings. Once elected, otherwise pro-British parliamentarians insisted on repeal of martial law, institution of universal adult suffrage, UN supervision of new elections, and respect for ordinary freedoms.

Colonial officers blamed widespread popular opposition to their administration on either cultural traditions (Islam and tribalism) or outside influences (Ottomans, and later Nasirites or Yemeni republicans). To stem the rising tide of dissent, authorities resorted to raiding meetings, rounding up activists, torturing some of them in prison, and blocking the International Red Cross and Amnesty International from visiting Adeni prisons.¹⁴ In other respects, too, the United Kingdom established an unfortunate precedent for violating fundamental rights. Even before the onset of the armed struggle, nonviolent partisan leaders were jailed. Repeatedly, protests turned into riots when police and soldiers aimed their weapons into crowds. Suspected rabble-rousers were rounded up, sometimes by the dozen and sometimes by the hundreds, and then variously released, tried, or deported.¹⁵

In those days there were evidently no human rights or legal aid societies, but there were scattershot efforts to defend legal and civil liberties. Detentions and deportations were the proximate cause of many work stoppages. Resorting to a technique used in India, 15 of 107 jailed unionists staged a hunger strike in 1963. Students marched, and political detainees penned letters, poems, memoranda, satire, and petitions. Adeni authorities protested martial law. Essayists, theorists, and journalists broadcast defied censors with broadcasts and pamphlets. Yemeni intellectuals were in touch with the United Nations, Red Cross, and Amnesty International. Under the umbrella of the call for the right to self-determination were a number of specific demands for due process and intellectual license.

The constitutional movement gained momentum in the 1960s. Anticipating a future quite different from the past, intellectuals in both North and South Yemen put forth new constitutional proposals at popular conferences. In 'Amran, north of Sana'a, a group of republicans and tribal leaders drew up a list of demands calling on the Egyptian-dominated North Yemeni military regime to create an executive council and a consultative council including tribal leaders. Rebuffed, they called a second meeting, chaired by the nationalist al-Zubairi and attended by sheikhs of both royalist and republican leanings. The 'Amran resolutions reiterated earlier proposals and called for committees to resolve tribal disputes.¹⁶ In a somewhat parallel development in one South Yemeni Protectorate, a tribally organized group called the Yafa' Reform Front that mediated local conflicts by employing common law mechanisms such as collecting rifles from each party to a dispute also advanced a "free Yafa' constitution."¹⁷

In 1965, a larger, more inclusive conference brought traditional and modern scholars from throughout North Yemen to Khamir, north of 'Amran, in the tribal heartland. Whereas previously the civilian liberal-republican literature had articulated mainly urban intellectual perspectives, now the concerns of ranchers, farmers, and villagers were reflected. The "provisional constitution," sometimes called the Khamir constitution, issued by this conference drew upon the 'Amran document, the earlier Sacred National Pact, common law notions of local self-governance, and some liberal language in an explicit effort to cast a wide net. One clause stated that "All Yemenis are equal in rights and responsibilities," and named among the rights justice, education, and association.¹⁸

During this same time period, South Yemeni partisans held their own conferences, once in Beirut and later (after 1962) inside North Yemen. The most historic of these was the first conference of the National Liberation Front (NLF) in Taiz in 1965, where a national charter was presented. In formulating its ideological positions, the NLF intellectual leaders drew on the populist egalitarianism of the early Islamist reformers and the Aden trade union movement, as well as on Nasserism, the Arab Nationalist Movement, and international socialism. Its program was radical by any standards, calling for "complete economic liberation from foreign exploiting capitalism" and elimination of the rule of "agent reactionary sultans." The charter further proposed "to restore their natural rights to women, and their equality with men . . . thus providing the basis for human justice and giving women the position in life to which they are entitled as full participants."¹⁹

Human Rights Promises and Abuses

To this point, then, alternative political elites developed some of the language, concepts, and principles of political rights and liberties. This discourse was idealist rather than realist: the power of the pen, not the power of the gun. New regimes promised these ideals would become governing principles. In the 1960s and early 1970s, when Free Officers and the National Liberation Front respectively came to power, constitutions were issued acknowledging many rights. The North Yemen (the Yemen Arab Republic, YAR) 1963 provisional constitution, the first of several documents reflecting Egyptian models, specified equality before the law, due process, and property and labor rights. Revisions in 1964 added freedom of opinion, press freedom, and the right to unionize. The 1970 "permanent" constitution (suspended in a 1974 military coup) further emphasized scholarly and press freedoms. Article 42 called for policies recognizing "human [or perhaps humane] rights

common to all humanity on an equal basis” [“*al-huquq al-insaniyya l'al-bashar jami'yan b-safa mutasawiyya*”], with specific mention of the rights of women, children, the aged, the infirm, prisoners, and exiles; and of nondiscrimination on the basis of religion, color, or gender.²⁰ The 1978 Southern constitution, drawing on Socialist as well as Arab models, explicitly mentioned the International Declaration, and further specified a rather long list of social and economic rights for all citizens.²¹ The People's Democratic Republic of Yemen (PDRY) also practiced “state feminism,” promoting women's education, employment, and political representation, issuing a progressive family law, and eventually signing the Convention to Eliminate Discrimination against Women.²² Although the two Yemeni governments advertised different kinds of rights, it can be inferred from their pronouncements that successive regimes in both Sana'a and Aden believed that the enunciation of basic rights would bolster their domestic and/or international legitimacy.

Unfortunately, the regimes in the PDRY and the YAR, were (to put it bluntly) both unstable Third World dictatorships that did not live up to these proclamations. Post-imamic and postcolonial policies did eliminate the status differentiation of old, suspend hated tax practices, expel royal families from power, and recognize Yemeni citizenship. But progress toward the full realization of basic rights and liberties called for by reformists and revolutionaries was negligible. Notwithstanding the contrasts between socialist “law and order” in the PDRY and the North's “chaotic capitalism,” national security forces operated beyond constitutional or judicial constraints in both systems. Grave atrocities were committed during and after the Southern revolution, and inside Aden, especially, the group that evolved from the NLF into the Yemeni Socialist Party controlled political activity tightly. Because every new regime issued a new list of state criminals, security prisons remained full even after the periodic amnesties. Fifteen hundred people were detained after Aden's intraparty bloodbath in 1986, and much was made of the political trials of a hundred traitors. Whereas the YAR permitted the Red Cross to inspect its admittedly medieval and rat-infested jails, the Aden regime, like its colonial predecessor, denied reporters access to its detention centers.

Sana'a's military regimes and an increasingly pervasive security apparatus also suppressed dissent, open political organizing, and flow of information. Moreover, by the mid-1980s a new, right-wing sort of Islamism was spreading in North Yemen and among émigrés to the Gulf. This movement had its intellectual legacy in puritanical Wahhabism as taught in Saudi-financed religious schools established throughout the Muslim world at the height of the oil boom. Its militancy was cultivated for the Afghan anti-Soviet jihad. As instructed to Yemeni immigrants by Saudi

preachers, to Yemeni students by fundamentalist Egyptian and Sudanese teachers, and to volunteer mujahideen training in Pakistan, this “born-again” fundamentalism put greatest emphasis on the elements of shari‘a that seem most antithetical to international conceptions of human rights, such as hyperseclusion of women, corporal punishment, and hatred of infidels. With Gulf funding and government support, the intellectual wing of this movement gained a slew of influential positions at Sana’a University, where a sociology professor was branded an apostate for “blasphemous” writings, a bare-headed woman was assaulted, and self-appointed zealots policed male-female encounters. By the late 1980s, a reformist movement was taking shape in Aden. Show trials following the shootout in 1986 became a forum for legal defense of political dissent. Constraints on speech, press, association, and movement were loosened. The impetus for this tentative but unmistakable liberalization evidently came from within and beyond the party. Leading socialist intellectual, Jar Allah ‘Umar began urging the ruling Yemeni Socialist Party toward pluralism (*ta’addudiyya*), human rights (*huquq al-insan*), citizen rights, freedom of intellectual pursuits, and other liberties. As a first step, intellectuals, businessmen, and popular organizations should be engaged in the ongoing constitutional and unity negotiations. In view of perestroika in the USSR, the events of January 1986 in the PDRY, and religious currents in the YAR, he argued, it was time for tolerance of opposition parties and relaxation of restrictions on the press. A new elections law relaxed nomination and polling supervision and redrew constituency lines.²³ To one American diplomat, there seemed to be a “tacit agreement” within the ruling party to allow “freer journalistic expression” as well as “the first stirrings of political demonstrations and strikes.”²⁴

Contemporary Discourses

The language of human rights began to permeate national political discourses in many languages and settings around 1990. Yemeni unification in 1990 ushered in a new era of unprecedented, if still hardly unfettered, freedom of association, expression, publication, and movement. For the first time, political parties campaigned in contested elections. A constitution drafted (nearly a decade earlier) by a committee of the nation’s best jurists, adopted in popular referendum in 1991, offered a significant bill of rights and promised a democratic form of government. In addition to universal adult suffrage, the constitution guaranteed “freedom of thought and expression by speech, writing, or pictures within the law,” “equal treatment” without discrimination due to “sex, color, racial origin, language, occupation, social status, or reli-

gious beliefs,” and the presumption of “innocent until proven guilty.” Political rights including freedom of association “inasmuch as it was not contrary to the constitution” were also affirmed. There were fewer military checkpoints, a number of political detainees were released, and many exiles returned home. All the political tendencies from the previous generation of activism surfaced, from the socialist left through various brands of Arab nationalism to liberal globalism to different sorts of Islamism. In one way or another, each and every significant political tendency adopted the discourse—perhaps one should say the rhetoric—of human rights.

Several socialist and independent progressive intellectuals, especially those involved with the Yemeni Writers Union, had introduced the term “human rights” into political debate even before 1990 as part of a plea for tolerance. Northern and Southern educators, journalists, and attorneys from the liberal-left were well represented among the first group to meet to found what later came to be called the Yemeni Organization for the Defense of Human Rights and Democratic Liberties (ODHRDL) in the early 1990s.²⁵ Professors introduced human rights curricula at Sana’a University and penned editorials on the subject. From the intellectual elite, there was some trickle-down as students and others formed branches of Amnesty International. Indeed, rather quickly, the language of rights spread across the full political spectrum. The platform of the party organization that had ruled North Yemen and was still rightly called the ruling party, the General People’s Congress (GPC), made “citizen rights in freedom, equality, and justice” a leading principle.²⁶ A second association called the Yemeni Organization for Human Rights (YOHR) was founded by members of the two major parties on the right, the GPC and the Reform Party.²⁷ Although this group sacrificed some credibility to a blatant security presence in their midst, it nonetheless signified a widening of the discourse of human rights, in recognition of the wide popular appeal of notions of liberty, justice, and nonviolence. The YOHR leadership included at least one prominent traditionally educated judge, Hamud al-Hitar, who familiarized himself with and encouraged others to read international covenants. YOHR’s first aim was to “promote greater respect for human rights and liberties as outlined in shari‘a, current legislation, the International Statement on Human Rights in Islam, the International Declaration on Human Rights, and in Arab, Islamic, and international charters, conventions and agreements.”²⁸ Other stated objectives were equality; the pursuit of liberty; protections against violence and surveillance; judicial and penal reform; and attention to the rights of women and children under shari‘a. Like ODHRDL, YOHR published investigations of prison conditions in the many weekly newspapers then widely available.

Notions of political liberties and legal protections were widely discussed among the political elite. Although exercising unprecedented editorial leeway with the suspension of prior censorship, newspapers were sued by the Ministry of Information in Sana'a for a range of alleged misdemeanors. Journalists and attorneys, enjoying newfound possibilities for non-civil service careers, animated their syndicates to defend the reporters and editors from various charges. Publicity for these cases, some of which have attracted the attention of international organizations to protect freedom of the press,²⁹ was another occasion for the articulation of legal principles. So much did the discussion of protection of human rights catch on, in fact, that in the months leading up to the 1994 civil war an experienced foreign human rights investigator worried privately that "human rights has become a stick both sides [GPC and socialists] beat each other with." Some citizens, perhaps a majority, doubted the sincerity of political leaders' rhetorical commitment to basic protections and freedoms. By the same token, there is no doubt that the term "human rights" was bandied about in ruling circles as well as by popular organizations because of its widespread appeal.

On the far right, the most puritanical wing of the Islamist tendency³⁰ has tailored a notion of "Islamic human rights" to a particular political agenda.³¹ Most conspicuously, neo-Islamists advanced a separate notion of "women's rights": women and girls have rights to separate education and work spaces, to be supported by their male kinfolk, to travel with an escort, and so on. Thus restrictions are portrayed as rights. Inequalities under legislation introduced in the mid-1990s assert women's inferior capacity to serve as witnesses in court, mandate lower inheritance for sisters than for brothers, insist on spousal obedience, and tolerate polygamy and unilateral divorce by husbands but not wives. But even at the extreme fringe of the post-Afghanistan, radically antisocialist fundamentalist movement, Yemeni neo-Islamists were not questioning whether women have citizen rights. They recognized that women must be free from family or state violence and forced marriage and are entitled to participate in parliamentary elections, hold public office, and press contractual obligations in court.³² In the lead-up to the 1993 parliamentary elections, the Reform Party organized the first ever nationwide campaign to register women voters. Feminine voluntarism, for instance, concerning human rights violations in Bosnia, Kosovo, Chechnya, and Kashmir is encouraged.³³ The neofundamentalists—among them some fully veiled spokeswomen—insisted that women and men should all be educated in their rights under shari'a and that female illiteracy is a major barrier to protection of women's legal rights. At the center and left of the political spectrum, many authors writing within Islamic or civil law frameworks contradicted the rejectionists. A number of authors

deduced rights principles from an Islamic, Arab notion of what it is to be human, citing both moral principles and legal doctrine. Only a few of these can be cited here. Muhammad 'Abd al-Malik al-Mutawakkil refuted the "rejectionist" perspective by quoting from Qur'anic, scholarly, and Saudi sources on the major issues on which Islam is sometimes said to conflict with the Universal Declaration: freedom of belief, gender equality, inheritance, polygamy, and female legal competence. In an essay for the Sana'a official daily newspaper, Ahmad al-Marwani traced the idea of human rights to the ancient Yemeni kingdom of Ma'en, the ancient Greeks, and the Qur'an.³⁴ Zayd al-Wazir philosophically reconciled Zaydi political theory with internationally-recognized precepts of democracy and human rights.³⁵ A prominent politician and benefactor of a scholarly foundation, Ahmad Jabir 'Afif, published a long essay on women's rights using both civil and religious law precedents to demonstrate governmental obligations to equal treatment before the law,³⁶ and legal scholar Ahmad al-Wada'i's controversial analysis of North Yemeni constitutional and legal documents emphasized the legal obligation to protections consistent with international standards.³⁷ Several other legal histories and countless editorials expounded on these notions.

The many pleas of human rights activists seemed to fall on deaf ears as Northern and Southern armies squared off in the winter and spring of 1994. As in earlier national moments of crisis, political elites joined together to try to write a social contract. The National Dialogue of Political Forces was a committee of three members from each of the leading parties, one from each of a half-dozen prominent lesser parties and the opposition coalition, and several independents, a total of twenty-seven men, all with national reputations, selected to represent every major region and social group from within the body politic. University faculty, legal scholars, journalists, and others seized the opportunity to present their research in the many seminars arranged to discuss subjects like the line between censorship and libel, women's rights, and shari'a. Excerpts and full transcripts of these symposia appeared in the popular press, thus influencing wider discourse and ordinary conversation. At the popular level, a score of regional conferences involved tens of thousands of people, mostly but not all men, in the national dialogue. Protection of human rights was among the resolutions of mass meetings in cities and towns across the country. The most common themes overall were public safety, removal of the military from population centers, elections for local administration, judicial independence, a serious plan to limit government corruption, and the building of modern state institutions. These issues in turn were incorporated into the accords issued by the Dialogue Committee on January 18, 1994.³⁸

The document opened with a set of proposals to curtail the roles of security forces and the interior and defense ministries in politics and policing. These immediate “law and order” concerns were to be followed up through provisions for the independence of the judiciary, for separation of armed forces from criminal prosecution, and for ministerial, parliamentary, and civilian control of the security establishment. In the remainder of the accords, three major modifications of the current constitutional order were called for: a bicameral legislature, a limited executive, and decentralization. Support for these constitutional principles was widespread. Amid gathering war clouds, more conferences affirmed the work of the Dialogue Committee and their proposals. Urban scholars, attorneys, and other professionals held weekly seminars to examine each section of the document. In meetings from Sa’adah in the far north to Lahij and Hadramawt in the south there were calls for prompt, full implementation of the Accords. Members of the Dialogue Committee now met in Sana’a, Aden, Taiz, and elsewhere to plan a strategy of regular, peaceful, sit-in protests in cities and towns throughout the country. Ample coverage of these events in the partisan press showed how the GPC, Socialists, Reform Party, and other parties each tried to associate themselves with a movement that clearly represented majority public sentiment.³⁹

War erupted between the two former armies, however, and human rights suffered as a consequence. A security crackdown accompanied the three-month state of emergency,⁴⁰ and subsequently the victorious Sana’a government (a wartime alliance of the GPC and the conservative Reform Party) sponsored constitutional amendments and legislation that threatened human rights by strengthening executive authority, retracting women’s legal competence, eroding judicial autonomy, and constraining other rights and guarantees of rights. As a number of intellectuals were interred or beaten up and honest judges found themselves in obscure rural courts, the challenges to the weakened nascent human rights movement were formidable indeed.⁴¹ Members of the Dialogue Committee outside the ruling coalition, including Abu Bakr al-Saqqaf, Anis Hassan Yahya, and Omar al-Jawi, charged the regime with disregard for human rights.⁴² Even six years after the civil war, facing no significant domestic security threat, the administration persisted in harassment of independent newspapers, judges, associations, and opinion leaders. While the political security organization seemed ever-vigilant, ordinary crimes often escaped prosecutors’ attention.

Still, as Naguib A. R. Shamiry of the Supreme Judicial Council observed, Yemen was bound by its signature to thirteen international human rights covenants and instruments. In principle, the courts were constitutionally charged with upholding human rights in a number of

ways, including presumption of innocence, protections against unwarranted search, right to legal defense, prohibition of torture and forced confessions, and punishment commensurate with the crime.⁴³ There were at least some indications that the regime was conscious of these obligations. After the war the victors said they had fought for unity and the values of “democracy, political pluralism, freedom of the press and respect of human rights.”⁴⁴ In 1998, the National High Committee for Human Rights in Yemen, established some years earlier, declared 10 December National Human Rights Day.⁴⁵ The president of the republic himself, in the opening address at a human rights day conference in December 1999, reiterated the national commitment to guarantee citizens their rights.⁴⁶ His GPC party’s Web page contains a strong statement of the goal to “protect and preserve human rights and public freedoms.”⁴⁷

Official statements may well be purely rhetorical pronouncements for foreign public relations purposes, since it is clear that practice does not live up to rhetoric.⁴⁸ But politicians across the political spectrum seemed to recognize the popular appeal of this discourse as well. Awareness was higher than ever at the end of the twentieth century, especially within the growing legal community. Just as civil society institutions may protect political pluralism, wrote Ahmad al-Wada’i, the courts were the guarantors of human rights and liberties; both zones are highly politicized, and the protection of rights proceeds both through individual cases and in larger efforts to secure judicial autonomy.⁴⁹ In terms of Yemeni culture, argued attorney Muhammad Naji ‘Alaw, there is both a philosophical tradition of judicial independence and a history of political attempts to bend legal practice to the imperatives of governing authorities.⁵⁰ Research showed that, despite many obstacles, members of the judiciary did attempt to exercise their constitutional function in the protection of the law.⁵¹ Under a program conceptualized by an Egyptian teacher with help from the British Council, there was even a project called Children Painting Their Rights, involving students from thirty-six schools in five provinces in publicity for the rights of children.⁵² In the mid-2000s, a traditionally trained jurist, Judge Hamud al-Hitar, earned international attention by training jailed neo-Islamist militants in a learned reading of the Islamic rules of war that prohibits targeting of civilians.⁵³

In conclusion, then, “human rights” was not an alien concept introduced into southwestern Arabia by Euro-American influences, but an ideal that has evolved endogenously and continues to develop as Yemenis reconsider the nature of law and its implementation. This conversation, reflected in essays, constitutional proposals, legal briefs, and the press, has been influenced by international movements, ideologies, and declarations. It has also involved a fair number of citizens, over the years,

in constitutional conventions and popular conferences. Although I have by no means reviewed all the literature or explored specific legislative developments, in ongoing constitutional debates ideas of “freedom to” and “protection from” were steadily refined and expanded. It is simply wrong, or a wrongful simplification, to represent this as a polarization between traditionalists and modernists or Islamic versus Western values, for we have seen a range of political perspectives weigh in on human rights issues. Moreover, there is nothing traditional about the neo-Islamist rejection of “human rights;” many Yemenis searched their own intellectual heritage for legal, moral, and logical support for international conceptions of human rights. If rights are not respected, it is not because traditions and values stand in the way but because actual practices do not stand up to stated, widely held ideals.