

MUSLIM DISCOURSE ON HUMAN RIGHTS: A STUDY OF CAIRO DECLARATION

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Abstract

Human rights are those minimal rights and privileges which are inalienable, indivisible, interdependent and universal and inherent in our nature, which a person (notwithstanding of race, sex geographical location) acquires or granted simply because one is human. Human rights are universal, and as such they have preponderance over other rights (given to people) for other different reasons. Human rights are held equally by all humans because being human cannot be relinquished, vanished, or forfeited. Hence, human rights constitute those rights which ought to be enjoyed by all human beings of the universe irrespective of their biological, social, economic and political status. They are the rights to especially basic freedom and security, without which a person's existence would be considered less than human. The concept of Human Rights dates back to very dawn of human civilization, enshrined in all the great religions of the World. In the present day world human rights violation are in its peak, Muslim and Non-Muslim countries alike are holding conference, seminar and symposiums to give new orientation to the human rights and minimize the violation of basic human rights irrespective of regional or religious barricades. The present paper is an attempt in regard to declarations especially Cairo Declaration on Human Rights in Islam, with its aims and Articles.

Key Words: Islam, Human Rights, Cairo, Declaration

Introduction

Kofi Annan, Ex-Secretary General of the United Nations, stated while addressing the International Symposium on Human Rights in Islam met in Rome from 25 to 27 February 2000 at the Islamic Cultural Centre hosted by the Muslim World League of Makkah in Saudi Arabia:

"Human rights are the expression of those traditions of tolerance in all cultures that are the basis of peace and progress. Human rights, properly understood and justly interpreted, are foreign to no culture and native to all nations". He then went on to refer to Imam Ali, the fourth *Khalifah* after Prophet Muhammad (Peace be upon him) who: "instructed the governor of Egypt to rule with mercy and tolerance towards all his subjects" for "your subjects ... are your brothers in religion or your equals in creation".

Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination.¹

There are a variety of human rights, including:

- Civil rights (such as the rights to life, liberty and security),
- Political rights (like rights to the protection of the law and equality before the law),
- Economic rights (including rights to work, to own property and to receive equal pay),
- Social rights (like rights to education and consenting marriages),

Cultural rights (including the right to freely participate in their cultural community),²

From Islamic Perspectives the term for human rights is '*Insani Haqooq*' are inalienable, indivisible, interdependent and universal and inherent in our nature that is granted to human beings by Allah (S.W.T) in the form of human 'We have conferred dignity on the children of Adam, and borne them over land and sea, and provided for them sustenance out of the good things of life, and favored them far above most of our Creations' Human rights are undeniable natural rights that are indispensable for the perpetuation of human self-esteem and admiration. In light of modern development, the importance of these entities in the life of the average human being has not just become essential, but necessary as a component for the functioning of modern society. Human rights in Islam are an integral part of the overall Islamic order and it is obligatory on all Muslim governments and organs of society to implement them in letter and in spirit within the framework of that order. Keeping in view the

¹Nickel, James. (1987) Making Sense of Human Rights: Philosophical Reflections on the Universal Declaration of Human Rights, (Berkeley; University of California Press.

²Irene Oh, (2005), Islam and the Reconsideration of Universal Human Rights, University of Miami, Florida, USA.

need and demand of protection of Human Rights, Cairo Declaration on Human Rights in Islam (CDHRI), 1990. Islam professes the importance of respect for human dignity and uniqueness of every human being. The dignity of every single individual human being can only be properly affirmed and given effective protection if implemented within the framework of a relevant interrelated system of norms, principles and institutions.

Cairo Declaration

The Cairo Declaration on Human Rights in Islam⁴ (abbreviated CDHRI) was adopted and issued in Cairo on 5th August 1990 by the Nineteenth Islamic Conference of Foreign Ministers (session of Peace, Interdependence and Development) of the 45 Member States of the Organization of the Islamic Conference (OIC) subsequent to the Report of the Meeting of the Committee of Legal Experts held in Tehran from 26-28 December 1989.⁵ The CDHRI establishes the *Shari'ah* law as "the only source of reference" for the protection of human rights in Islamic countries. Reaffirming the civilizing and historical role of the Islamic *Ummah* which Allah (S.W.T) made the best nation that has given mankind a universal and well-balanced civilization in which harmony is established between this life and the hereafter and knowledge is combined with faith; and the role that this *Ummah* should play to guide a humanity by competing trends and ideologies and to provide solutions to the chronic problems of this materialistic civilization. The CDHRI was presented for approval at the OIC Summit Meeting of Heads of State and Government, held in Dakar, Senegal on 9 December 1991. However, this was averted following a press release from their Geneva-based International Commission of Jurists (ICJ)⁶. Despite the aversion, the UDHR, the CDHRI was published in December 1997 by the Office of the High Commissioner for Human Rights in Volume II of International Instruments, which give it a certain authority. The CDHRI was presented to the UN in 1992 and it was accepted into the Human Rights Commission's Compilation of International Instruments (vol. II (1997), pp. 478-84) in 1997. This action is arguably viewed as a consecration of the document by the UN. That is by the virtue of Resolution No. 49/19-P on the Cairo Declaration on Human

⁴Yusuf O. Ali (San), Islam As The Flashlight Of Universal Human Rights Formulation,

⁵Nasir al-Qbal, (2008), The Impact of the Universal Declaration of Human Rights on Regional and Domestic Legal Systems, New York,

⁶Resolution No. 49/19-P on the Cairo Declaration on Human Rights in Islam, U.N. Doc. A/45/421 (1990).

Rights in Islam, U.N. Doc. A/45/421 (1990).⁷ Since then the Cairo Declaration of Human Rights in Islam (CDHRI) has formed a part of the international instrument on human rights. The CDHRI serves as a general guidance for Member States of OIC in the field of human rights. The preamble of the document reads as follows: The Member States of the Organization of the Islamic Conference, Reaffirming the civilizing and historic role of the Islamic *Ummah* which God made the best nation that has given mankind a universal and well-balanced civilization in which harmony is established between this life and the hereafter and knowledge is combined with faith. Believing that fundamental rights and universal freedoms in Islam are an integral part of the Islamic religion, as they are binding divine commandments, which are contained in the Revealed Books of God and were sent through the last of His Prophets to complete the preceding divine messages.

Article 1

- (a) All human beings form one family whose members are united by submission to Allah (S.W.T) and descent from Adam. All men are equal in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the grounds of race, colour, language, sex, religious belief, political affiliation, social status or other considerations. True faith is the guarantee for enhancing such dignity along the path to human perfection.
- (b) All human beings are Allah's (S.W.T) subjects, and the most loved by him are those who are most useful to the rest of His subjects, and no one has superiority over another except on the basis of piety and good deeds.

Article 2

- (a) Life is gift from Allah (S.W.T) and the right to life is guaranteed to every human being. It is the duty of individuals, societies and states to protect this right from any violation, and it is prohibited to take away life except for a Shari'ah prescribed reason.

⁷The Cairo Declaration on Human Rights in Islam, Adopted and Issued at the Nineteenth Islamic Conference of Foreign Ministers in Cairo on 5th August 1990.

(b) The preservation of human life throughout the term of time willed by Allah (S.W.T) is a duty prescribed by Shari'ah.

(c) Safety from bodily harm is a guaranteed right. It is the duty of the state to safeguard it, and it is prohibited to breach it without a Shari'ah prescribed reason.

Article 3

(a) In the event of the use of force and in case of armed conflict, it is not permissible to kill non belligerents such as old men, women and children. The wounded and the sick shall have the right to medical treatment; and prisoners of war shall have the right to be fed, sheltered and clothed. It is prohibited to mutilate dead bodies. It is a duty to exchange prisoners of war.

(b) (b) It is prohibited to fell trees, to damage crops or livestock, and to destroy the enemy's civilian buildings and installations by shelling, blasting or any other means.

Article 4

Every human being is entitled to inviolability and the protection of his good name and honour during his life and after his death. The state and society shall protect his remains and burial place.

Article 5

(a) The family is the foundation of society, and marriage is the basis of its formation. Men and women have the right to marriage, and no restrictions stemming from race, colour or nationality shall prevent them from enjoying this right.

(b) Society and the State shall remove all obstacles to marriage and shall facilitate marital procedure. They shall ensure family protection and welfare.

Article 6

(a) Woman is equal to man in human dignity, and has rights to enjoy as well as duties to perform; she has her own civil entity and financial independence, and the right to retain her name and lineage.

(b) The husband is responsible for the support and welfare of the family.

Article 7

(a) As of the moment of birth, every child has rights due from his parents, society and the state to be accorded proper nursing, education and material, hygienic and moral care. Both the foetus and the mother must be protected and accorded special care.

(b) Parents and those in such like capacity have the right to choose the type of education they desire for their children, provided they take into consideration the interest and future of the children in accordance with ethical values and the principles of the Shari'ah.

(c) Both parents are entitled to certain rights from their children, and relatives are entitled to rights from their kin, in accordance with the tenets of the Shari'ah.

Article 8

Every human being has the right to enjoy his legal capacity in terms of both obligation and commitment. Should this capacity be lost or impaired, he shall be represented by his guardian.

Article 9

(a) The quest for knowledge is an obligation, and the provision of education is a duty for society and the State. The State shall ensure the availability of ways and means to acquire education and shall guarantee educational diversity in the interest of society so as to enable man to be acquainted with the religion of Islam and the facts of the Universe for the benefit of mankind.

(b) Every human being has the right to receive both religious and worldly education from the various institutions of education and guidance, including the family, the school, the university, the media, etc., and in such an integrated and balanced manner as to develop his personality, strengthen his faith in Allah (S.W.T) and promote his respect for and defence of both rights and obligations.

Article 10

Islam is the religion of unspoiled nature. It is prohibited to exercise any form of compulsion on man or to exploit his poverty or ignorance in order to convert him to another religion or to atheism.

Article 11

(a) Human beings are born free, and no one has the right to enslave, humiliate, oppress or exploit them, and there can be no subjugation but to Allah (S.W.T) the Most High.

(b) Colonialism of all types being one of the most evil forms of enslavement is totally prohibited. Peoples suffering from colonialism have the full right to freedom and self-determination. It is the duty of all States and peoples to support the struggle of colonized peoples for the liquidation of all forms of colonialism and occupation, and all States and peoples have the right to preserve their independent identity and exercise control over their wealth and natural resources.

Article 12:

Every man shall have the right, within the framework of the Shari'ah, to free movement and to select his place of residence whether within or outside his country and if persecuted, is entitled to seek asylum in another country. The country of refuge shall be obliged to provide protection to the asylum-seeker until his safety has been attained, unless asylum is motivated by committing an act regarded by the Shari'ah as a crime.

Article 13:

Work is a right guaranteed by the State and the Society for each person with capability to work. Everyone shall be free to choose the work that suits him best and which serves his interests as well as those of the society. The employee shall have the right to enjoy safety and security as well as all other social guarantees. He may not be assigned work beyond his capacity nor shall he be subjected to compulsion or exploited or harmed in any way. He shall be entitled - without any discrimination between males and females - to fair wages for his work without delay, as well as to the holiday's allowances and promotions which he deserves. On his part, he shall be required to be dedicated and meticulous in his work. Should workers and employers disagree on any matter, the State shall intervene to settle the dispute and have the grievances redressed, the rights confirmed and justice enforced without bias.

Article 14:

Everyone shall have the right to earn a legitimate living without monopolization, deceit or causing harm to oneself or to others. Usury (riba) is explicitly prohibited.

Article 15:

(a) Everyone shall have the right to own property acquired in a legitimate way, and shall be entitled to the rights of ownership without prejudice to oneself, others or the society in

general. Expropriation is not permissible except for requirements of public interest and upon payment of prompt and fair compensation.

(b) Confiscation and seizure of property is prohibited except for a necessity dictated by law.

Article 16:

Everyone shall have the right to enjoy the fruits of his scientific, literary, artistic or technical labour of which he is the author; and he shall have the right to the protection of his moral and material interests stemming therefrom, provided it is not contrary to the principles of the Shari'ah.

Article 17:

(a) Everyone shall have the right to live in security for himself, his religion, his dependents, his honour and his property.

(b) Everyone shall have the right to privacy in the conduct of his private affairs, in his home, among his family, with regard to his property and his relationships. It is not permitted to spy on him, to place him under surveillance or to besmirch his good name. The State shall protect him from arbitrary interference.

(c) A private residence is inviolable in all cases. It will not be entered without permission from its inhabitants or in any unlawful manner, nor shall it be demolished or confiscated and its dwellers evicted.

Article 18:

(a) All individuals are equal before the law, without distinction between the ruler and the ruled.

(b) The right to resort to justice is guaranteed to everyone.

(c) Liability is in essence personal.

(d) There shall be no crime or punishment except as provided for in the Shari'ah.

(e) A defendant is innocent until his guilt is proven in a fast trial in which he shall be given all the guarantees of defence.

Article 19:

It is not permitted without legitimate reason to arrest an individual, or restrict his freedom, to exile or to punish him. It is not permitted to subject him to physical or psychological torture or to any form of maltreatment, cruelty or indignity. Nor is it permitted to subject an individual to medical or scientific experiments without his consent or at the risk of his health or of his life. Nor is it permitted to promulgate emergency laws that would provide executive authority for such actions.

Article 20:

Taking hostages under any form or for any purpose is expressly forbidden.

Article 21:

(a) Everyone shall have the right to express his opinion freely in such manner as would not be contrary to the principles of the Shari'ah. .. Everyone shall have the right to advocate what is right, and propagate what is good, and warn against what is wrong and evil according to the norms of Islamic Shari'ah.

(c) Information is a vital necessity to society. It may not be exploited or misused in such a way as may violate sanctities and the dignity of Prophets, undermine moral and ethical Values or disintegrate, corrupt or harm society or weaken its faith.

(d) It is not permitted to excite nationalistic or doctrinal hatred or to do anything that may be an incitement to any form or racial discrimination.

Article 22:

(a) Authority is a trust; and abuse or malicious exploitation thereof is explicitly prohibited, in order to guarantee fundamental human rights.

(b) Everyone shall have the right to participate, directly or indirectly in the administration of his country's public affairs. He shall also have the right to assume public office in accordance with the provisions of Shari'ah.

Article 23:

All the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari'ah.

Article 24:

The Islamic Shari'ah is the only source of reference for the explanation or clarification of any of the Articles of this Declaration.

Conclusion

These rights aim at conferring honour and dignity on mankind and eliminating exploitation, oppression and injustice. Human rights in Islam are firmly rooted in the belief that Allah (S.W.T), and Allah (S.W.T) alone, is the Law Giver and the Source of all human rights. Due to their Divine origin, no ruler, government, assembly or authority can curtail or violate in any way the human rights conferred by Allah (S.W.T), nor can they be surrendered. Human rights in Islam are an integral part of the overall Islamic order and it is obligatory on all Muslim governments and organs of society to implement them in letter and in spirit within the framework of that order. Islam professes the importance of respect for human dignity and uniqueness of every human being. The dignity of every single individual human being can only be properly affirmed and given effective protection if implemented within the framework of a relevant interrelated system of norms, principles and institutions. Therefore, if the articles of Cairo Declaration of Human Rights in Islam (CDHRI) would be implemented completely world would taste the sweetness of peace, prosperity and equality and tranquility.

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