

# Islamic Law vs Human Rights

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The Sharia-compliant '[Cairo Declaration of Human Rights in Islam](#)' (CDHRI) charter, adopted by 45 Muslim nations in August 1990 and officially supported by the Organization of Islamic Conference in June 2000, is being touted to replace the United Nation's [Universal Declaration of Human Rights](#) (UDHR) by Islamic nations. The recently adopted UN resolution which denounces Islamophobia and criticisms of Islam paves the way forward for the CDHRI eventually to replace the UDHR at the UN.

The [International Humanist and Ethical Union](#) (IHEU) -- a world union of Humanist organizations - has responded clarifying that the CDHRI is neither a replacement of, nor is complementary to, the UDHR. -- MA Khan. Editor

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IHEU has responded to claims that the "Cairo Declaration of Human Rights in Islam" is "not an alternative" to the Universal Declaration of Human Rights but "complementary" to it. In a written statement to the UN Human Rights Council, IHEU opposed any resolution that seeks to limit the rights enshrined in the Universal Declaration. We now have the official UN publication of the statement available for download -- see below.

On Human Rights Day, 10 December 2007, the Pakistani Ambassador to the UN Human Rights Council claimed that the Cairo Declaration of Human Rights in Islam, adopted in 1990 by the 56 member states of the Organisation of the Islamic Conference "is not an alternative" to the Universal Declaration but "complementary". Complementary? Yet the Cairo Declaration makes no mention of the Universal Declaration and clearly states that: "All the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari'ah", and "The Islamic Shari'ah is the only source of reference for the explanation or clarification to any of the articles of this Declaration."

On 24 February, in a strong response to this challenge to the universality of human rights, IHEU submitted the following written statement to the Human Rights Council:

[The Cairo Declaration and the Universality of Human Rights](#) (Pdf)

The International Human Rights Instruments.

1. On 10 December 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights [1] (UDHR). The UDHR was adopted by the vast majority of Member States of the United Nations including all of the Islamic States with the exception of Saudi Arabia.
2. The International Covenants on Civil and Political Rights [2] (ICCPR) and on Economic, Social and Cultural Rights [3] (ICESCR), which came into force in 1976, are binding on all signatory States. These include 46 of the 56 Member States of the Organization of the Islamic Conference [4] (OIC).

## The Cairo Declaration of Human Rights in Islam

3. On 5 August 1990, the then 45 member states of the OIC adopted The Cairo Declaration of Human Rights in Islam [5]. In this document all rights are seen as derived from God. The preamble states that "no one as a matter of principle has the right to suspend them in whole or in part or violate or ignore them in as much as they are binding divine commandments".

4. At the 1993 World Conference on Human Rights in Vienna, Iran, supported by several other Islamic States, pressed for the acceptance of the Cairo Declaration as an alternative to the Universal Declaration of Human Rights. This objective was partly achieved in 1997 when the Cairo Declaration was included by the Office of the High Commissioner for Human Rights as the last document in Human Rights: A Compilation of International Instruments: Volume II: Regional Instruments, (New York and Geneva, 1997, OHCHR, Geneva).

### Complementary or Alternative?

5. On Human Rights Day, 10 December 2007, the Ambassador of Pakistan, addressing the Human Rights Council on behalf of the OIC, spoke glowingly of the Universal Declaration of Human Rights, noting the contribution made to its creation and to the two international covenants by many Muslim countries. He then went on to claim that the Cairo Declaration of Human Rights in Islam: "is not an alternative, competing worldview on human rights. It complements the Universal Declaration as it addresses religious and cultural specificity of the Muslim countries".

6. This last statement, however, is difficult to understand. The Cairo Declaration cannot be in any sense considered complementary to the UDHR. It makes no reference to the UDHR, while Articles 24 and 25 of the Cairo Declaration explicitly state that: "All the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari'ah", and: "The Islamic Shari'ah is the only source of reference for the explanation or clarification to any of the articles of this Declaration."

7. Many of the clauses in the Cairo Declaration limit the rights contained therein by reference to the Shari'ah: in particular, Articles 2, 7, 12, 16, 19, 22 and 23.

8. In this regard, we note the statement to the Human Rights Council by Ambassador Gunter Nooke of the Federal Republic of Germany, also speaking on 10 December 2007, in which he sincerely regretted "the tendency within some parts of the international community to roll back the principle of universality in order to make the enjoyment of fundamental rights dependent on factors such as tradition, culture, religion or the level of development".

### How the Shari'ah limits Human Rights

9. Under Shari'ah law, Muslim women and non-Muslims are not accorded equal treatment with Muslim men. The Shari'ah, therefore, fails to honour the right to equality guaranteed under the UDHR and the international covenants, and thus denies the full enjoyment of their human rights to those living in States which follow Shari'ah law.

10. By limiting rights to those permitted by the Shari'ah the Cairo Declaration, rather than complementing the UDHR and the international covenants, undermines many of the rights they are supposed to guarantee. (See references [6][7][8] for additional documentation on this issue.)

## Limiting Religious Freedom

11. Religious freedom is limited under the Cairo Declaration. Article 10 states: "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."

Since it is a generally accepted view in the Islamic world that only compulsion or ignorance would lead anyone to abandon Islam, conversion from Islam is thus effectively forbidden.

12. It is notable that under Shari'ah law in many countries apostasy and any actions or statements considered blasphemous are harshly punished, in some States by death. 13. At the 6th session of the Human Rights Council in December 2007, the European Union tabled a resolution on the elimination of discrimination based on religion or belief. On December 14, the Pakistani delegate, again speaking for the OIC, said that differences remained in the wording of this resolution on, inter alia, respect for all religions and beliefs, and respect for national laws and religious norms about the right to change one's religion. "Hence, we dissociate ourselves from operative paragraph 9 (a) because of its phrase 'including the right to change one's religion or belief'". Yet this fundamental human right is clearly guaranteed under Article 18 of the UDHR and Article 18 of the ICCPR.

## Limiting Freedom of Expression

14. Under the ICCPR, Article 19, freedom of expression may be subject to restrictions but only such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order, or of public health or morals. 15. The Cairo Declaration goes further however in making this freedom subject to the Shari'ah. Under Article 22 of the Cairo Declaration a person may only express their opinion in a manner "as would not be contrary to the principles of the Shari'ah", and freedom of expression may not be used to "weaken faith".

16. On 18 December 2007, the UN General Assembly adopted a resolution "Combating Defamation of Religions" by 108 votes to 51 with 25 abstentions. Similar resolutions had been adopted since 1999 by the Commission for Human Rights and by the new Council. This was the first time however that such a resolution had been passed by the General Assembly. The resolution expresses once again "deep concern about the negative stereotyping of religions and manifestations of intolerance and discrimination in matters of religion or belief". But the only religion mentioned by name is Islam. The resolution emphasizes that whilst everyone has the right to freedom of expression, this should be exercised with responsibility – and may therefore be subject to limitations, inter alia, "for respect for religions and beliefs".

17. Many delegations, however, opposed the resolution. The Portuguese delegate, speaking for the European Union, explained clearly why:

"The European Union does not see the concept of 'defamation of religions' as a valid one in a human rights discourse. From a human rights perspective, members of religious or belief communities should not be viewed as parts of homogenous entities. International human rights law protects primarily individuals in the exercise of their freedom of religion or belief, rather than the religions as such."

18. Notwithstanding these objections, those opposing the resolution found themselves on the losing side of a two-to-one majority in favour.

19. The implications of this resolution for freedom to criticise religious laws and practices are obvious. Armed with UN approval for their actions, States may now legislate against any show of disrespect for religion however they may choose to define "disrespect".

20. The Islamic states see human rights exclusively in Islamic terms, and by sheer weight of numbers this view is becoming dominant within the UN system. The implications for the universality of human rights are ominous.

## Conclusions

21. The vast majority of the Member States of the OIC are signatories to the UDHR and the International Covenants, the ICCPR and ICESCR. By adopting the 1990 Cairo Declaration those States are in effect renegeing on the obligations they freely entered into in signing the UDHR and the two covenants.

22. The Cairo Declaration of Human Rights in Islam is clearly an attempt to limit the rights enshrined in the UDHR and the International Covenants. It can in no sense be seen as complementary to the Universal Declaration.

23. The statement by the Ambassador of Pakistan on 10 December 2007 can therefore be seen as misrepresenting the implications of the Cairo Declaration.

24. The OIC is attempting to limit religious freedom by promoting the Cairo Declaration and by rejecting wording in the Council resolution on the elimination of discrimination based on religion or belief that would permit individuals to change their religion or belief.

25. The OIC is attempting to limit both freedom of expression and freedom of religion, and to extend human rights to religions, per se, by its repeated promotion of the resolution "Combating Defamation of Religion" in the Commission on Human Rights, the Human Rights Council and the General Assembly.

26. We urge all states to remain vigilant and to actively resist any attempt to give equal status to the Cairo Declaration, and to oppose any resolution that seeks to limit the rights enshrined in the UDHR and the International Covenants.

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[1] Universal Declaration of Human Rights (UDHR) <http://www.unhchr.ch/udhr/lang/eng.htm>

[2] International Covenant on Civil and Political Rights (ICCPR)  
<http://www2.ohchr.org/english/law/ccpr.htm>

[3] International Covenant on Economic, Social and Cultural Rights (ICESCR)  
[http://www.unhchr.ch/html/menu3/b/a\\_cescr.htm](http://www.unhchr.ch/html/menu3/b/a_cescr.htm)

[4] Status of ratification of the principal International Human Rights Treaties.  
<http://www.unhchr.ch/pdf/report.pdf>

[5] Cairo Declaration of Human Rights in Islam  
<http://www.religlaw.org/interdocs/docs/caiohrislam1990.htm>

[6] David G. Littman, "Universal Human Rights and 'Human Rights in Islam'", *Midstream*, 45, no. 2 (February/March 1999): 2-7; *ibid*, "Islamism Grows Stronger at the United Nations," *Middle East Quarterly* (September 1999), pp. 59-64; *ibid*, "Human Rights and Human Wrongs: Sharia Can't Be An Exception to International Human Rights Norms" *National Review Online*, 19 Jan. 2003. The first two were republished in Robert Spencer (ed.), *The Myth of Islamic Intolerance: How Islamic Law Treats Non-Muslims* (Prometheus Books, New York, 2005, chapter 27 (pp. 317-32) and chapter 26 (pp.308-316). For *National Review Online* article:  
<http://www.nationalreview.com/script/printpage.asp?ref=/comment/comment-littman011903.asp>

[7] E/CN.4/Sub.2/2003/NGO/15: International Bill of Human Rights: Universality/International Standards/ National Practices (AWE to the 55th session of the Sub-Commission), and The Myth, chapter 42 (pp. 418-25).

[http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.Sub.2.2003.NGO.15.En?Opendocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.Sub.2.2003.NGO.15.En?Opendocument)

[8] Roy Brown, "Combating Defamation of Religions," The Myth, chapter 43 (pp. 426–27), being his oral statement to the 60th session of the Commission on Human Rights on 15 April 2004.

Ref.: <http://www.islam-watch.org/Others/Islamic-Law-Human-Rights.htm>