Aspects of Saudi Arabian Law and Practice

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The case is called for ten o’clock. Already it is half past ten. No matter, we are told, parties are timely if they appear within one hour of the established time. We mill around in a large lobby, watching, waiting. The eyes of other litigants and their black-robed and gold-braided lawyers drop when they meet ours. One’s eyes become occupied with tracing the geometry in the blue tiles of the floor. We are here on a labor case. Local employees of a foreign company have demanded equal pay for equal work. The workers are represented pro se by one of their group, a truck driver, who greets us with a wry smile and says in perfect but slightly clipped English something about our finally showing up.

A door opens and we are waved in. A single judge sits behind a desk on a dais before which are two chairs, one for each litigant. Defense counsel takes the chair to the immediate right of the plaintiff’s, now occupied by the truck driver. As we sit in silence, the judge riffles through papers. The case has enormous implications for the employer, who has nearly 300 local employees on its payroll, each of whom stands to gain a significant pay raise. The company’s in-house counsel, knowing the liberality of the local labor laws, has already discounted the possibility of a victory and hopes now only for an extended continuation of the case.

The hearing begins informally, almost conversationally, as the judge addresses the two parties sitting before him. They respond, each politely interrupting the other. Counsel breaks into English to ask one of the company’s officers, “Did we dock his pay to come here?” Assured that the truck driver is being paid as he sits here representing himself and his compatriots, counsel again thrusts into the discussion which has become animated but not hostile. The judge seems to be prodding. He, not the parties’ representatives, asks all the questions. Now he is interrupted by an assistant. Words and papers are exchanged and the proceeding ends, abruptly. Counsel turns to company officials to announce today’s disposition. He says we have submitted our contracts to the court and the plaintiff has stipulated that, first, the contracts have not been breached and, second, the employees have been paid all that they contracted for. The next hearing has been set for December 31st.

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Did this scene take place in France, in a civil trial, or in Germany before a special labor court? Items such as the formal dress of the lawyer, the arrangement of the court, the control of the case by the judge, even the continuance, all suggest a civil law tribunal. The description in fact is of a labor case before a qadi, as sharia judges are called, in Dammam, Saudi Arabia. Not quite thirty years ago, however, a plaintiff's American counsel argued in federal district court in New York that Saudi Arabia had neither law nor a legal system but "only a dictatorial monarch who decides according to his whim . . . ."\(^1\) It is an interesting if not chimerical legal system that could seem so familiar to a civil law lawyer while appearing to a common law lawyer to be a monarch's whim. If not entirely wrong, these views, one attributed, one argued, would suggest that Saudi Arabia's legal system is at least proteiform and at worst subject to gross misunderstanding. It is both. The legal system of Saudi Arabia can be described correctly as Islamic law, the law of Saudi Arabia, or sharia law. Many of its substantive laws and procedural aspects are similar to, and were received from, other legal systems. It is in the differences of sharia law, the law's religious origins, its role as protector of the Islamic faith and guide to daily social life, and its historical aversion to contemporary reinterpretation, and in Western lawyers' ignorance of these differences,\(^2\) that misunderstandings arise. This article will attempt to answer questions which are heard often and asked sometimes by Western lawyers who represent clients living, contracting or investing in the Kingdom of Saudi Arabia. The answers are gleaned both from available literature and from experience in Saudi Arabia.

I. Sources of Law

Muslims believe Islam's law is God's law as revealed in the Quran.\(^3\) Thus, the ultimate source of law in Saudi Arabia is the Quran, a holy book of 6,237 verses.

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\(^2\) Not until 1948 was there much interest in the United States in the study of Islamic law generally and Saudi Arabia's specifically. J. Anderson, Islamic Law in the Modern World xvi (1959) [hereinafter cited as Islamic Law in the Modern World]. Even now, few law schools in the United States offer courses on the sharia, Islamic or Middle Eastern law in their curricula.

\(^3\) A selected bibliography of some helpful English-language articles and books on Saudi Arabia's law appears as appendix III to this article. Some books and recent articles which will aid the reader interested in the subject matter of this section are the following: Legal Development in Arabia 41–52 (W. Ballantine ed. 1980); H. Liebessy, The Law of the Near East and Middle East: Readings, Cases and Materials 1–44 (1975) [hereinafter cited as Law of the Near and Middle East]; J. Schacht, An Introduction to Islamic Law 10–14 (1964) [hereinafter cited as INTRODUCTION TO...
Fewer than two hundred, or about three percent, have legal relevance and most of these concern family law and inheritance. Not more than eighty deal with what Westerners would think of as legal issues. Is this not a narrow base on which to build a modern legal system?

The base is far broader. No legal system that has lasted thirteen centuries could derive from only a handful of religious verses. In addition to the Quran, the sources of law are those traditions of the Prophet Muhammad recognized as having legal significance, the consensus of Islamic scholars and, except in the more conservative Islamic societies and among them especially Saudi Arabia, modern interpretations through the use of analogy.

First, the Quran. It is a holy book that contains God's ordinances as revealed to the Prophet Muhammad during the period 610 A.D. to 622 A.D. It is revered by Muslims as containing the very words of God: "Your companion [Muhammad] errs not, nor is he deceived. Whatever he utters is not of his own whim and fancy. It is naught else but a divine revelation revealed unto him." Few verses indeed deal with legal matters. Most are religious directions which set general goals for Muslim life and prescribe proper conduct for daily activity. This should be no surprise, since Islamic belief does not separate faith from law. In no Islamic society today is this more pronounced and observed than in Saudi Arabia where the national constitution is the Quran.
Traditions, called the *sunna*, constitute the second source of Islamic law. *Sunna* translates from the Arabic as “habitual practice” or “trodden path”9 and is defined in a legal context to mean the speech or deeds of the Prophet or those practices he is said to have approved. To draw an analogy to religious sources more familiar to Westerners, the Quran is the Old Testament and the *sunna* the New Testament.10 As a record of the deeds and acts of human experience, the *sunna* is a source of law not dissimilar in origin to the early sources of the common law; for example, the Law Merchant.11

The Quran and the *sunna* were the sources of law and in general constituted the legal system during the first, short period of Islamic law; that from its beginning until Muhammad’s death in 632 A.D. Thereafter consensus, or *ijam*, evolved as a theological and legal device to fill gaps the Quran and the *sunna* had left in the law.12 Its evolution is justified on the deduction from Quranic teaching that God would not permit his people universally to be wrong. Thus, consensus is not precedent, which is not a source of law in Islamic jurisprudence, but the universal contemporaneous agreement of Muslim authorities.

In the more liberal Islamic schools of jurisprudence, today’s scholars or judges, assuming they were in universal agreement, could reach consensus and thereby create a source of law to deal with newly arising legal issues. This method is not acceptable to the conservative Hanbali school which prevails in Saudi Arabia. The Hanbali school believes that consensus may arise only through the universal agreement of the Prophet’s contemporaries and his early followers, not contemporaries alive and agreeing today.13

The fourth source of law, analogy or *quiyas*, also is recognized only by the more liberal schools. Here again the justification for applying human reasoning is adduced from the Quran: “Lo! In the creation of the heavens and the earth and [in] the difference of night and day are tokens for men of understanding,”14 meaning that man’s rational process may interpret divine authority — the tokens of understanding, analogy to God’s works, are given to those who are able to use them.15

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9 *Islamic Law and Modern Government*, supra note 3, at 418.
10 In this imperfect analogy, the Quran and the Old Testament are God’s revelations; the *sunna* and the New Testament the stories of the followers of Muhammad and Jesus.
12 *Meaning and Structure*, supra note 3, at 121.
13 *Islamic Law and Modern Government*, supra note 3, at 419.
14 *The Holy Quran*, sura 3, verse 190.
15 *Law of the Near and Middle East*, supra note 3, at 18.
While all schools accepted the first two sources of the Quran and the *sunna*, disagreements over the remaining two, both of which involve human reasoning, led to the development of four different schools of jurisprudence. Three of these, the Hanafi, Shafi and Maliki, each named for its ancient proponent, are liberal in their acceptance of the sources of law. The Hanbali, however, accepts as sources of law only the Quran, the *sunna*, and the consensus of the Prophet's companions and early followers. Contemporary consensus, indeed any consensus achieved after the time of the Prophet, and analogy are not recognized as sources of law by the Hanbalis. This conservative doctrine parched the well from which law was or could be drawn, and the well quite probably would have gone dry had it not been for modern legislation. Arid as this prospect was, it was made even more barren in the ninth century by an agreement of Islamic scholars which determined that the sources of law could not thereafter be interpreted by the process of independent reasoning or *ijtihad*. This agreement is known to Muslims as “closing the gate of *ijtihad*.” The gate closed in the ninth century, and the sources of law in Saudi Arabia are now regarded as immutable and not subject to *ijtihad* from that time.

The Hanbali school, the official school of Saudi Arabia, is the least widespread of the four schools; elsewhere it is found only in parts of Pakistan, Syria and Iraq. Today the relatively liberal Hanafi school, which was founded in Iraq, prevails in upper Egypt, Lebanon, Turkey and parts of Syria. With followers as well in Sudan, Jordan, India, Libya, Pakistan, Afghanistan and Iraq, the Hanafi is the predominant school in most of the Middle East and accounts for nearly a third of the world’s Muslims. The Shafis are found in East Africa and Southeast Asia; the Malikis in North and Central Africa. Lines of division are not precise. Malikis, for example, live in Kuwait and Bahrain, and there are adherents of the Shafi school in Egypt, Syria, Lebanon, Jordan and Iraq.

The small Hanbali school, which developed in the eighth century not long after the split of the Muslim world into *sunni* and *shiite* factions aligned according...
to their separate choices for the Caliphate, the Prophet's successor, fell into disfavor and was rejuvenated early in the eighteenth century by the Wahhabi movement. The movement's principal, Muhammad Ibn Abdul Wahhab, and the ancestor of Saudi Arabia's founder, Muhammad Ibn Saud, joined forces. Muhammad Ibn Saud became the political head of the Wahhabis and Ibn Abdul Wahhab the religious leader. Ibn Abdul Wahhab's limitation of the accepted sources of law to the Quran, the sunna, and that consensus established by the Prophet's companions became a tenet of the movement and of its present-day nation-state, Saudi Arabia.

II. THE ROLE AND RULE OF LAW: THE SHARIA

The role of law in Saudi Arabia, as in Islamic societies generally, is not to create and protect the rights of citizens, a purpose common or civil law lawyers might assign to their legal systems, or to instruct citizens on ways they might become more perfect members of society, as socialist lawyers might observe about the role of law in their society. Islamic law serves, and is the expression of, God's will. It both provides its adherents with the knowledge of their duties so that they might more properly conduct this life and prepare for the next and enforces God's will that one do what is morally proper and refrain from doing what is morally wrong.

Islam means submission. A Muslim therefore is one who submits to the will of God, and his legal system serves to show him how. The concept as well as the role of law therefore differ from that with which Westerners are familiar. In Professor Schacht's famous phrase, Islamic law "is the epitome of Islamic thought, the most typical manifestation of the Islamic way of life, the core and kernel of Islam itself." It regulates daily life, religious activity, social behavior, financial transactions and family affairs and establishes and provides punishment for crimes and civil offenses. As Islam is concerned with the whole range

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26 ISLAMIC CONCEPTION OF JUSTICE, supra note 5, at 206.
30 INTRODUCTION TO ISLAMIC LAW, supra note 3, at 1, quoted in Modern Trends, supra note 28, at 1.
of human activity, Islamic law does not divide simply between what is lawful and what is not. It views a wider ethical horizon and classifies an act in one of five categories: mandatory, recommended, permissible, reprehensible or forbidden.31 A Saudi lawyer might be asked by his client for an opinion on a question of contract liability; he could as well be asked for guidance as to what action might please God.

The orthodox law that regulates all of human activity, national and international, public and private, criminal and civil, is called the shari'a and is known to Muslims as the “sacred law of Islam,”32 the “canon law of Islam”33 and the “totality of God’s commandments.”34 It translates variously and partly metaphorically as the “way to follow,”35 the “clear path to be followed,”36 the “laid down path to salvation”37 or simply “the path.”38 Literally, it means “the way.”39 It is not religious law in the same sense that canon law is, though it is easy to understand that with its religious prescriptions it could be confused as such. It is divine law; it is God’s law.

To the extent that the shari’a is God’s law as revealed to Muhammad and recorded in the Quran or in the definition that it is the sum of the sources of law, it is synonymous with traditional Muslim or Islamic law. It is also, in a narrower meaning, the bargain made between two contracting parties.40 Muslim lawyers express the dictum: “Al-aqd Shariat al-muta’aqqidin” (The contract is the shari’a or sacred law of the contracting parties),41 suggesting that the shari’a is also man’s law, the “law” that private parties to a mutual contract establish for themselves.

The shari’a is theoretical and immutable: theoretical because it is divinely revealed law that, primarily through consensus and partly through analogy, has been propounded by religious scholars concerned more with adhering to Quranic principles than with settling the day-to-day disputes of their fellows; im-

31 Meaning and Structure, supra note 3, at 119.
32 Islamic Law in the Modern World, supra note 2, at ix.
33 Id. at 19; Islamic Law and Modern Government, supra note 3, at 416.
34 Id.
37 A. Kritzer, Contract Handbook on Saudi Arabia 304 (undated and unpublished manuscript available in the library of Patton, Boggs & Blow) [hereinafter cited as Contract Handbook].
40 Islamic Law in the Modern World, supra note 2, at xiii.
41 Id.
mutable because it is divine. This very permanence suggests a corollary to what Westerners celebrate as the rule of law: a certain, changeless law that checks the arbitrary, temporal ruler. The rule of law in a society such as Saudi Arabia, whose laws are God-given, whose very constitution is the Quran, is in part defined by the immutability of the rights and privileges established and the obligations enforced by the shari'a. Shari'a-recognized rights differ from post-Enlightenment Western rights. While the shari'a enforces Quranically given physical and property rights of a kind similar to those recognized by Westerners, it also recognizes as a right the privileges extended by God to limit another's activity by compelling him to act in a certain manner. One thereby gains a right or privilege over another.

The rule of law does not prevail equally throughout Islam. It may vary depending on how strictly a Muslim society follows the shari'a. In this, no country surpasses Saudi Arabia; the shari'a has always been its official law.

III. Shari'a Procedure

The best way to discuss procedure is to examine a case. Compare the Labor Commission case described at the outset of this article with the following partial account of an actual shari'a trial:

42 Id. at 13, 17.
43 The Organic Instructions of the Hijaz proclaim that the Kingdom is administered by a king and he is bound by the shari'a. "Legislation in the Kingdom of the Hijaz shall always conform to the Book of God, the Sunna of His Prophet and the conduct of the Prophet's Companions and pious Followers." Id. at Art. 6. Islamic Law in the Modern World, supra note 2, at 3. The Instructions were promulgated in 1926, six years before the official establishment of the Kingdom of Saudi Arabia, but it is generally accepted that they are applicable today in Saudi Arabia. A. Al-Marayati, Middle Eastern Constitutions and Electoral Laws at 293–95 (1968); Islamic Law and Modern Government at 426–27; see generally Schacht, Islamic Law in Contemporary States, 8 AM. J. COMP. L. 133 (1959).
44 For further information on shari'a procedure see the following sources written by or with the assistance of Saudi Arabian lawyers now practicing in the Kingdom: Law and Lawyers, supra note 28, at 1035–37; Contract Handbook, supra note 37, at 307–13 (whose author, an American attorney formerly with a multinational company actively engaged in business in Saudi Arabia, used source material and information supplied by his company's Saudi Arabian counsel); American Consulate General, Dhahran, Saudi Arabia, The Law of Saudi Arabia at 22–44 (unpublished and undated monograph, which mainly considers criminal law aspects of Saudi Arabian law prepared by Joseph P. Saba, an American attorney resident in Saudi Arabia; copy available in the library of Patton, Boggs & Blow [hereinafter cited as Law of Saudi Arabia]; I. Nazer, An Introduction to Shari'a Law in Saudi Arabia at 1–10 (1977) (unpublished draft of manuscript available in the library of Patton, Boggs & Blow) [hereinafter cited as Introduction to Shari'a Law]; and Nazer, Shari'a Law and Its Commercial Application, Mid. E. Exec. Rep., Sept. 1979, at 2. See generally, E. Kay, Legal Aspects of Business in Saudi Arabia 89–95 (1979); A Practitioner's Introduction, supra note 3, at 29–35; Shari'ah: Law of Islam, supra note 36, 8 CASE & COM. at 3–10 (whose American author practiced in the shari'a courts of Saudi Arabia while employed there as Senior Counsel in the Law Department of the Arabian American Oil Company); Information for Americans Regarding Arrest and Imprisonment in the Kingdom of Saudi Arabia 1–4 (an undated, mimeographed report disseminated by the United States Consultate in Dammam, Saudi Arabia, a
In a hot, crowded courtroom in the Saudi Arabian oil town of Abqaiq, the defendant and the plaintiff stood before the qadi — the judge — waiting for the trial to continue. The defendant, an American employee of the Arabian American Oil Company (Aramco), was plainly nervous. He was on trial in a foreign court, whose laws and procedures were a total mystery to him, and he was accused of a serious matter: assaulting and slandering the plaintiff, a Saudi Arab co-worker. He had denied the charge, but if found guilty he might be jailed or he might be deported, thus losing a job he had held for years.

"To prove your claim under our law," the qadi was saying to the plaintiff, "you are required to present two witnesses to testify to the truth of your complaint. You have presented one witness. Do you have a second?"

The plaintiff said he did not. "Then you must have one right left to you," the qadi said. "You must demand the oath."45

"I demand the oath," said the plaintiff.

The defendant turned to the Aramco lawyer representing him and whispered: "What is the oath?"

The lawyer hesitated, wondering if, in just a few seconds, he could adequately explain this ancient, solemn cornerstone of shari'a law. "It's like this," he said finally. "To a Muslim, lying under oath is one of the most serious sins that a man can commit. So he is asking you to swear that you are innocent. If you do not take the oath you will be immediately found guilty. But if you do, it must be the truth."

The defendant quickly decided. "I'll take the oath," he said.

A moment later, in English, he repeated after the qadi the oath prescribed for Christians:

"I (defendant's name) in the Name of God Who gave Jesus, Son of Mary, the Holy Bible and with His Will made Him cure the sick, the leper, and the deaf, swear that I did not kick (plaintiff's name) in the right leg nor did I call him the son of a bastard."

As soon as he finished the oath the American was adjudged not guilty and released — freed by an unusual aspect of an unusual

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45 A hadith, or tradition, of the Prophet established as a basis of Islamic procedure the requirement that a claimant must prove his case by the testimony of two witnesses or challenge the defendant to take the oath. This "two eyewitness" rule is unique to the shari'a and is that aspect of procedure which most dramatically differentiates the Islamic legal system from all others. The decisive or decisory oath, however, is at least as old as Mesopotamian law, was used by other ancient legal systems such as the Talmudic and Roman and is a simulacrum today in the civil law. France and Italy continue to observe the oath. For a description of the decisive or decisory oath and a short review of its history, see Liebesny, Comparative Legal History: Its Role in the Analysis of Islamic and Modern Near Eastern Legal Institutions, 20 AM. J. COMP. L. 38, 46–52 (1972) [hereinafter cited as Comparative Legal History].
system of law, the noble shari'a, a code of law that has guided Muslim
courts for 1,300 years.40

While civil law practitioners might feel at home in a shari'a court, there are
many aspects of shari'a procedure aside from the two eye-witness rule that would
strike them as unusual or even unique.47 They would hear the qadi addressed
not as “Your Honor” or “Excellency” but as “Your Reverence” or “Your Worship,”
titles appropriate to the religious training and bearing of the shari'a
judge.48 They would come to understand that one measure of damages in a
shari'a court is the ancient diyah, or blood money measure, that prescribes for
loss of life the payment of 100 camels or the equivalent value in money, today
SR 100,000 for a man (about $30,000), half that amount for a woman.49 And
they would learn that the qadi’s role is not so much to judge as it is to conciliate.

There are even greater differences when the shari'a system is compared to
the common law: the fusion of criminal and civil causes in the same action; the
prevalence of oral and informal procedure; the examination of witnesses by the
qadi and the consequential limited involvement of counsel; the absence of juries;
the irrelevance of precedents. All these are aspects of a shari'a trial which will
be described here in more detail.

Causes of actions. There are two types of shari'a actions, public right, an action
similar to a common law or civil law crime, and private right, one similar to a
civil action in any of the other major legal systems. Since shari'a courts are not
divided into criminal and civil sections, the same court and the same qadi hear
both types of claims in the same proceeding. Because private and public right
actions may be and often are in fact fused in one hearing, there is essentially
only one procedure rather than both a civil procedure and a criminal procedure.
There are differences required by the special nature of the criminal justice
process, arrest and detention, for example. These differences will be noted
where convenient.

Certain types of claims — insurance claims and interest demands are two —
will not be heard because they are not recognized under shari'a law.50 Claims
that are thought to violate religious principles may be heard but probably will

46 Shari'ah: Law of Islam, supra note 36, CASE & COM. at 3. English spellings of Islamic words used in
the quoted passage have been changed to conform to those used in this article.
47 Sufficient similarities exist between the civil law and the shari'a to prompt one Islamic scholar to
observe that Islamic law is the “Roman Law of Justinian in an Arab dress.” Meaning and Structure,
supra note 3, at 129. For an illustration of some of these similarities, see the chart in appendix I.
49 ISLAMIC CRIMINAL JUSTICE, supra note 28, at 195–209; LAW OF THE NEAR AND MIDDLE EAST, supra
note 3, at 230–31. The information on the current value of the diyah was furnished by Ismail S.
Nazer. Interview with Ismail S. Nazer, Barrister at Law and Licensed Practitioner in Saudi Arabia, in
Al-Khobar, Saudi Arabia (Dec. 9, 1983) [hereinafter cited as Nazer interview].
50 Introduction to Shari'a Law, supra note 44, at 6.
not be enforced. Examples are options and speculative contracts, both of which involve chance, a divine province.

**Jurisdiction and venue.** Jurisdiction is in personam, never *in rem*. Venue is always and only the defendant’s residence.

**Commencement.** A public right action is commenced when the police initiate it. A policeman himself, usually the one who investigates the violation of public law, represents the government’s interest as the public prosecutor in the *shari’a* trial. A private right begins when a claimant appears at a *shari’a* court to announce his claim. Instead of preparing a written complaint and serving it on the defendant, a claimant simply dictates the claim to a *shari’a* court clerk who records it. A *qadi* must then notify the defendant and set a date for a hearing. Because there are no statutes of limitations for other than labor cases, a litigant can bring an action at any time.

**Procedural rules.** No uniform rules of procedure exist. The 1952 Regulations for the Organization of Administrative Functions of the *Shari’a* Court System are, as the name indicates, ordinances for the administration of the court system and not procedural prescriptions. In practice, procedure varies from province to province. Procedures are kept simple and no court fees or costs are charged litigants to the end, in fact realized, that the least sophisticated tribesman may have access to the judicial system.

**Representation by counsel.** Either party in a private right action may be represented by counsel. To appear, counsel must first file an appropriate power of attorney with the Office of Notary Public, a government instrumentality within the Ministry of Justice. A non-Saudi may not represent a litigant but may join the case as an adviser. *Shari’a* law and practice permit lay representation in civil cases. A litigant may appoint any Saudi Arabian person as his agent or representative in a civil proceeding, provided that the appointed person does not also concurrently represent more than two other litigants in all other proceedings. The appearance by the defendant *pro se* in the labor case described above is not unusual in a civil case and in practice is encouraged, as *shari’a* courts prefer a defendant to speak for himself. A criminal defendant, despite
the contrary implication in the *shari'a* court case involving a non-Saudi defendant described at the head of this section, may not transfer responsibility for his defense to an attorney.\(^6\) *Shari'a* courts adhere to the Hanbali practice of refusing legal representation in criminal proceedings where the accused is present.\(^6\)

**Hearings.** In the context of Western legal procedure, *shari'a* courts observe no formalities in the presentation of a case. Formal written pleadings are not required. Each side, the parties sitting and facing the *qadi*, conversationally presents its evidence which the *qadi* hears and weighs. The *qadi* plays an active role in the case, directing questions to the parties and their witnesses, permitting or denying cross-examination\(^6\) and finally deciding when enough evidence has been heard. At this time, the *qadi* dictates his decision to a clerk in open court.\(^6\)

**Proving the claim.** One proves one's claim by the testimony of eye-witnesses. In most cases this means two Muslim male witnesses, but some cases permit one male or one male plus two females, while a rare few require four males.\(^6\) Non-Muslims may testify only against non-Muslims.\(^6\) If the claimant produces the required witnesses and they support the claim, he wins. The defendant cannot then present contradicting testimony.\(^6\) If, as is the point of the trial excerpted above, the claimant cannot produce the witnesses, he can require the defendant to take the oath, and if the defendant refuses, the claimant wins.\(^6\) The *shari'a* specifies separate oaths for Muslims, Christians and Jews.\(^6\) As in the common law and civil law systems, the *shari'a* presumes that on the criminal side one is innocent until proven guilty, while on the civil the burden of proof is with the claimant but can shift with the presentation of claims and defenses.\(^6\)

**Evidence.** In a system where the essential proof is eye-witness testimony, other kinds of evidence are less significant. Direct testimony of the eye-witness is what the *qadi* wants to hear and he hears it all: there is no hearsay rule. Documentary evidence is discounted in weight. Scientific evidence has been little known to the *qadi* until recent times and then mostly in the form of testimony of handwriting and fingerprinting experts.\(^6\) Expert testimony, however, is well recog-

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\(^6\) Id.

\(^6\) Id.

\(^6\) The *qadi* usually denies cross examination and when he allows it, only he directs the questions suggested by the examining party.


\(^6\) *Islamic Criminal Justice*, supra note 28, at 199.

\(^6\) *Law of the Near and Middle East*, supra note 3, at 247.


\(^6\) An exception to the rule that it is the defendant who takes the oath is the financial claim, where the claimant may take the oath if he has only one witness.


\(^6\) Id. at 136–57; *Introduction to Shari'ah Law*, supra note 44, at 4; *Law of Saudi Arabia*, supra note 44, at 57.

\(^6\) Nazer interview, supra note 49.
nized and favored, especially on such typical issues as the fairness of rent, the custom of a certain locality or the adherence by a building contractor to an architect's specifications. There are no rules of evidence as a common law lawyer would understand them. In the fashion of his civil law counterpart, the qadi extensively permits the introduction of testimony and then sifts through it all by way of "free evaluation." 

Role of the qadi. Because the shari'a system does not recognize and therefore does not permit trial by jury, as is true of all major legal systems except the common law where in civil matters the practice now prevails essentially only in the United States, the qadi decides the verdict. In public right cases, he determines guilt or innocence and sets the punishment. The powers of the qadi are enormous. He controls the proceedings absolutely but does not act autocratically; to the contrary, the typical qadi has a reputation for fairness and is known more often to conciliate than simply to decide in favor of one party. The qadi may reach beyond the legal system for aid in making a decision; in addition to consulting the usual sources of shari'a law, a qadi may, and often does, consult with religious scholars. He may not, however, take judicial notice of facts well known to him.

Precedent. Subject to the always overriding principle that decisions must conform to the shari'a, there is no formal role for precedent in the shari'a system. A qadi is not bound by earlier decisions, including those of his court.

Remedies. Specific performance is rarely decreed. The usual remedy is damages, the measure and amount of which are simpler and more modest than those of the common law or civil law systems. The diyah is the damage for some private actions of a kind common law lawyers would recognize as torts. For many crimes the sanctions are the so-called hadd punishments, which are established in the Quran and may not be modified by a qadi; for other crimes the qadi is free to prescribe the punishment.
IV. BENCH AND BAR

Saudi Arabia is a country with a population of ten million people and the physical size of Western Europe. Its economy rivals that of many European countries with substantially greater populations. Business development proceeds frenetically: in a recent two-year period, 400 of the Fortune 500 companies explored business opportunities there. Because of the need to import millions of workers from Southeast Asia, it is no longer a homogeneous society. Yet this large, expanding and complex nation is served by an astonishingly small number of lawyers, a number counted in 1966 as exactly eighteen licensed practitioners.

It to the discretion of the qadi. Islamic Criminal Justice, supra note 28, at 195–225; Law of Saudi Arabia, supra note 44, at 15–21. The hadd punishments for hudud crimes, where for example the Quran prescribes flogging andstoning for adultery, often incite revulsion in the Western mind. But these punishments should be viewed in their historic context of remedies proposed early in the 7th century and may be compared, alas, to a more enlightened time and place, the years following the American Revolution when a spokesman for enlightenment and human liberty drafted a criminal code decreeing, “Whosoever shall be guilty of rape, or sodomy with man or woman, shall be punished; if a man, by castration, if a woman, by boring through the cartilage of her nose a hole of one-half inch in diameter at the least.” D. Malone, Jefferson the Virginian 272 (1948). The draftsman was Thomas Jefferson; the bill failed by a single vote. Id. at 269. For other crimes, dissection and dismemberment were the prescribed penalties. Report of the Committee of the Revisors submitted to the General Assembly in June 1779, reprinted in Jefferson, The Portable Thomas Jefferson 194–95 (1975).


For example:

<table>
<thead>
<tr>
<th>Economy</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>(in billions US $)</td>
<td>(in millions)</td>
</tr>
<tr>
<td>145.0</td>
<td>Saudi Arabia</td>
</tr>
<tr>
<td>162.9</td>
<td>Germany (Dem. Rep.)</td>
</tr>
<tr>
<td>178.0</td>
<td>Poland</td>
</tr>
<tr>
<td>192.7</td>
<td>Spain</td>
</tr>
</tbody>
</table>

Id. at 193, 78–79, 180–81, 205–06 (1983).

The indigenous work force has been estimated to be 1.5 million Saudis. Taylor, Changing Circumstances: Saudi Labor Law and Recent Developments, 12 INT’L. LAW. 661 (1978) [hereinafter cited as Saudi Labor Law and Recent Developments]. The expatriate work force is probably larger. See supra note 81. The Saudi Arabian government’s third Five Year Plan 1980–1985 proposed to reduce the number of foreign workers to about one million. W. Morrison, Saudi Arabian Projects ’80: Crucial Legal Issues (undated and unpublished manuscript available in the library of Patton, Boggs & Blow).

Law and Lawyers, supra note 28, at 1038. Very little has been published on the topic of Saudi Arabia’s bench and bar, but the following sources offer some help: A Practitioner’s Introduction, supra note 3, at 134, 137; Doing Business in Saudi Arabia, supra note 38, at 377; Islamic Law: Its Relation to Other Legal Systems, supra note 4, at 189; Traditionalism and Modernism, supra note 3, at 496; Modernization and Changing Perceptions, supra note 3, at 1173, 1176; Shari’ah: Law of Islam, supra note 36, at 30; Law and Lawyers, supra note 28, at 1038–39; and Meaning and Structure, supra note 3, at 119–20.
That the role of law in Saudi Arabian society is to enforce the will of God suggests a limited use of law professionals and a greater reliance on clergy. Beyond the very different role law plays, however, are other essential reasons that explain the narrow ambit of Saudi Arabian law and the paucity of lawyers. First is the historical echo, for in early Islamic society when law was even more than today considered a part of religion, there were no lawyers. Whatever legal function existed was filled by religious men. A second and related reason is that, because Islamic law is to be found not in recorded cases and enacted law but by reference to Islamic scholars, Islamic law is a jurists' law. But unlike their ancient counterparts, the Roman jurists, who were nascent lawyers, the Islamic jurists are not law professionals. They are religious scholars who by training and function are distinct from the lawmakers. The work of these religious scholars in finding the law displaces the function performed in other societies by lawyers. Finally, the fact that there is so little law to read and know is itself a reason for the small number of lawyers.

To approach an understanding of why one society has so many lawyers, to the extent that alarms are now being sounded about the "epidemic proportions" of the increase in the number of lawyers in the United States, while another society can function with a handful of lawyers, the demands of the Saudi Arabian legal system must be considered. Compared to other major legal systems, they are few indeed. Procedure and process are largely oral and informal. Cases are not recorded and reported. Litigants often are not represented or else are represented by family members or friends. There is, in truth, less work for lawyers to do. Nonetheless, the bar of Saudi Arabia is larger than the handful of licensed attorneys. Foreign lawyers from other Middle Eastern countries, Europe and the United States work in local law firms as foreign consultants, in government ministries as advisers and even in local business.

86 Islamic Law: Its Relation to Other Legal Systems, supra note 4, at 188–93.

87 Comparative Legal Traditions, supra note 11, at 40–42.

88 Law and Lawyers, supra note 28, at 1039.

89 Washington Post, June 18, 1984, at B1, col. 1. "The ABA estimates that there were about 622,000 lawyers nationwide as of 1983, up from 535,000 in 1980 and 357,000 in 1970." Id. Given the 1985 United States population of 238,740,000, (N.Y. Times, Dec. 30, 1985, at A15, col. 1) this means a lawyer/population ratio of 1:384; whereas in Saudi Arabia (where probably 100 serve a population of 10,000,000), the ratio would be 1:100,000.

90 See text, supra note 58; Law and Judicial Systems, supra note 77, at 627.

91 In Saudi Arabia's system of jurists' law, however, a practicing lawyer "finds" the law with almost as much effort and difficulty as a lawyer practicing in a common law jurisdiction. Like the common law, Islamic law is not fundamentally a written law; it is the work of jurists and as such is not recorded as cases, codes or statutes. A compact summary, a legal opinion, a philosophical treatise, a commentary, a fourteenth century Hanbali legal text, all must be scrutinized. There is no formal system whereby any of this authority is collected. Modern regulations and their government interpretations, while not codified, are published periodically in the Official Daily Gazette. It is the practice of lawyers in Saudi Arabia simply to clip and file by subject matter items of legal significance which may appear there.
establishments as in-house counsel. A sufficient number of U.S. companies with subsidiaries operating in Saudi Arabia has placed American lawyers on their staffs so that the number of Americans working in law-related jobs in Saudi Arabia probably equals and perhaps exceeds the number of Saudis licensed to practice law. Those who qualify for licensing are Saudi Arabian citizens of twenty-one years of age who have had legal training, Saudis who have served on the bench or have taught law or Saudis who are well known to a local qadi and who also pass a test. All licenses must be approved by the appeals court. Only men are admitted as lawyers.

Although there are no law schools in Saudi Arabia as Westerners know them, there are five schools, one of which is commonly referred to as the shari'a law school, which offer legal studies and lectures on shari'a and commercial law. It is primarily these schools which produce the few Saudi Arabian lawyers who enter practice each year. Others are educated abroad.

Each town and almost every small village has a court and in the larger towns a court might have several qadis. This produces the situation, curious to a Westerner, of a country with more judges than lawyers. By a recent count, there were 241 shari'a courts in the Kingdom and 464 qadis. Though the number of lawyers can be only estimated, it is unlikely to be as large as the number of qadis. Qadis, however, are more than judges. They are religious men who lead prayers, deliver sermons, advise on religious and ethical matters and issue legal opinions on matters referred to them. Their training is more religious than legal. After attending a religious preparatory school, a candidate seeking to become a qadi attends one of two colleges specializing in the shari'a. Following four years of study, he may seek appointment as an apprentice. Qadis are appointed by the king on the recommendation of the Supreme Judicial Council. Despite the interposition of the Ministry of Justice between the king and

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52 Cards in the Foreign Lawyers Section of a recent edition of Martindale-Hubbell advertise 68 lawyers under the heading of Saudi Arabia: 13 Saudi Arabians, 23 Arabs from nations other than Saudi Arabia, 20 Americans, 7 Europeans, and 5 of unknown bar admission or nationality. 6 MARTINDALE-HUBBELL LAW DIRECTORY 1988-1989 (1984).
53 Generally estimated by Ismail S. Nazer to be between fifty and one hundred. Nazer interview, supra note 49.
54 Law and Lawyers, supra note 28, at 1038.
55 Id.
56 Id. at 1039.
57 A Practitioner's Introduction, supra note 3, at 135.
58 It was recently reported that of the more than 8,000 Saudi Arabians studying abroad, 122 are studying law. Saudi Gazette, Aug. 6, 1984, at 1.
59 Qadis sit alone in each of the towns and small cities. Larger cities have more than one qadi, but they do not sit en banc.
60 Judicial Authority and the Court System of Saudi Arabia, MID. E. EXEC. REP., Sept. 1979, at 2, 14 [hereinafter cited as Court System of Saudi Arabia].
61 A Practitioner's Introduction, supra note 3, at 134.
the qadis, qadis are nonetheless considered to be agents of the monarch who, under Qur'anic theory, is ultimately responsible for shari'a justice. Islamic law recognizes the king's authority to limit a qadi's jurisdiction, to order a qadi to decide a case according to the teachings of a particular Islamic school and even to prescribe the application of a certain rule of law to a case.

V. The Judicial System

Only traditional claims, basically civil, criminal and domestic relations matters, are heard in the shari'a courts. Claims arising under government regulations, probably against a government ministry or department, would follow a different path to resolution, as would labor disputes and commercial disputes between private parties. The routes various claims or disputes take to resolution are traced in the chart appearing in appendix II.

A traditional claim, depending on the amount in controversy, is heard either in the ordinary or summary (Musta'jalah) court, the lowest court, which has jurisdiction over small claims and the equivalent of misdemeanors or, for all other shari'a jurisdiction matters, the high or main (Kubra) court. Whereas a Musta'jalah court is found in every town, the Kubra courts sit only in Mecca, Medina and Jeddah. An appeal from either court goes directly to one of the two appellate courts of cassation. The body which hears cases appealed from the Eastern Province sits in Riyadh. Appeals from the Western Province are heard in Mecca. Decisions of qadis are appealable, and questions of fact as well as issues of law may be reviewed. Analogous to the civil law and partly borrowed from the French, the appeal is before a court of cassation and is a revision rather than a hearing: the court reviews the file but does not hear the parties; it considers the law but not the facts or merits of the case. The three-member court may affirm, remit with instructions or remand for retrial. The

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102 Islamic Law and Modern Government, supra note 3, at 442.
103 Area Handbook, supra note 54, at 189.
104 Law of Saudi Arabia, supra note 44, at 7; Law and Lawyers, supra note 28, at 1038; Area Handbook, supra note 54, at 189. Because few Westerners have been permitted to attend a shari'a trial, there is a dearth of available written information, but see generally Law and Judicial Systems, supra note 77, at 627–29; Area Handbook, supra note 54, at 159–91; Law of Saudi Arabia, supra note 44, at 5–44; A Practitioner's Introduction, supra note 3, at 132; Islamic Law and Modern Government, supra note 3, at 429, 438, 440–41; Law and Lawyers, supra note 28, at 1036–37; Contract Handbook, supra note 37, at 307–12; Introduction to Shari'a Law, supra note 44, at 1–2; Law Of The Near And Middle East, supra note 3, at 240–67; Court System of Saudi Arabia, supra note 100, at 2; U.S. Dep't of State, Background Notes: Saudi Arabia 1 (1979).
105 A Practitioner's Introduction, supra note 3, at 131–32; Area Handbook, supra note 54, at 190.
106 Law And Judicial Systems, supra note 77, at 628.
107 Id.
108 Id.; Law and Lawyers, supra note 28, at 1036.
109 Law and Lawyers, supra note 28, at 1036.
appellate courts have no authority to hear jurisdictional conflicts between shari‘a courts and those tribunals which hear the nontraditional disputes. These matters, and some cases involving more severe sanctions, are heard by the Supreme Judicial Council.\textsuperscript{110}

Labor matters, government actions and commercial claims constitute nontraditional disputes. These are adjudicated in special tribunals which borrow from and conceptually resemble the special courts of the civil law system and are procedurally similar to an administrative hearing in the United States. Labor disputes, in the form of an investigation followed by a hearing, proceed according to the general pattern of a labor case before the National Labor Relations Board. A Saudi Arabian claimant first lodges a dispute at an office of the Ministry of Labor.\textsuperscript{111} An inspector investigates. If the claim has merit, the Ministry attempts to conciliate with the employer. If that attempt is unavailing, a hearing is held before a special court of first instance called the Primary Commission.\textsuperscript{112} Decisions of this body may be appealed to the Supreme Commission.\textsuperscript{113} The judge in any Primary Commission case is a qadi, and the informal procedure is much the same as would be found in a typical case before a shari‘a court.\textsuperscript{114}

In 1955, the Saudi Arabian government established an administrative tribunal to hear cases involving wrongs committed by government officials, complaints of denial of justice in the shari‘a courts, unlawful acts of the qadis and similar claims involving the government.\textsuperscript{115} This tribunal, the Grievance Board, hears complaints filed with its chairman. As in all other administrative tribunals and the shari‘a courts, its procedure is informal. The parties offer evidence to an independent administrative judicial board which decides the matter. The board’s decision is appealable directly to the Council of Ministers. A new Board of Grievances Law, promulgated on May 10, 1982 by Royal Decree No. M/51, provides for an innovation in Saudi Arabian judicial practice: decisions of the board are to be published annually.

Commercial disputes are heard initially by the Commission for the Settlement of Commercial Disputes and also may be appealed directly to the Council of Ministers.\textsuperscript{116} Established in 1965, the Commission, which sits in Riyadh, Jeddah and Dammam, is composed of panels of three: two shari‘a judges and one legal adviser from the Ministry of Commerce. The Commission generally follows

\begin{itemize}
  \item \textsuperscript{110} A Practitioner’s Introduction, supra note 3, at 132.
  \item \textsuperscript{111} Contract Handbook, supra note 37, at 310.
  \item \textsuperscript{112} Id. The case described at the outset of this article was one before the Primary Commission.
  \item \textsuperscript{113} Id.
  \item \textsuperscript{114} Id.
  \item \textsuperscript{115} Doing Business in Saudi Arabia, supra note 38, at 329; Islamic Law and Modern Government, supra note 3, at 445.
  \item \textsuperscript{116} Contract Handbook, supra note 37, at 308, 312.
\end{itemize}
shari'a law but has authority also to draw upon Western law and international law.117 Its procedures are similar to those of the Grievance Board. Neither regulations nor custom draw distinct jurisdictional lines between the Commission and shari'a courts; commercial disputes are sometimes brought as private right actions before shari'a courts.118 Unless an advantage otherwise can be gained, litigants, especially foreign ones, prefer to bring commercial disputes before the Commission. Litigants believe the Commission, perhaps through the Ministry's legal adviser, offers more commercial sophistication than would a court with a judge of essentially religious training.

Even though arbitration was one of the earliest Islamic methods of settling disputes, it has not always fared well in the Kingdom. For example, a royal decree prohibits arbitration clauses in government contracts and the government has refused to ratify the U.N. Convention on the Recognition and Enforcement of Arbitral Awards.119 With the recent ratification of the International Centre for the Settlement of Investment Disputes Convention120 (ICSID) and the promulgation early in 1983 of the Arbitration Regulations, however, Saudi Arabia today recognizes arbitration as an alternate dispute resolution technique.121 The Arbitration Regulations permit arbitration at least in limited circumstances. Private parties may "arbitrate a specific existing dispute"122 "only in issues that lend themselves to conciliation,"123 and government agencies may arbitrate with "other parties," presumably meaning other private parties, only after having obtained the consent of the Council of Ministers.124

By Islamic custom as observed in Saudi Arabia, the person of the king has paramount authority in all judicial matters and is therefore himself the highest court of appeal.125 The king's power, the source of which is not contained in any fundamental document but is derived instead from consensus among the royal family, religious leaders and chiefs of the major tribes, is not absolute. He


118 Id.


121 Arbitration Regulations, Royal Decree No. M/64, Apr. 25, 1983 (translation provided by the Arabian American Oil Company; available in the library of Patton, Boggs & Blow) [hereinafter cited as "Arbitration Regulations"]; *See 22 INT'L LEGAL MAT.* 1052 (1983) for another translation. Interestingly, the Regulations are silent on the significant matter of governing law. The qualifications for an arbitrator ("have experience and must be of good reputation and conduct and fully competent,"—Art. 4) do not include shari'a education, experience or even knowledge, and accordingly it is possible that an arbitrator would not know and therefore would not apply shari'a law.

122 Arbitration Regulations, supra note 121, at Art. 1.

123 Id. at Art. 2.

124 Id. at Art. 3.

125 *Area Handbook*, supra note 54, at 189.
must govern according to the *shari’a* and Islamic tradition. Over the years, however, the nominal head of the judiciary in Saudi Arabia has been the Grand Mufti. When the incumbent Grand Mufti died in 1970, King Faisal through creation of the Ministry of Justice by Royal Decree No. M/105 of September 22, 1970, merged the Office of Grand Mufti into the Ministry. Theretofore the office had been held by the eldest member of a family who by tradition had been interpreters of the *shari’a*. Thus, prior to 1970, the Grand Mufti had indeed been the *de facto* head of the judiciary. Decisions of the courts of appeal could be petitioned for reconsideration to him, to the prime minister or to the king who would refer them back to the Grand Mufti. There was no appeal from the Grand Mufti’s decision. His power extended to executive supervision of the *shari’a* courts. This is no longer so: the king, as Saudi Arabia’s highest political authority, has assumed these responsibilities in part and delegated them in part to his Minister of Justice and his Council of Ministers.

VI. MAKING AND MODERNIZING LAW

In Islamic fundamentalist theory and in Saudi Arabian practice, the *shari’a* is the laid down path; the path is the law and the one who laid it down is God, not man. God is the sole legislator and no man, not the temporal ruler, not the assembly, may legislate. Saudi Arabia’s government therefore has only the two branches of executive and judiciary. There is no legislative body.

This does not necessarily mean there is no legislation. As with all rules, there is an exception; by the use of *siyasa* the ruler has the right, recognized by the *shari’a*, to make administrative ordinances. ”*Siyasa*” means “policy” and by the exercise of this policy right the sovereign may promulgate regulations for the good administration of his government. Of the five Islamic categories of conduct under which all of life is subsumed — mandatory, recommended, permissible, reprehensible or forbidden — it is only to activities that arc permissible or to which the *shari’a* is indifferent that the sovereign’s power of *siyasa*...
applies. Thus, the executive may prescribe the rules for public law, administrative law or commercial law, as these are areas where shari'a law has left great gaps.

Regulations, called nizam, true to the Islamic principle of governance by consultation,\textsuperscript{132} are not the fiat of one ruler. In Saudi Arabia, a regulation is proposed by a minister of a cabinet office, drafted and approved by the Council of Ministers and then ratified by the king.\textsuperscript{133} One day after publication in the Daily Gazette the regulation, now a royal decree, becomes law. Alternatively, the king has delegated to his ministers and to the heads of some government agencies the authority to make regulations by issuing administrative or ministerial circulars.\textsuperscript{134} Both regulations promulgated as royal decrees and administrative or ministerial circulars have equal weight as "law." Each is subordinate to the shari'a and usually contains a clause so stating. Because regulations often venture far afield, the Saudi Arabian legal profession generally regards the concept that regulations serve only to supplement and enforce the shari'a as a legal fiction.\textsuperscript{135}

While it is essentially true that Saudi Arabia, and perhaps the only other close adherents of the shari'a, Yemen and Afghanistan, employ siyasa to accommodate modern political, social and economic development, the rest of the Muslim world does not and did not need to. Most Islamic legal systems were modernized by reform movements in the late nineteenth and mid-twentieth centuries.\textsuperscript{136} The most significant reform, the Tanzimat, began in the Ottoman Empire with the promulgation of a Western-style code. The Tanzimat reforms took place half a century before the founding of Saudi Arabia and its adoption of the conservative and wholly unreformed Hanbali school of shari'a law.\textsuperscript{137} This fact has had two effects on efforts to modernize Saudi Arabia's laws. The first is that having not been in a position to adopt contemporaneously the Tanzimat reforms of Western codes to regulate commerce and rules of procedure and to institutionalize secular courts to interpret them, Saudi Arabia had no trunk onto which to graft modern changes as they grew in the West and were transplanted to other Muslim states. Western laws adopted in Saudi Arabia have had to be applied and interpreted alongside laws unchanged since the ninth-century closing of the gate of ijtihad.\textsuperscript{138} The second and perhaps more fundamental effect

\textsuperscript{132} \textit{LAW OF THE NEAR AND MIDDLE EAST}, supra note 3, at 107. Governance by consultation is a principle that seeks the ideal of absolute consensus between ruler and ruled.

\textsuperscript{133} \textit{Id.}; \textit{Islamic Law and Modern Government}, supra note 3, at 443–45.

\textsuperscript{134} \textit{Doing Business in Saudi Arabia}, supra note 38, at 322.

\textsuperscript{135} \textit{See Law and Lawyers}, supra note 28, at 1035; \textit{Airgram}, supra note 39, at 4.

\textsuperscript{136} \textit{LAW OF THE NEAR AND MIDDLE EAST}, supra note 3, at 77–117.

\textsuperscript{137} \textit{Id.} at 78–85; \textit{Meaning and Structure}, supra note 3, at 116–19.

\textsuperscript{138} France's modern commercial code, for instance, was transplanted essentially \textit{mutatis mutandis} into a society which forbids such aspects of modern business as insuring against commercial risks and borrowing money on terms that include the payment of interest.
is that having adopted a conservative legal system after their fellow Muslims had largely modernized their own, Saudi Arabian policy and law makers are today loathe to suggest by modernization that their forebears were wrong and their fellows right.

After the Tanzimat reforms, which swept like a sirocco through the Arab deserts from 1826 to 1878, bringing in place of shari'a law European codes of commerce, procedure and criminal law, a series of post-World War II reforms took place when Egypt first, then Syria, Jordan, Tunisia, Morocco, Iraq, one after the other, adopted Western-style family and personal status codes.139

The Muslim world today divides into three camps. There are those few states, Saudi Arabia being the laboratory example among them, which continue to regard and apply the shari'a as the fundamental law. Turkey alone has abandoned the shari'a and adopted secular laws.140 The third, and largest, group is essentially a compromise between the first two and is the product of the reform movements. The Shah's Iran with its borrowings from the French, Belgian and Swiss codes is one example.141 Others are Egypt, Sudan, Lebanon, Syria, Tunisia and Morocco.142

Given the extensive use of governance by regulation in Saudi Arabia since the mid-1950's, it would seem that siyasa has been at least adequate to the task of modernizing the law.143 Saudi Arabia has sedulously used the process of siyasa

139 For a short review of the history of modern reform in the laws of Middle Eastern political entities, see Islamic Law in the Modern World, supra note 2, at 17–100; Law of the Near and Middle East, supra note 3, at 46–119; Modern Trends in Islam, supra note 28, at 1–21; Modernization and Changing Perceptions, supra note 3, at 1170–73; 1177–93. The forty year reform process may now be responding to the new wave of conservative Islamic fundamentalism which, since the Iranian Revolution of 1979, has spurred efforts to repeal earlier reform laws. For example, Egypt, the leader in the post-War reform movement, recently abolished a 1979 women's rights law. "I.Y. Times, June 10, 1985, at AS, Col. I.

140 LAW OF THE NEAR AND MIDDLE EAST, supra note 3, at 78–85.

141 Iran's legal system following the Islamic Revolution of 1979 has not been studied by scholars. Islamic Conception Of Justice, supra note 5, at 224. Crimes and criminal procedure are matters now governed by the shari'a but other laws remain governed by the codes transplanted during the reign of the shahs. Interview with Dr. Shirin Entezari, law graduate from the University of Tehran and Professorial Lecturer in Law, National Law Center, George Washington University, in Washington, D.C. (Dec. 2, 1985). See also S. AMIN, MIDDLE EAST LEGAL SYSTEMS, 39–149 (1985).

142 Id. at 77–117 for a general description.

143 It has been reported recently, however, that King Fahd has "suggested that the practice of ijthad, a new interpretation by religious scholars of the Prophet Mohammed's teachings, could be useful in reconciling Islamic law with modern life." Washington Post, June 16, 1983, at A1, col. 2. The resurrection of the ijthad process might be a method of broadening the consensus between ruler and ruled in the Saudi Arabia of the 1980's. Perhaps in a modern pluralistic society with an important role in the world economy, pressure will mount to reform laws repugnant to other societies or out of keeping with the times; King Fahd may therefore be seeking a broader consensus through ijthad before embarking on contemplated reforms. It could be the exact opposite: an effort to reach back in time for support to block new pressures for reforms or a move to appease the strident shiite challenges from across the Arabian Gulf.
to promulgate laws designed to fill gaps between the shari'a and modern needs. Such needs were first and sharply felt when the oil industry in the Eastern Province created the wealth through which the economy expanded hugely and immediately. In turn, the economy brought foreign investors, foreign managers, foreign laborers and the need to regulate them. Villages were quickly overbuilt into cities; new cities such as Yanbu, Jubail and King Khalid were designed by Western architects and built by armies of foreign workers, some with so military a planning and execution that Saudi Arabia and the United States found it an expedient accommodation to have the projects administered by the U.S. Army Corps of Engineers. Airports designed to handle numbers of travelers exceeding the Kingdom's population were constructed on the desert floor. Traffic snarled the new cities. This kind of development was not contemplated by, and therefore could not be regulated through, a religious legal system designed to govern only the very most traditional branches of the law. Beginning in 1958 with the Council of Minister's Resolution establishing the legal basis for Saudi Arabia's ministerial form of government and continuing to the present day, a succession of Saudi Arabian kings and their ministers has promulgated decrees to regulate foreign enterprise and domestic commerce. The most significant of these are briefly described here:

1961 - The Protection and Encouragement of National Industries Regulation introduces such incentives to indigenous manufacturing as import barriers, financial assistance and subsidized factory rent.

1965 - The Central Planning Organization is formed to plan and supervise the Kingdom's development. Raised to the status of the Ministry of Planning by 1975, it develops and implements each of the Five Year Plans. The Companies Regulation, transplanted from France, estab-

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144 Islamic Law and Modern Government, supra note 3, at 453, 459.
146 Saudi Arabia has just completed the third Five Year Plan, 1980–85. The second Five Year Plan called for the establishment of the Ministry of Justice, the review of regulations governing foreign enterprises and the adoption of a disputes settlement law. U.S.-SAUDI ARABIAN JOINT COMM'N ON ECON. COOP., SUMMARY OF SAUDI ARABIAN FIVE YEAR DEVELOPMENT PLAN (1975–80) (1975); Islamic Law and Modern Government, supra note 3, at 443–47.
lishes eight forms of business enterprise. Business conducted other than by one of these ways is void. 147

1969 - The Labor and Workmen Regulation prohibits unions, establishes comprehensive benefits for all laborers in the Kingdom and regulates the importation and employment of foreign workers.

1970 - The Regulation entitled "Non-Saudis Taking Possession of Real Estate in the Kingdom" enumerates exceptions to the rule that foreigners may not own land in Saudi Arabia.

1977 - The Government Procurement Regulations empower the government to negotiate with foreign businesses and to establish preferences for contracting with companies substantially owned by Saudis.

1978 - The Service Agents Regulation directs foreign businesses without Saudi partners who wish to contract with the government to employ Saudi service agents.

1979 - The Foreign Capital Investment Regulations require foreign businesses to obtain licenses in order to establish a business in the Kingdom and prescribe criteria for licensing (e.g., a development project, acquisition of foreign technical expertise). This decree also establishes incentives to qualifying foreign investors of tax holidays and advantages accorded Saudis under the 1961 Protection and Encouragement of National Industries Regulation.

1983 - Arbitration Regulations allow qualifying parties and permitted government instrumentalities to settle disputes by commercial arbitration.

Other decrees regulate public safety, motor vehicles and airports for example, different business sectors such as mining and oil drilling and modern govern-

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147 Article 2. The provisions hereof, as well as any terms of the partners and the rules of equity, that are not inconsistent herewith, shall apply to the following companies:
1- Collective Name Partnerships (société en nom collectif);
2- Simple Commandite Partnerships (société en commandite simple);
3- Joint Ventures (société en participation);
4- Joint Stock Companies (société anonyme);
5- Share Commandite Companies (société en commandite par actions);
6- Limited Liabilities Companies (société a responsabilité limitée);
7- Variable Capital Companies (société au capital variable);
8- Co-operative Companies.

ment functions of exchange controls, passports and taxes. Ministerial circulars, in a process akin to American federal administrative regulations augmenting a statute, often prescribe specific and detailed rules. Under this procedure, the Minister of Commerce was able recently to announce new policies for registering commercial companies of such specificity that business activities may not be registered which describe their corporate purpose as "general trading," "consumer materials," "public tenders" or "luxury items and gifts." The same Ministry also recently issued a form of standard agency contract "to serve as a model for dealership and distributorship agreements between foreign manufacturers and firms and their Saudi agents."

VII. RULES: MODERN SAUDI ARABIAN REGULATIONS AND THE SHARI'A — A NOTE ON INFLUENCE AND SOME COMPARISONS

From the discussion above, it would seem possible to suggest that Saudi Arabian law provides the legal framework for modern commerce and national development through regulations, leaving the shari'a the law for all else. Such a simplification is too facile, however. An appreciation of some similarities and differences between the essential rules of Islamic jurisprudence, especially ones which affect commerce and development, and those of the major Western legal systems will demonstrate why this is so. First, however, a short survey of major influences on Islamic and particularly Islamic-Saudi Arabian law may sharpen the focus.

The influence of the civil law on Saudi Arabian procedure and its substantive reception in the commercial field, aspects of which have been noted above, have been both significant and continuing. The extent of this influence may be understood in part by recognizing that if the ancestor of the civil law, Roman

149 Ministerial Resolution No. 151 dated May 29, 1983, sec. 8 (copy available in the library of Patton, Boggs & Blow).
150 Ministry of Commerce, Standard Commercial Agency or Distributorship Contract (copy available in the library of Patton, Boggs & Blow).
151 See generally islamic law in the modern world, supra note 2, at x-xiii, 2–4; contract handbook, supra note 37, at 301, 305–06; introduction to shari'ah law, supra note 44, at 3–9; a practitioner's introduction, supra note 3, at 138–43; doing business in saudi arabia, supra note 38, at 328–37; Islamic law and modern government, supra note 3, at 456; Islamic law: its relation to other legal systems, supra note 4, at 193–97; comparative legal history, supra note 45, at 43–44; modern trends in islam, supra note 28, at 1–4; comment, the influence of islamic law on contemporary middle eastern legal systems: The formation and binding force of contracts, 9 COLUM. J. TRANS'L L. 384 (1970). Modernization and changing perceptions, supra note 3, at 1173–75; shari'ah: law of islam, supra note 36, at 34; law and lawyers, supra note 28, at 1034; meaning and structure, supra note 3, at 118–30; habachy, property, right, and contract in muslim law, 62 COLUM. L. REV. 450 (1962); and islamic law and contemporary issues, a speech by Z. Yamani at the American University of Beirut (Feb. 7, 1967) (copy available in the library of Patton, Boggs & Blow) [hereinafter cited as islamic law and contemporary issues].
law, cannot claim parental affinity to Islamic law, then they remain at least cousins: they are each a jurists' law and therefore the progeny of reason and justice. The civil law's importance as an influence in more modern times is explained by the Arab's need to fill a vacuum. Where Islamic law did not provide for forms of business entities suitable for modern commerce, France's code for example did, and Saudi Arabia adopted it. At the least, there have been exchanges between Roman-civil law and Islamic-Saudi law which may offer an explanation for some similarities between the two systems. Prominent among the West's borrowings from Islamic law is the limited partnership form of business, the qirad.

Since Britain and not France was the major modern influence in the Gulf, however, it might seem reasonable that Saudi Arabia would adopt the common law instead of the civil law as the model for modern commerce. There are three reasons why this did not occur. First, the common law came too late to influence the Islamic system in its formative stages. Second, when it did come, it was a stranger; it was difficult for Muslim law-makers accustomed to using treatises to find the rule of law revealed in a string of cases. Finally, the major Western commercial influence in the region, the British, made the task more difficult by never translating the common law into Arabic. Insofar as the common law has had any influence on modern regulations in Saudi Arabia, that influence has come essentially in the form of draftsmanship. The income tax regulations, for instance, were drafted by U.S. tax lawyers.

Thus, when the need for modern development in Saudi Arabia came, the ancient influence of Roman law on, or its juxtaposition with, shari'a and the modern impact of the civil law on commercial transactions were the law-making resources qadis and ministers had available to draw and to build upon. What developed were rules. Some of these will look familiar to Westerners, others strange. Here are some examples.

Property law. The shari'a considers property rights to be sacred. Trespass, for example, is a violation of law and a sin against God. The shari'a and modern regulations recognize and enforce the right of private ownership, a right considered to be more absolute than it is in the Western systems. Islamic law

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152 There are arguments to be made on both sides of this question. Compare, e.g., Comparative Legal History, supra note 45, at 43–44 (where it is noted that some scholars say "that the similarities between Roman and Islamic law indicate large-scale influence of Roman law on Islamic Law") to Meaning and Structure, supra note 3, at 129 ("there is ample evidence to indicate that such alleged wholesale borrowing has never taken place").

153 A Practitioner's Introduction, supra note 3, at 144; Islamic Law and Modern Government, supra note 3, at 460.


does not recognize title through adverse possession, and expropriation for public utility and foreclosure for nonpayment of debts are of recent introduction.\textsuperscript{156} But rights under the \textit{shari'a} carry correlative duties, too. An owner may not permit the exercise of the ownership right to injure another or deny another a benefit which would not impair or injure the property.\textsuperscript{157}

Property is classified not under the common law dichotomy of real and personal, but according to the civil law system of moveables and immovables.

\textit{Contract law}. Contracts, too, are considered sacred. "O ye who believe! Fulfill your undertakings."\textsuperscript{158} In a Muslim's priority of obligations, adherence to contracts ranks below only one's obligations to God and to family. Contracts are the \textit{shari'a} of the parties, and no distinction is made between public agreements such as treaties and private contracts; both are pacts to which God is a witness and both therefore must be observed.\textsuperscript{159} Perhaps because \textit{shari'a} contract law evolved through experience rather than developed from an underlying systematic theory, it is similar to the contract law of the common law. Freedom and sanctity of contracts are two fundamental principles recognized by both systems.\textsuperscript{160} Sanctity of contracts is so valued in Saudi Arabian society that the government once renounced its sovereign immunity in an arbitration with the Arabian American Oil Company, adjuring that the company and the government "have never entertained the thought that they would not be bound by the agreements they have made . . . ."\textsuperscript{161} Many of the main elements of contract formation are common to both systems, such as legal capacity, consideration and offer and acceptance. There are differences in principles of formation, interpretation and enforcement. Contracts cannot be formed, for example, whose subject is proscribed by the Quran, as would be the case for example

\begin{footnotesize}
\begin{enumerate}
\item \textsuperscript{156} \textit{Id.; Similarities and Common Principles}, supra note 154, at 455–57.
\item \textsuperscript{157} When the Prophet was confronted with a case brought by a man from Madina against Sumra Bin Jandib, the plaintiff was claiming injury from the date trees of the defendant which have extended to the plaintiff's land and caused injury to him and his family, the Prophet decided that the trees should be removed. * * * * In the case of Al Dahak vs. Mohammed Bin Muslimah, the plaintiff wanted to reach water by digging a channel passing through the defendant's land. The defendant refused. When the case was brought to Omar Bin Al-Khatab he told the defendant, "Why prevent your brother from something beneficial to him, and is of benefit to you without impairment." Then Omar decided in favor of the plaintiff notwithstanding the refusal of the owner of the land.
\item \textsuperscript{158} \textit{The Holy Quran}, sura 5, verse 1.
\item \textsuperscript{159} \textit{Doing Business in Saudi Arabia}, supra note 38, at 334; \textit{Similarities and Common Principles}, supra note 154, at 463–71.
\item \textsuperscript{160} \textit{Doing Business in Saudi Arabia}, supra note 38, at 334; \textit{Similarities and Common Principles}, supra note 154, at 463–71.
\item \textsuperscript{161} 1958 Aramco Arbitration quoted in \textit{Islamic Law in the Modern World}, supra note 2, at 3.
\end{enumerate}
\end{footnotesize}
with alcoholic beverages. There can be no condition implied in a contract. Specific performance is granted only rarely. 162

_Tort law._ Torts are subsumed under private actions and do not exist as a distinct and highly developed field of law. Liability generally follows fault. Strict liability may be found, however, where direct action causes injury.

_Agency._ Agency is not recognized within the concept of torts, as the equivalent of respondeat superior does not exist in _shari'a_ law, Islamic philosophy being that in general one is always responsible for his own acts. Under contract theories, an employer nonetheless may be liable for those actions he has ordered his employee to undertake. 163 In the context of public right actions, that is, criminal law, one may sometimes be held liable for the acts of another, as a guarantor of a bond may be held personally liable and subject to incarceration for the bonded person's failure to appear. 164 An extension of this concept that highlights cultural differences is the responsibility imposed on a foreign man for his wife's adherence to the traditions and customs of the Kingdom: he "will be subject to the deterrent punishment" if his wife appears unveiled. 165

There are notable differences. One is how the law applies. _Shari'a_ law of Saudi Arabia applies to any Muslim, Saudi or no, but not to non-Muslims. 166 A bedouin passing through the Rub al-Khali (Empty Quarter) on his northward migration from Yemen to Iraq would be subject to all regulations including

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164 _Law of Saudi Arabia, supra_ note 44, at 35.

165 Kingdom of Saudi Arabia Directorate General of the Public Morality Committee Eastern Province

_Undertaking by the Guardian of a Woman Seen Unveiled_

_Pursuant to the circular No. 888, dated 23 Rabi' 1 1400 of HE [10 February 1980], the President of the Public Morality Committees, based on circular No. 1858/8, dated 2 Dhu al-Hijjah 1399 [23 October 1979], of HRH the Vice Minister of Interior, requiring foreigners to comply with the traditions and customs of this country, including refraining from wearing make-up and going unveiled to markets and public places, and directing that women, including non-Saudi females, shall not wear makeup and go to market and public places in a tight or revealing dress, and that men shall not appear in said places in short pants and the like, which reveal private organs, I, the undersigned, , working with of nationality, holder of residence permit No. and guardian of the women (occupation) who was seen by the monitors of the Public Morality Committees on the street on while she was unveiled and immodestly dressed, hereby undertake before the Public Morality Committee,

____to comply with the teachings of Islam, the religion of this country, and to have her comply with them, not to let her go out of the house without a _muhram_ and to have her modestly dressed with a long garment, aba and veil. If she violates that, I will be subject to the deterrent punishment I deserve.

Name of man giving the undertaking:

Signature:

Address:

Residence Permit No.:

(Copy available in the library of Patton, Boggs & Blow).

166 _Shari'a: Law of Islam, supra_ note 36, at 34–35.
penal ones. Modern regulations apply to Saudis and foreigners alike, as the content of a specific regulation may require. For example, the Labor and Workmen Regulation that grants significant social benefits applies to all foreign workers whose employers have registered under the mandatory Foreign Capital Investment Regulations.

There is nothing equivalent to the common law statute of frauds. Except in labor matters, there is no time bar to bringing actions. And there is one difference that always surprises the Westerner until its justification is proffered: there is no theory of or reason for conflict of laws. Only shari'a law and shari'a courts may prevail. Shari'a is God’s law; all others are man’s.

VIII. SELECTED BIBLIOGRAPHY

The selection that appears in appendix III does not feign to be a definitive bibliography of works in English on the laws of Saudi Arabia. It is instead a selection of material the author thought would aid the student or practitioner interested in further exploring aspects of shari’a law as observed and practiced in Saudi Arabia.

167 The American Consulate advises:

With no exception but the small community of foreign diplomats resident in Saudi Arabia all persons traveling or residing in the Kingdom who are suspected of or charged with a criminal offense are subject to prosecution by Saudi authorities.

Information for Americans, supra note 44, at 1.

168 E.g., Article 6 of the Labor and Workmen Regulation (Royal Decree No. M/21 dated 6/19/1389 [1969]) in what has come to be called the “acquired rights” principle provides that an employee has a right to any benefit that is found to be generally provided by other employers to their employees. See, Ministry Of Labor & Social Affairs, Kingdom Saudi Arabia, Labor And Workmen Law: Rules Of Regulations And Decisions Issued Thereafter 10–11 (2d ed. undated); Bureau Of Labor Statistics, U.S. Dep’t Of Labor, BLS Rep No. 407, Labor Law and Practice In The Kingdom Of Saudi Arabia 50–52 (1972); Saudi Labor Law and Recent Developments, supra note 84, at 663.

169 For a bibliography of social, political and economic studies, see Area Handbook, supra note 54, at 347–69; for a bibliography of political sources, see World Constitutions, supra note 8, at i-x; and for a bibliography of works on the development of the Kingdom which includes official Saudi Arabian government publications, see Saudi Arabia Case Study, supra note 8, at 201–14.
### Appendix I

<table>
<thead>
<tr>
<th>ASPECT</th>
<th>COMMON (U.S.)</th>
<th>CIVIL (AUSTRIA)</th>
<th>SHARI‘A (SAUDI ARABIA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trier of Fact</td>
<td>Judge or jury</td>
<td>Judge</td>
<td>Judge</td>
</tr>
<tr>
<td>Admissibility</td>
<td>Strict rules</td>
<td>Free evaluation</td>
<td>Free evaluation</td>
</tr>
<tr>
<td>Pleadings</td>
<td>Written</td>
<td>Oral</td>
<td>Oral</td>
</tr>
<tr>
<td>Control of case</td>
<td>Parties</td>
<td>Judge</td>
<td>Judge</td>
</tr>
<tr>
<td>Presentation</td>
<td>Single hearing</td>
<td>Successive hearings</td>
<td>Successive hearings</td>
</tr>
<tr>
<td>Responsibility to sharpen evi-</td>
<td>Parties via cross examination</td>
<td>Judge; not confined to allegations; all relevant facts to be known</td>
<td>Judge</td>
</tr>
<tr>
<td>dence</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Taking of evidence</td>
<td>Parties via pre-trial discovery and examination</td>
<td>Judge via spontaneous narrative</td>
<td>Judge via spontaneous narrative</td>
</tr>
<tr>
<td>Selection of evidence</td>
<td>Parties, subject to admissibility</td>
<td>Judge; may gather evidence not offered</td>
<td>Judge</td>
</tr>
<tr>
<td>Burden of proof</td>
<td>Must be met at various stages</td>
<td>All evidence examined by judge who determines whether taking of proof is necessary</td>
<td>Must be met at various stages</td>
</tr>
<tr>
<td>Hearsay</td>
<td>Inadmissible, with exceptions</td>
<td>Judge decides</td>
<td>Admissible</td>
</tr>
<tr>
<td>Witnesses</td>
<td>Regarded as party’s</td>
<td>Regarded as court’s</td>
<td>Regarded as court’s</td>
</tr>
<tr>
<td>Expert witnesses</td>
<td>Offered by parties</td>
<td>Chosen by judge from permanent official list</td>
<td>Judge’s discretion</td>
</tr>
<tr>
<td>Documents</td>
<td>Party must lay foundation for each</td>
<td>Must be read aloud at trial; proves itself; no foundation</td>
<td>Judge’s discretion</td>
</tr>
<tr>
<td>Record</td>
<td>Verbatim (lengthy)</td>
<td>Judge summarizes (short)</td>
<td>Parties dictate claim judge summarizes (short)</td>
</tr>
</tbody>
</table>
Appendix II

SAUDI ARABIAN JUDICIAL SYSTEM*

King

Council of Ministers

Minister of Justice

Grievance Board

Commission for the Settlement of Commercial Disputes

Commission for the Settlement of Labor Disputes

Supreme Judicial Council

Appeals Courts

High Courts of Shari'a Law

Ordinary Courts

(Claims involving Saudi government)

(Commercial disputes between private parties)

(Labor disputes)

Traditional Claims

Disputes Involving Government Regulation

* Reproduced with modifications from Contract Handbook, supra note 37, at 308.
APPENDIX III

BIBLIOGRAPHY OF SELECTED WORKS IN ENGLISH ON THE LAWS OF SAUDI ARABIA

LEGISLATIVE MATERIALS


BOOKS, PAMPHLETS & ESSAYS IN EDITED COLLECTIONS


Banking Structures And Sources Of Finance In The Middle East (Banker Research Unit 2d ed. 1980).


BUSINESS LAWS OF SAUDI ARABIA (N. Karam trans. 1982).

J. CARTER, LEADING MERCHANT FAMILIES OF SAUDI ARABIA (1979).

Caso, Local Tax Considerations in Iran and Saudi Arabia, in CURRENT LEGAL ASPECTS OF DOING BUSINESS IN THE MIDDLE EAST 18 (W. Wickersham and B. Fishburne eds. 1977).


N. COULSON, A HISTORY OF ISLAMIC LAW (1964).


DELOITTE, HASKINS & SELLS, DOING BUSINESS IN SAUDI ARABIA (1980).

EAST WEST GROUP, LTD., CENTERS OF SAUDI ARABIAN INFLUENCE TODAY (1978) (available in the library of Patton, Boggs & Blow).


THE FUNCTION OF DOCUMENTS IN ISLAMIC LAW (J. Wakin ed. 1972).


HOYT, OVERVIEW OF LEGAL ASPECTS, IN CURRENT LEGAL ASPECTS OF DOING BUSINESS IN THE MIDDLE EAST (W. Wickersham & B. Fishburne eds. 1977).


INDUSTRIAL STUDIES AND DEVELOPMENT CENTER, GUIDE TO INDUSTRIAL DEVELOPMENT IN SAUDI ARABIA (5th ed. 1977).


L. Jensen, Marketing In Saudi Arabia (U.S. Dep’t of Commerce, Overseas Business Reports 1979).
A. Kapoor, Foreign Investments And The New Middle East (1975).
M. Kerr, Islamic Reform (1966).
M. Khadduri, Law In The Middle East (1958).
Law In The Middle East (M. Khadduri & H. Liebesny eds. 1955).
Legal Development In Arabia (W. Ballantyne ed. 1980).
G. Lenczowski, United States Interests In The Middle East (1968).
Libin, Tax Aspects of Middle East Construction Activity, in ALI-ABA Course Of Study: Construction Contracting In The Middle East 39 (1975).
S. Mahmasani, Philosophy Of Law In Islam (1952) (in Arabic).
Mahmasani, Transactions in the Shari’a, in The Middle East 192 (M. Khadduri & H. Liebesny eds. 1955).
A. Al-Marayati, Middle Eastern Constitutions And Electoral Laws (1968).
The Middle East: A Legal Update (Practicing Corporate Law & Practice Handbook Series No. 266 1978).
E. Nakhle, Arab-American Relations In The Persian Gulf (1975).
W. Quandt, Saudi Arabia’s Oil Policy (1982).
M. Sharif, Crimes And Punishment In Islam (1972).
A Short Guide To Doing Business In Saudi Arabia (an undated pamphlet published by the Saudi Arabian Government available in the library of Patton, Boggs & Blow).
The Islamic Criminal Justice System, (C. Bassiouni, ed. 1982).
U.S. DEP'T OF COMMERCE, AN INTRODUCTION TO CONTRACT PROCEDURES IN THE NEAR EAST AND AFRICA (1978).
UNITY AND VARIETY IN MUSLIM CIVILIZATION (G.E. Grunebaum ed. 1955).
S. Vesey-Fitzgerald, MUHAMMADAN LAW (1931).
Vesey-Fitzgerald, Nature and Sources of the Shari'a, in LAW IN THE MIDDLE EAST 87 (M. Khadduri & H. Liebesny eds. 1955).
J. Walmesley, JOINT VENTURE IN SAUDI ARABIA (1979).
L. Wigmore, A PANORAMA OF THE WORLD LEGAL SYSTEMS (1928).

WORKS NOT FORMALLY PRINTED

Islamic Law and Contemporary Issues, Speech by Z. Yamani, at American University of Beirut (February 7, 1967) (available in the library of Patton, Boggs & Blow).

PERIODICALS

Abdel-Wahab, Meaning and Structure of Law in Islam, 16 VAND. L. REV. 115 (1962).
Acker, Building or Leasing in the Kingdom—How to Protect Yourself, MID. E. EXEC. REP., MAY 1982, AT 21.


*Burt, Corporate Taxation in the Middle East*, 3 **Int'l Tax J.** 408 (1977).


Crane, Planning, Islamic Style, Fortune, July 31, 1978, at 114.


Kenyon, Lawyers' Mecca, 11 Am. Law. 13 (1980).

Khadduri, Nature and Sources of Islamic Law, 22 Geo. Wash. L. Rev. 3 (1953).


Liebesny, Impact of Western Law in the Countries of the Near East, 22 Geo. Wash. L. Rev. 127 (1953).


Liebesny, Stability and Change in Islamic Law, 21 Middle East J. 16 (1967).


Nolte, The Rule of Law in the Arab Middle East, 48 Muslim World 295 (1958).
Salem, Arab Reformers and the Reinterpretation of Islam, 55 Muslim World 311 (1965).


Use of Agents to be Restricted, MID. E. EXEC. REP., Nov. 1980, at 14.


Whelan, *Saudis are Encouraged to Take a More Active Role in Joint Venture, MIDDLE EAST ECON. DIG., Jan. 5, 1979*, at 3.


**NEWSPAPERS**


Ibrahim, *Arab-U.S. Interests Set Investment Unit, N.Y. Times, Mar. 20, 1978*, at DI.

