

An Islamic Legal Perspective on the Universal Declaration of Human Rights

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Many eminent scholars have written about human rights in Islam.¹ The purpose of this presentation is to examine the provisions of the Universal Declaration of Human Rights from an Islamic law perspective. One of the aims is to seek to identify the areas of agreement, i.e. to identify the common ground between human rights under Islamic law and the Universal Declaration.

Two specific questions often arise for Muslims when considering the Universal Declaration. First, does its claim to universality pose a problem for acceptance of the Declaration among the proponents of Islamic law? In addressing this point, the issue of a perceived western bias and the accusation of the Declaration's cultural relativism will be covered. The second question is, do any of the provisions of the Declaration conflict with the rules of Islamic law? Due to limitations of space, an article-by-article comparison of the Declaration to rules and principles under Islamic law is not possible; some general comparisons, however, will be made.

The creation of obligation and some enforcement mechanisms within Islamic law will also be examined. It is argued that enforcement mechanisms under Islamic law, if utilised, will actually help improve human rights as articulated in the Declaration. To be effective, however, it must first be shown that these principles are binding on Muslims under Islamic law.

In undertaking a comparison of this nature, it is important to be aware of the problems associated with any attempt to compare apparently similar concepts between systems of government and ideologies whose bases

are fundamentally different. The concept of sovereignty can be taken as an example. In a secular context, sovereignty may be vested in the “sovereign” or in the people. In Islam, however, sovereignty rests with the Creator (God) alone. In the context of this presentation, two major consequences arise from this fundamental difference. First, secular legal systems, including systems of government in Muslim majority states, recognise sovereignty in the meaning of the UN Charter, which, in the view of Dixon and McCorquodale, is “one of the fundamental concepts of international law”.² The Qur’an, the primary source of Islamic law, on the other hand, states that the Muslim “nation” or *ummah* is one and indivisible.³ Sovereignty rests with God alone, and the sole purpose of differences in race, colour, language and so forth among people is to assist “people identifying each other”,⁴ and is not a valid basis for the separation of people into self-governing sovereign states. Secondly, if sovereignty is vested other than with God, then that sovereign may legitimately decide what is permissible and what is not. However, under Islamic law, it is God alone – through the Qur’an – who mandates what is permissible and what is not.

It is also necessary to make clear what we mean by a “Muslim” system of government. In countries where Muslims make up a numerical majority, governments have attempted to form regimes that reflect and incorporate parts of the Islamic belief system of the people in the governance of the state.⁵ More than fifty states have a Muslim majority and they display a range of types of government, including ‘secular’ states such as Turkey and Bangladesh, ‘Islamic Republics’ such as Mauritania, Pakistan and Iran, Westminster-style democracies, military dictatorships, monarchies, civilian dictatorships or the various cross-sections of the forms of government as represented in the UN. Even in states that are attempting to move towards the ‘Islamic State’ there are certain logistic problems of living in a predominantly secular world. For example the fundamental contradiction in the terms “Islamic Republic”⁶ at once shows the difficulties of establishing an Islamic regime in the contemporary world. The journey towards a unified *ummah*, or even the desire to achieve this end, does not at present appear to be universal.⁷

Bases of Islamic law

To Muslims, the Qur’an is the literal revealed word of God,⁸ and is the primary source of Islamic law.⁹ Thus in evaluating the validity of the pro-

visions of the Declaration from an Islamic perspective, it is of fundamental importance to examine the Quranic injunctions on the subject.

In the view of Shafi'i, the second source of Islamic law, the *sunna* or prophetic traditions, derives its legitimacy from the Qur'an.¹⁰ Shafi'i substantiates this assertion by reference to the Qur'an, citing the phrase "*al kitab wa'l hikma*".¹¹ *Al kitab* (literally "the Book") is a word often used to describe the Qur'an. *Al hikma* (literally "the wisdom") is, according to Shafi'i, the wisdom given to humanity in the practice of the prophet.

Other sources of Islamic law include *ijma'a* or consensus,¹² which can refer to the consensus of the scholars or the consensus of the people;¹³ *qi'yas* or analogy; and, in Shi'i Islam, *ra'y* or reason.¹⁴

Two main types of obligation arise out of Islamic law. The first is an obligation on a person as an individual (*fard ayn*), and the second is a collective obligation on a community (*fard kifaya*). An example of the former is the obligation to perform the daily prayers. Prayer is obligatory on every man and woman, and failure to perform a prayer is a personal derogation for which the individual is answerable to God. An example of the latter type of obligation is the burying of the dead. If some members of the community bury a dead person then the whole community is relieved of the obligation; however, if no one does it, the whole community is answerable to God for failure to perform a mandatory act.

In terms of Islamic Law, and therefore relevant provisions of the Declaration, the call on Muslims to establish justice is an obligation-creating command by God on every individual (*fard ayn*). This is seen in the following Quranic verse:

O ye who believe! Stand out firmly for justice as witnesses to God even as against yourselves or your parents or your kin and whether it be (against) rich or poor: for God can best protect both. Follow not the lusts (of your hearts) lest ye swerve and if ye distort (justice) or decline to do justice verily God is well-acquainted with all that ye do. (Qur'an 4: 135)

Similarly the following verse is a command to some in the Muslim community (*fard kifaya*) to protect monasteries, churches, synagogues, and lastly mosques:

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Did not God check one set of people by means of another they would surely have pulled down monasteries, churches, synagogues and mosques in which the name of God is commemorated in abundant measure. God will certainly aid those who aid His (cause); for verily God is Full of Strength Exalted in Might (Able to enforce His Will). (Qur'an 22:40)

If, however, such protection is not forthcoming, then the whole community is seen to have failed in fulfilling its obligation. In Islamic history when the Muslim government has been unable to protect places of worship, homes and so forth, for example because it had lost control of territory, this has resulted in the government returning the taxes of the non-Muslim citizens (only).

The Universal Declaration of Human Rights

The first of the questions raised at the beginning of this paper was whether the universality of the Declaration poses a problem for its acceptance among the proponents of Islamic law.

Dr Mahathir, Prime Minister of Malaysia, has asserted that the Declaration might need to be modified or amended to incorporate the values that have sometimes been called 'Asian values'. The existence of regional human rights instruments such as the African Charter on Human and Peoples' Rights (1981), the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950), and other regional human rights agreements appears to give some credence to the view that human rights are perceived differently by different cultures and races, and that governments have concluded regional instruments to reflect this belief.

If, however, human rights are the right of an individual on the basis of being human, then a regional approach necessarily suggests that there is an intrinsic difference between people from different regions. To be binding on Muslims, such a notion must be shown to be based in Islamic law. The question then becomes: (a) what is the legal personality of an individual under Islamic Law; and (b) does this vary from region to region.

The Islamic law view of an individual or a person's legal personality is clear. On the Day of Judgement, God will address each man and each woman individually:

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On no soul does God place a burden greater than it can bear. It gets every good that it earns and it suffers every ill that it earns. (Qur'an 2:286)

An individual is judged, according to Islamic theology, *inter alia* on their intent and the performance of their individual and collective duties. Just judgement necessarily implies that all duties and responsibilities for which one is answerable have been clearly and unambiguously articulated. After all, the Qur'an alludes above all to a Just God. Thus any basic differences in human beings on the basis of region, race, gender and so forth will have to be clearly indicated by the Qur'an. If an African Swahili-speaking woman were, for example, fundamentally different from a Hokkein-speaking Chinese man, then their mandated duties (*fard ayn*) should also be clearly and separately identified, in keeping with their regional differences.

In reference to the various races and cultural differences within the present human population the Qur'an states:

O humanity! We created you from a single (pair) of a male and a female and made you into nations and tribes that ye may know each other, not that ye may despise each other. Verily the most honoured of you in the sight of God is one who is the most righteous of you. And God has full knowledge and is well acquainted (with all things) (Qur'an 49: 13).

It therefore concedes no distinction on the basis of regional or racial differences. Further, this verse was interpreted by the Prophet, who was quoted by Ibn Kathir, who in turn was quoted by Bashier, as saying:

O People, surely your Lord is one, you all descend from Adam and Adam was created of clay. No Arab is superior to a non-Arab nor a non-Arab superior to an Arab and no white person is superior to a black person nor a black person superior to a white, surely the most noble of you are those who are the most God-fearing.¹⁵

Thus there is no basis in Islamic law for the fundamental differentiation between people on a regional, racial or geographic basis. There are clearly differences within human populations, such as the rich and the poor, the healthy and the infirm, and so forth. Islamic law caters for these differences, but always on a universal basis. Thus there is no basis in Is-

Islamic law for the stipulation of fundamental rights in other than universal terms.

Specifically, therefore, while there may well be differences between the Islamic law and the Declaration on what actually constitutes a "right", the universality of these rights is not in question.

Thus the arguments based on cultural relativism as discussed in the literature,¹⁶ and views opposing the Declaration on the basis of its universal nature, have no valid basis in Islamic law.

Opinio juris

It is now an opportune moment to examine state practice. An examination of the practice of two different Muslim majority countries, Saudi Arabia and Iran, which both claim to be governed by Islamic law, highlights important principles from the perspectives of both international law and Islam.

Saudi Arabia was represented at the Third Committee deliberations on the Universal Declaration of Human Rights by Ambassador M. Baroody. While other Muslim States - Syria and Turkey - were also present, they could not have been reasonably expected to provide an Islamic perspective at the time - in the case of Syria because the nation was still going through the de-colonisation process, and in the case of Turkey because it was in the midst of an anti-Islamic phase of its history. Saudi Arabia, on the other hand, had ample opportunity to present its perspective on the draft declaration in the days leading up to 10 December 1948, when the General Assembly voted unanimously to adopt it. Their role is particularly important as Saudi Arabia was never formally colonised. In addition, Saudi Arabia has consistently and proudly proclaimed its custodianship of the two holy mosques in Mecca and Medina and, by virtue of this custodianship, has claimed to be committed to the defence of the faith.¹⁷ Saudi Arabia claimed, as it does today, that Islamic law (the *sharia'a*) was the law applicable in Saudi Arabia.

Saudi Arabia did not voice any fundamental opposition to the articles of the draft UDHR. The *travaux preparatoires* indicates that Mr. Baroody asked for no amendments to be made on the basis that the draft UDHR had provisions conflicting with Islamic law;¹⁸ While Mr. Kayali, representing Syria, went further and in fact appeared to propose a strengthening of the provisions.¹⁹ It appears that there was a belief on the part of the Saudi Arabian delegation that there was no conflict between the draft declaration and Islamic law. Had the Saudi delegation believed that there

was a conflict, then, on the basis of its claim to defend Islam, it would have voted against the adoption of the Declaration.

Further, the *Saudi Gazette*, which is seen to reflect the views of the Saudi establishment, stated that the Declaration is “not so comprehensive as rights granted under the Qur’an and in several respects is deficient in ensuring justice and equality to all”.²⁰ Thus in the Saudi Arabian view, rights would be better protected under Islamic law; however it does not question the validity of the provisions of the Declaration.

Nation-states sometimes radically change their forms of government. In Iran, the monarchial form of government was replaced by a theocracy. The new government declared its intention of establishing an Islamic form of government. In doing so it radically reexamined its commitments, including its international obligations.²¹

The Vienna Convention on the Law of Treaties (1969) provides for the denunciation or termination of treaties. Iran could have argued, for example, that there was a “fundamental change in circumstances”.²² History attests to the fact that the new Iranian government did not present a case for denouncing the Declaration.²³ It must be seen to be of the view that there were no fundamental conflicts between the Declaration and Islamic law. In fact Iranian scholars generally take the Declaration to task for its narrow and, in their view, extremely limited scope. Dr Thani goes further and questions the efficacy, though not the legitimacy, of the Declaration. He points out the deterioration of rights by examining the subsequent human rights record of some of the 56 nations present at the 1948 vote.²⁴

Thus Iran viewed the Declaration as falling short of the rights granted in the Qur’an. The record nevertheless shows that post-revolutionary Iran, as a nation, did not denounce the Declaration and has even acknowledged the positive points in it.²⁵ Iran must therefore be seen as accepting its validity. The Islamic law basis for accepting the terms of a treaty concluded prior to the establishment of Islamic rule comes from the traditions of the Prophet. He made it very clear that even treaties concluded by non-Islamic predecessors remain binding on Muslims on the condition that the treaties are just.²⁶

Why is the Declaration perceived as a “Western” document?

The obvious answer to this question is because it was produced by the UN at a time when the Western countries were the major powers. From the Muslim viewpoint this domination has, if anything, increased in the post-cold war era. However, this domination has not been because of the Declaration.

The underlying reason why Muslims and others perceive the Declaration as “Western”, however, is because of the simplistic notion that if it shows the West as being the “guardians” of human rights, then it must inherently be a Western tool. It is this false perception that the West is a good human rights defender that must first be corrected, not the Declaration itself. The human rights failings of the West, especially but not exclusively on foreign soil, are many. For example, although article 9 of the Declaration states “No one should be subject to arbitrary exile”, this is exactly what the British did to the original inhabitants of Diego Garcia who were exiled to Mauritius.²⁷ Although article 4 states that “No one should be held in slavery or servitude”, Australia thought otherwise for the Gurindji (Aboriginal) people at Wave Hill Station.²⁸

John Pilger states that “it’s the victims, not the oppressors who are [painted as the] terrorists”. He explains how the West gets away with the deception by quoting Falk: it is “the domination of *fact* by *image* in shaping and shading the dissemination of information that controls the public perception of reality.”²⁹

The Provisions of the Universal Declaration

A comparison of provisions of Islamic law with the 30 articles of the Universal Declaration shows that there is no basis in Islamic law to justify the weakening of human rights provisions of the Declaration. In principle agreement is quite clear.

There will always, however, be differences of opinion. What, for example, constitutes “a cruel, inhuman or degrading punishment”?³⁰ Is a long stint in a tiny cell, with no privacy, at Long Bay Gaol for armed robbery brought on by a gambling addiction, degrading? Is a spear in the leg inhuman? Is the cutting off of a hand of the habitual criminal cruel? Most people would agree in principle that there must be some form of punishment and/or rehabilitation for crimes committed and proven by a competent court. What this punishment actually constitutes is a moot

point and may be affected by one's cultural background. It is, therefore, in the implementation and the interpretation, rather than in matters of principle, that differences come to the fore.

Enforcement

While the Universal Declaration is arguably binding on member states under customary international law, and some of its provisions may even possess the character of *jus cogens*, there is always a question of the lack of suitable enforcement mechanisms. Many men, women and children have been, and are continuing to be, at the receiving end of the abuses of human rights both in Muslim majority states and elsewhere. There have been calls for a greater vigilance on the excesses committed by servants of our nation-states. As technological innovations improve, it appears that it is the persecutors and the oppressors of people, and not the enforcement of rights for the oppressed, that receives the benefits of this progress.

On the other hand, God, in the Islamic view, mandates rights granted under Islamic law, and the protection of these rights is thus binding on all Muslims by virtue of their claim to be Muslims. The Qur'an makes it incumbent on all those who believe in God to work towards a just outcome for everyone:

O ye who believe! Stand out firmly for justice as witnesses to God even as against yourselves or your parents or your kin and whether it be (against) rich or poor: for God can best protect both. Follow not the lusts (of your hearts) lest ye swerve and if ye distort (justice) or decline to do justice verily God is well-acquainted with all that ye do. (Qur'an 4: 135)

There is a further Prophetic tradition:

God's Apostle said, "Help a Muslim, whether they are the oppressor or the oppressed one." People asked, "O God's Apostle! We can help them if they are the oppressed, but how should we help when they are the oppressor?" The Prophet said, "By preventing them from oppressing others".³¹

As you will recall, these injunctions are binding on all Muslim men and Muslim women and the main enforcement mechanism in Islamic

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law is the belief by Muslims that they are accountable to God on the Day of Judgement:

One day every soul will come up struggling for itself and every soul will be recompensed (fully) for all its actions and none will be unjustly dealt with. (Qur'an 16:111)

And the establishment of a just order is one of the actions mandated on a Muslim by God. The great drawback, however, is that for those with no conscience or an absence of a belief in the Day of Judgement, these Qur'anic sanctions will have little effect. In this case, all the posturing by Muslims is going to have little effect on elimination of abuses in human rights.

Some Advice to Human Rights Activists

When you write to leaders of Muslim states to make complaints of breaches in human rights, please keep this thought in mind. Use the provisions of the Qur'an, their source of obligation, when reminding them of their misdemeanours.³² They may not accept your version of the facts, nor perhaps your perception of events, but it will make it that much more difficult for them to dismiss you as "enemies of Islam" or by some other similar platitudes. Remind them that the obligation on Muslims, both individually and collectively, does not stop at not oppressing, but goes further in obligating them to actively oppose oppression and injustice.

Conclusion

There is no basis in Islamic law to claim the non-applicability of the Declaration purely on the basis of its being universal. In fact, there is no basis in Islamic law for the stipulation of fundamental rights in other than in universal terms. An examination of the provisions of the Declaration in the light of the sources of Islamic law shows that the rights it proclaims, in general, appear to be in keeping with the teachings of the Islamic religion and law.

The just implementation of Islamic law would strengthen the human rights regime. However, accepting the provisions of the Declaration as an

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interim measure should encounter little legitimate resistance on the basis of Islamic law.

Islamic law is a potentially powerful force in enforcing the rights of people. If the world's 1000 million Muslim people refuse to oppress or actively oppose the oppression of people - as they are obliged to do - than it will become increasingly difficult for faceless governments to perpetrate and conceal as much abuse as they do today. It is, after all, in the interests of the Muslim peoples themselves to do so. John Pilger states that "in fact, not only have Muslims been responsible for a tiny proportion of deaths caused by terrorism, but in recent years it is they who have been the greatest sufferers from state terrorism".³³

In conclusion, please ask the next person you meet who professes the Islamic faith the following question. Ask them what they have done to discharge the obligation placed on them by God to oppose oppression by state powers; the oppression visited on their country-folk, their co-religionist, the speaker of their language or simply their sister or brother in humanity.

Notes

- 1 Badawi, J., "An Islamic Classification of Human Rights", Salam Magazine, Jan-Feb 1996; World Association of Muslim Youth, Human Rights in Islam, series no. 6, Institute of Islamic Information & Education, 1997; Al-Quaradawi, Y., Islam is a Force Against Terrorism, Salam Magazine, Nov-Dec 1996; Ishaque, K., Fundamental Rights in the Qur'an, The Muslim, Dec 1973-Jan 1974.
- 2 Dixon, M. and McCorquodale, R., Cases and Materials on International Law, Blackstone Press, London, 1995, p. 279. Sovereignty is defined in article 2.1 of the UN Charter: "the Organisation is based on the principle of the sovereign equality of all its Members."
- 3 "Verily this Nation of yours is a single Nation and I am your Lord and Cherisher: therefore serve Me (and no other)": Qur'an 21:92. Asad, M., The Message of the Qur'an, Dar Al Andalus Press, Gibraltar, 1980.
- 4 "O humanity! We created you from a single (pair) of a male and a female and made you into nations and tribes that ye may know each other, not that ye may despise each other". Qur'an 49:1. Asad, The Message of the Qur'an.
- 5 The 1998 Constitutional Amendment Bill in Pakistan, which declared the Qur'an and sunna as the supreme law of the country, is an example of specific legislation currently being considered. In general one can point to the Islamisation programs undertaken in Iran, the Sudan, Malaysia, Algeria and some other Muslim majority states.
- 6 Butterworths Concise Australian Legal Dictionary defines a republic as a form of government where the source of authority is the will of the people. This source of authority may be compared with an Islamic form of government that draws its legal authority from God alone.
- 7 Reference to a unified ummah is absent from the communiqués and resolutions issued by groupings of Muslim states. For example, neither the Organisation of the Islamic Conference (OIC) meeting of Heads of States nor the meeting of OIC Foreign Ministers

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held in Tehran in December 1997 issued any communiqués or passed any resolutions that referred to establishment of a single Muslim political entity, even in aspirational terms.

- 8 "The revelation of this divine writ from on high is from God the Almighty the Wise": Qur'an 46:2. Asad, *The Message of the Qur'an*.
- 9 "If any do fail to judge by (the light of) what God hath revealed they are (no better than) those who rebel": Qur'an 5:47. Asad, *The Message of the Qur'an*.
- 10 Muhammad ibn-Idris al-Shafi'i, *Kitab al Risala fi Usul al Fiqh* (Treatise on the Roots of Jurisprudence), Bulaaq Edition, vol. 6, p. 206.
- 11 For example Qur'an 2:129, 2:151, 2:231, 3:164, 4:113, 62:2.
- 12 Hourani, G. F., *The Basis of Authority of Consensus in Sunnite Islam*, Studia Islamica, Dartmouth, 1996.
- 13 Wegner, J. R., "Islamic and Talmudic Jurisprudence: The Four Roots of Islamic Law and their Talmudic Counterparts", *American Journal of Legal History*, vol. XXVI, 1982, p. 55.
- 14 Reza, S. A. (trans.), *Nahjul Balagha: Peak of Eloquence: Sermons, Letters and Sayings of Imam Ali ibn Abu Talib*, Tahrike Tarsile Qur'an Publication, New York, 1986, p. vii.
- 15 Bashier, Z., *Sunshine at Madinah*, Islamic Foundation, Leicester, 1990, p. 120.
- 16 Steiner, H. J. and Alston, P., *International Human Rights in Context*, Clarendon Press, Oxford, 1996, p. 192.
- 17 Shaheen, S. H., *Unification of Saudi Arabia: A Historical Narrative*, Ammar Press, 1993, p. 25.
- 18 "Draft Universal Declaration of Human Rights (E/800): report of sub-committee 4", (A/C.3/400 and A/C.3/400/Rev 1), p. 844.
- 19 *Ibid.*, pp. 842-860.
- 20 Ahsan., M. M., "Human Rights in Islam: Islamic Concept of Rights God-Centred," *Saudi Gazette*, 1 February 1993.
- 21 Human Rights in Islam, papers presented at the 5th Islamic thought conference, Tehran, January 1987. Iran was represented by important personalities such as Ali Khamenei. Though the Conference stressed the view that the West dominated the UN, it conceded that the mechanism for this domination was the Security Council. The reality, however, is that the Security Council may have less actual power than is attributed to it. This is highlighted in Bennis, P., *Calling the Shots: How Washington Dominates Today's UN*, Olive Branch Press, New York, 1996, p. xii: "The UN Security Council was still meeting on 16 January, 1991, debating whether to authorise the bombing on Iraq, when a reporter came into the chamber and said, "They are bombing Baghdad. It's on CNN".
- 22 Article 62, *Vienna Convention on the Law of Treaties*, 1969.
- 23 Some provisions of the Declaration may arguably have the character of *jus cogens*, provisions from which no derogation is permissible. A nation could, nevertheless, place its views on record at the various forums at the United Nations.
- 24 Thani, J., "Some of the Shortcomings of the UDHR", *Human Rights in Islam*, *supra* note 1.
- 25 "Conclusions and Recommendations of the 5th Islamic Thought Conference on Human Rights", *Human Rights in Islam*, p. 9.

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- 26 Bashier, Z., *The Makkan Crucible*, Islamic Foundation, London, 1991, p. 66 refers to the "Alliance of the Virtuous", a treaty concluded in pre-Islamic times to protect visitors to Mecca. On being questioned about the treaty's validity after the establishment of Islamic rule the Prophet said, "I will never exchange that Treaty for the best material gains and if someone appealed to it in Islam I will respond."
- 27 Madeley, J., *Diego Garcia: A Contrast to the Falklands*, Minority Rights Group no. 54, London, 1985.
- 28 Berndt, R. M., (ed.), *The Concept of Protest within an Australian Aboriginal Context*, University of Western Australia Press, Nedlands, 1971.
- 29 Pilger, J., *Hidden Agendas*, Vintage, 1998, p. 37.
- 30 Article 5 of the "Universal Declaration of Human Rights".
- 31 Narrated by Anas in the *Sahih of Al Bukhari*, vol. 3, Hadith no. 624.
- 32 God Says: "O My servants, I have forbidden oppression for Myself and have made it forbidden amongst you, so do not oppress one another." Hadith Qudsi, no. 17.
- 33 Pilger, J., *Hidden Agendas*, p. 34, *supra* note 29.

Attachment 1

O ye who believe! Stand out firmly for God as witnesses to fair dealing and let not the hatred of others to you make you swerve to wrong and depart from justice. Be just: that is next to Piety: and fear God for God is well-acquainted with all that ye do. (Qur'an 5:8)

O ye who believe! Stand out firmly for justice as witnesses to God even as against yourselves or your parents or your kin and whether it be (against) rich or poor: for God can best protect both. Follow not the lusts (of your hearts) lest ye swerve and if ye distort (justice) or decline to do justice verily God is well-acquainted with all that ye do. (Qur'an 4:135)

Art 1 All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Islamic law

We have honoured the children of Adam; provided them with transport on land and sea; given them for sustenance things good and pure; and conferred on them special favours above a great part of Our Creation. (Qur'an 17:70)

O ye who believe! Stand out firmly for justice as witnesses to God even as against yourselves or your parents or your kin and whether it be (against) rich or poor: for God can best protect both. Follow not the lusts (of your hearts) lest ye swerve and if ye distort (justice) or decline to do justice verily God is well-acquainted with all that ye do. (Qur'an 4:135)

Art 2 [1]. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

[2]. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Islamic law

O People! We created you from a single (pair) of a male and a female and made you into nations and tribes that ye may know each other (not that ye may despise each other). Verily the most honoured of you in the sight of God is (he who is) the most righteous of you. And God has full knowledge and is well-acquainted (with all things). (Qur'an 49:13)

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Art 3 Everyone has the right to life, liberty and security of person.

Islamic law

If anyone slew a person unless it be for murder or in the execution of justice it would be as if he slew the whole people: and if anyone saved a life it would be as if he saved the life of the whole people. Then although there came to them Our apostles with clear Signs yet even after that many of them continued to commit excesses in the land. (Qur'an 5:32)

Take not life which God hath made sacred except by way of justice and law: thus doth He command you that ye may learn wisdom. (Qur'an 6:151)

Nor take life which God has made sacred except for just cause. And if anyone is slain wrongfully We have given their heir authority (to demand *Qisas* or to forgive): but let him not exceed bounds in the matter of taking life: for they are helped (by the Law). (Qur'an 17:33)

Art 4 No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Islamic law

Agreed by Islamic law on the basis of *ijma'a*.

Art 5 No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Islamic law

O My servants, I have forbidden oppression for Myself and have made it forbidden amongst you, so do not oppress one another. (Hadith Qudsi No 17)

Art 6 Everyone has the right to recognition everywhere as a person before the law.

Islamic law

God doth command you to render back your trusts to those to whom they are due; and when ye judge between people that ye judge with justice: verily how excellent is the teaching which He giveth you! For God is He who heareth and seeth all things. (Qur'an 4:58)

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Art 7 All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Islamic law

Now then for that (reason) call (them to the Faith) and stand steadfast as thou art commanded nor follow thou their vain desires; but say: "I believe in the Book which God has sent down; and I am commanded to judge justly between you. God is Our Lord and your Lord. For us (is the responsibility for) Our deeds and for you for your deeds. There is no contention between you and us. God will bring us together and to God is (Our) final goal. (Qur'an 42:15)

God commands justice the doing of good and liberality to kith and kin and He forbids all shameful deeds and injustice and rebellion: God instructs you that ye may receive admonition. (Qur'an 16:90)

Art 8 Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Islamic law

God doth command you to render back your trusts to those to whom they are due; and when ye judge between people that ye judge with justice: verily how excellent is the teaching which He giveth you! for God is He who heareth and seeth all things. (Qur'an 4:58)

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- Art 9 No one shall be subjected to arbitrary arrest, detention or exile.
- Art 10 Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Islamic law

After this it is ye the same people who slay among yourselves and banish a party of you from their homes; assist (their enemies) against them in guilt and rancor; and if they come to you as captives ye ransom them though it was not lawful for you to banish them. Then is it only a part of the Book that ye believe in and do ye reject the rest? But what is the reward for those among you who behave like this but disgrace in this life? and on the Day of Judgment they shall be consigned to the most grievous penalty. For God is not unmindful of what ye do. (Qur'an 2:5)

Malik related to me that Rabia ibn Abi Abd ar-Rahman said, "An Iraqi man came before Umar ibn al-Khattab and said, 'I have come to you because of a matter which has no beginning and no end.' Umar said, 'What is it?' The man said, 'False testimony has appeared in our land.' Umar said, 'Is that so?' He said, 'Yes.' Umar said, 'By God! No one is detained in Islam without just witnesses.'"

Malik related to me that Umar ibn al-Khattab said, "The testimony of someone known to bear a grudge or to be unreliable is not accepted."

(*Al Muwatta* of Malik Hadith No 36.4)

- Art 11 [1]. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
- [2]. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Islamic law

And those who launch a charge against chaste women and produce not four witnesses (to support their allegation) flog them with eighty stripes: and reject their evidence ever after: for such men are wicked transgressors. (Qur'an 24:4)

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Art 12 No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Islamic law

O ye who believe! Let not some men among you laugh at others: it may be that the (latter) are better than the (former): Nor let some women laugh at others: it may be that the (latter) are better than the (former): nor defame nor be sarcastic to each other nor call each other by (offensive) nicknames: Ill-seeming is a name connoting wickedness (to be used of one) after he has believed: And those who do not desist are (indeed) doing wrong. (Qur'an 49:11)

O ye who believe! Avoid suspicion as much (as possible): for suspicion in some cases is a sin: and spy not on each other nor speak ill of each other behind their backs. Would any of you like to eat the flesh of his dead brother? Nay ye would abhor it...but fear God: for God is Oft-Returning Most Merciful. (Qur'an 49:11-12)

O ye who believe! Enter not houses other than your own until ye have asked permission and saluted those in them: that is best for you in order that ye may heed (what is seemly). (Qur'an 24:27)

If ye find no one in the house enter not until permission is given to you: if ye are asked to go back go back: that makes for greater purity for yourselves: and God knows well all that ye do. (Qur'an 24:27-28)

Art 13 [1]. Everyone has the right to freedom of movement and residence within the borders of each State.

[2]. Everyone has the right to leave any country, including his own, and to return to his country.

Islamic law

And when the Prayer is finished then may *ye disperse through the land and seek of the Bounty of God: and celebrate the Praises of God often (and without stint):* that ye may prosper. (Qur'an 62:10)

It is He Who has made the earth manageable for you so traverse ye through its tracts and enjoy of the Sustenance which He furnishes: but unto Him is the Resurrection. (Qur'an 67:15)

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- Art 14 [1]. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- [2]. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Islamic law

The Treaty of Hudaibya & Exile of Meccans to Abyssinia, Exile of Meccans to Medina.

- Art 15 [1]. Everyone has the right to a nationality.
- [2]. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Islamic law

Everyone in an Islamic state has access to the law and a legal personality. [See general verses of the Qur'an on justice].

- Art 16 [1]. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- [2]. Marriage shall be entered into only with free and full consent of the intending spouses.

Islamic law

O ye who believe! ye are *forbidden to inherit women against their will*. Nor should ye treat them with harshness that ye may take away part of the dower ye have given them except where they have been guilty of open lewdness; on the contrary live with them on a footing of kindness and equity. *If ye take a dislike to them it may be that ye dislike a thing and God brings about through it a great deal of good.* (Qur'an 4:19)

O People! Reverence your Guardian-Lord Who created you from a single person created of like nature his mate and from them twain scattered (like seeds) countless men and women; reverence God through Whom ye demand your mutual (rights) and (*reverence*) *the wombs (that bore you)*: for God ever watches over you. (Qur'an 4:1)

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Art 17 [1]. Everyone has the right to own property alone as well as in association with others.

[2]. No one shall be arbitrarily deprived of his property.

Islamic law

To orphans restore their property (when they reach their age) nor substitute (your) worthless things for (their) good ones; and devour not their substance (by mixing it up) with your own. For this is indeed a great sin. (Qur'an 4:2)

O ye who believe! Eat not up your property among yourselves in vanities: but let there be amongst you traffic and trade by mutual good-will: nor kill (or destroy) yourselves: for verily God hath been to you Most Merciful. (Qur'an 4:29)

And do not eat up your property among yourselves for vanities nor use it as bait for the judges with intent that ye may eat up wrongfully and knowingly a little of (other) people's property. (Quran 2:188)

Art 18 Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Islamic law

Those who believe (in the Qur'an) and those who follow the Jewish (Scriptures) and the Christians and the Sabians and who believe in God and the last day and work righteousness shall have their reward with their Lord; on them shall be no fear nor shall they grieve. (Qur'an 2:62 & 5:69)

Let there be no compulsion in religion. Truth stands out clear from error; whoever rejects evil and believes in God hath grasped the most trustworthy hand-hold that never breaks. And God heareth and knoweth all things. (Qur'an 2:256)

We know best what they say; and thou art not one to ever awe them by force. So admonish with the Qur'an such as fear My Warning! (Qur'an 50:45)

If it had been the Lord's Will they would all have believed all who are on earth! Wilt thou then compel mankind against their will to believe! (Qur'an 10:99)

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Art 19 Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Islamic law

Therefore do thou give admonition for thou art one to admonish. Thou art not one to manage (men's) affairs. (Qur'an 88:21-22)

The Qur'an alludes to this freedom in many places. For example the Qur'an refers to the accusations unjustly made against the Prophets including Mohammed [eg 'they call you a madman (Qur'an 81: 26 (notes)), They say thou art possessed (Quran 65:51) etc]. These accusations are rebutted but no attempt was made to silence the enemies of the Prophet.

Art 20 [1]. Everyone has the right to freedom of peaceful assembly and association.

[2]. No one may be compelled to belong to an association.

Islamic law

Revile not ye those whom they call upon besides God lest they out of spite revile God in their ignorance. Thus have We made alluring to each people its own doings. In the end will they return to their Lord and We shall then tell them the truth of all that they did. (Qur'an 6:108)

Invite (all) to the way of thy Lord with wisdom and beautiful preaching; and argue with them in ways that are best and most gracious: for thy Lord knoweth best who have strayed from His Path and who receive guidance. (Qur'an 16:125)

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- Art 21
- [1]. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
 - [2]. Everyone has the right to equal access to public service in his country.
 - [3]. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Islamic law

Those who hearken to their Lord and establish regular prayer; who (conduct) their affairs by mutual Consultation; who spend out of what We bestow on them for Sustenance. (Qur'an 42:38)

It is part of the Mercy of God that thou dost deal gently with them. Wert thou severe or harsh-hearted they would have broken away from about thee; so pass over (their faults) and ask for (God's) forgiveness for them; *and consult them in affairs* (of moment). Then when thou hast taken a decision put thy trust in God. For God loves those who put their trust (in Him). (Qur'an 3:159)

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Art 22 Everyone, as a member of society, has the right to social security and is entitled to realisation, through national effort and international co-operation and in accordance with the organisation and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Islamic law

And in their wealth and possessions (was remembered) the right of the (needy) those who asked and those who (for some reason) were prevented (from asking). (Qur'an 51:19)

It is not righteousness that ye turn your faces toward East or West (in prayer); but it is righteousness to believe in God and the Last Day and the Angels and the Book and the Messengers; to spend of your substance out of love for Him for your kin for orphans for the needy for the wayfarer for those who ask and for the ransom of slaves; to be steadfast in prayer and practice regular charity; to fulfil the contracts which ye have made; and to be firm and patient in pain (or suffering) and adversity and throughout all periods of panic. Such are the people of truth the God-fearing. (Qur'an 2:177)

(The Poor rate) for those in need who in God's cause are restricted (from travel) and cannot move about in the land seeking (for trade or work). The ignorant one thinks because of their modesty that they are free from want. Thou shalt know them by their (unfailing) mark: they beg not importunately from all and sundry. And whatever of good ye give be assured God knoweth it well. (Qur'an 2:273)

Art 23 [1]. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

[2]. Everyone, without any discrimination, has the right to equal pay for equal work.

[3]. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

[4]. Everyone has the right to form and to join trade unions for the protection of his interests.

Islamic law

And every person shall be fully compensated for what they did. And God knows full well what they do. (Qur'an 39:70)

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Art 24 Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Islamic law

God's Messenger (peace be upon him) said, "Give the workers their wages before the sweat on the brow is dry." *Ibn Majah* transmitted it. (*Al Tirmizi Hadith* 2987)

Art 25 [1]. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

[2]. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Islamic law

Alms are for the poor and the needy and those employed to administer the (funds); for those whose hearts have been (recently) reconciled (to truth); for those in bondage and in debt; in the cause of God; and for the wayfarer: (thus is it) ordained by God and God is full of knowledge and wisdom. (Qur'an 9:60)

O People! Reverence your Guardian-Lord Who created you from a single person created of like nature his mate and from them twain scattered (like seeds) countless men and women; reverence God through Whom ye demand your mutual (rights) and (reverence) the wombs (that bore you): for God ever watches over you. (Qur'an 4:1)

Thy Lord hath decreed that ye worship none but Him and that *ye be kind to parents*. Whether one or both of them attain old age in thy life say not to them a word of contempt nor repel them but address them in terms of honour. And out of kindness lower to them the wing of humility and say: "My Lord! bestow on them *Thy Mercy even as they cherished me in childhood*." (Qur'an 17:23-24)

We have enjoined on man Kindness to his parents: in pain did his mother bear him and in pain did she give him birth. The carrying of the (child) to his weaning is (a period of) thirty months. (Qur'an 46:15)

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- Art 26 [1]. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- [2]. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
- [3]. Parents have a prior right to choose the kind of education that shall be given to their children.

Islamic law

High above all is God, the King, the Truth! Be not in haste before its revelation to thee is completed but say, "O my Lord! advance me in knowledge." (Qur'an 20:114)

Proclaim! (or Read!) in the name of thy Lord and Cherisher Who created
 Created mankind out of a (mere) clot of congealed blood
 Proclaim! And thy Lord is Most Bountiful
 He Who taught (the use of) the Pen
 Taught mankind that which it knew not.
 Nay but mankind doth transgress all bounds
 In that they looketh upon themselves as self-sufficient.
 Verily to thy Lord is the return (of all). (Qur'an 96:1-8)

Yahya related to me from Malik that he heard that Luqman al-Hakim made his will and counselled his child, saying, "Sit with the learned and keep close to them. God gives life to the hearts with the light of wisdom as God gives life to the dead earth with the abundant rain of the sky. (Al Muwatta 59-1)

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Art 26 Kathir ibn Qays said: I was sitting with AbudDarda' in the mosque of Damascus. A man came to him and said: AbudDarda, I have come to you from the town of the Apostle of God (peace be upon him) for a tradition that I have heard you relate from the Apostle of God (peace be upon him). I have come for no other purpose. He said: I heard the Apostle of God (peace be upon him) say: If anyone travels on a road in search of knowledge, God will cause them to travel on one of the roads of Paradise. The angels will lower their wings in their great pleasure with one who seeks knowledge, the inhabitants of the heavens and the Earth and the fish in the deep waters ask forgiveness for the learned. The superiority of the learned over the devout is like that of the moon, on the night when it is full, over the rest of the stars. The learned are the heirs of the Prophets, and the Prophets leave neither dinar nor dirham, leaving only knowledge, and who takes it takes an abundant portion. (Sunna of Abu Dawd No 3634)

Several Verses in the Qur'an exhort People to Read, Ponder, think and Seek knowledge.

Art 27 [1]. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

[2]. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Islamic law

O humanity! We created you from a single (pair) of a male and a female and made you into nations and tribes that ye may know each other, not that ye may despise each other. Verily the most honoured of you in the sight of God is one who is the most righteous of you. And God has full knowledge and is well-acquainted (with all things). (Qur'an 49:13)

Art 28 Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised.

Islamic law

See the body of the text for a discussion on the *ummah*.

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- Art 29 [1]. Everyone has duties to the community in which alone the free and full development of his personality is possible.
- [2]. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
- [3]. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Islamic law

See the body of the text for a discussion on *fard ayn* and *fard kyfiyah*.

- Art 30 Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Islamic law

See the body of the text for a discussion on the *Ummah*.