

Human Rights in Islam.

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The second point which I would like to clarify at the very outset is that when we speak of human rights in Islam, we really mean that these rights have been granted by God; they have not been granted by any king or by any legislative assembly. The rights granted by the kings or the legislative assemblies, can also be withdrawn in the same manner in which they are conferred. The same is the case with the rights accepted and recognized by the dictators. They can confer them when they please and withdraw them when they wish; and they can openly violate them when they like. But since in Islam human rights have been conferred by God, no legislative assembly in the world, or any government on earth has the right or authority to make any amendment or change in the rights conferred by God. No one has the right to abrogate them or withdraw them. Nor are they the basic human rights which are conferred on paper for the sake of show and exhibition and denied in actual life when the show is over. Nor are they like philosophical concepts which have no sanctions behind them.

The charter and the proclamations and the resolutions of the United Nations cannot be compared with the rights sanctioned by God; because the former is not applicable to anybody while the latter is applicable to every believer. They are a part and parcel of the Islamic Faith. Every Muslim or administrators who claim themselves to be Muslims will have to accept, recognize and enforce them. If they fail to enforce them, and start denying the rights that have been guaranteed by God or make amendments and changes in them, or practically violate them while paying lip-service to them, the verdict of the Holy Quran for such governments is clear and unequivocal:

Those who do not judge by what God has sent down are the dis Believers (kafirun). 5:44

The following verse also proclaims: "They are the wrong-doers (zalimun)" (5:45), while a third verse in the same chapter says: "They are the evil-livers (fasiqun)" (5:47). In other words, this means that if the temporal authorities regard their own words and decisions to be right and those given by God as wrong, they are disbelievers. If on the other hand they regard God's commands as right but wittingly reject them and enforce their own decisions against God's, then they are the mischief-makers and the wrong-doers. Fasiq, the law-breaker, is the one who disregards the bond of allegiance, and zalim is he who works against the truth. Thus, all those temporal authorities who claim to be Muslims and yet violate the rights sanctioned by God belong to one of these two categories, either they are the disbelievers or are the wrong- doers and mischief-makers. The rights which have been sanctioned by God are permanent, perpetual and eternal. They are not subject to any alterations or modifications, and there is no scope for any change or abrogation.

Quran (Holy book) upholds the principles of Human Rights. Just like the bible, Quran points God as the author of Human Rights and desires that his people should be treated justly and with Humility. In most of the sermons of Prophet Muhamad, peace be with Him, he advocated for justice and equality in every sphere of life.

The first thing that is found in Islam in this connection is that it lays down some rights for man as a human being. In other words, it means that every man whether he belongs to this country or that, whether he is a believer or unbeliever, whether he lives in some forest or is found in some desert, whatever be the case, he has some basic human rights simply because he is a

human being, which should be recognized by every Muslim. In fact, it will be his duty to fulfil these obligations.

The Right to Life.

The first and the foremost basic right is the right to live and respect human life. The Holy Quran lays down:

Whosoever kills a human being without (any reason like) man slaughter, or corruption on earth, it is as though he had killed all mankind ... (5:32)

As far as the question of taking life in retaliation for murder or the question of punishment for spreading corruption on this earth is concerned, it can be decided only by a proper and competent court of law. If there is any war with any nation or country, it can be decided only by a properly established government. In any case, no human being has any right by himself to take human life in retaliation or for causing mischief on this earth. Therefore, it is incumbent on every human being that under no circumstances should he be guilty of taking a human life. If anyone has murdered a human being, it is as if he has slain the entire human race. These instructions have been repeated in the Holy Quran in another place saying:

Do not kill a soul which Allah has made sacred except through the due process of law ... (6:151)

Here also homicide has been distinguished from destruction of life carried out in pursuit of justice. Only a proper and competent court will be able to decide whether or not an individual has forfeited his right to life by disregarding the right to life and peace of other human beings. The Prophet, may God's blessings be on him, has declared homicide as the greatest sin only next to polytheism. The Tradition of the Prophet reads: "The greatest sins are to associate something with God and to kill human beings." In all these verses of the Quran and the Traditions of the Prophet the word 'soul' (nafs) has been used in general terms without any distinction or particularization which might have lent itself to the elucidation that the persons belonging to one's nation, the citizens of one's country, the people of a particular race or religion should not be killed. The injunction applies to all human beings and the destruction of human life in itself has been prohibited.

'The Right to Life' has been given to man only by Islam. You will observe that the people who talk about human rights if they have ever mentioned them in their Constitutions or Declarations, then it is clearly implied in them that these rights are applicable only to their citizens or they have been framed for the white race alone. This can clearly be gleaned by the fact that human beings were hunted down like animals in Australia and the land was cleared of the aborigines for the white man. Similarly, the aboriginal population of America was systematically destroyed and the Red Indians who somehow survived this genocide were confined to specified areas called Reservations. They also penetrated into Africa and hunted down human beings like wild animals. All these instances go to prove that they have no respect for human life as such and if they have, it is only on the basis of their nationality, colour or race. Contrary to this, Islam recognizes this right for all human beings. If a man belongs to a primitive or savage tribe, even then Islam regards him as a human being.

The Right to the Safety of Life

Immediately after the verse of the Holy Quran which has been mentioned in connection with the right to life, God has said: "And whoever saves a life it is as though he had saved the lives

of all mankind" (5:32). There can be several forms of saving man from death. A man may be ill or wounded, irrespective of his nationality, race or colour. If you know that he is in need of your help, then it is your duty that you should arrange for his treatment for disease or wound. If he is dying of starvation, then it is your duty to feed him so that he can ward off death. If he is drowning or his life is at stake, then it is your duty to save him. You will be surprised to hear that the Talmud, the religious book of the Jews, contains a verse of similar nature, but records it in altogether different form. It says: "Whoever destroyed a life of the Israelite, in the eyes of the Scripture, it is as if he destroyed the whole world. And whoever protected and saved one life of the Israelite, in the light of the Scripture, it is as if he saved the whole world." Talmud also contains the view that if a non-Israelite is drowning and you tried to save him then you are a sinner. Can it be given a name other than racialism? We regard it as our duty to save every human life, because it is thus that we have been enjoined in the Holy Quran. On the other hand, if they regard it necessary to save the life of a human being at all, it should be the life of an Israelite. As far as other people are concerned, according to this view, they do not seem to be human enough to deserve protection of their persons. In their literature the concept of 'Goyim' for which the English word 'Gentile' and the Arabic word ummi (illiterate) is used, is that they enjoy no human rights; human rights are reserved only for the children of Israel. The Quran has mentioned this belief of the Israelites and quotes the Jews saying: "There is no blame on us (for anything we may do) with regard to the unlettered folk (i.e. the ummi)" (3:75).

Respect for the Chastity of Women.

The third important thing that we find in the Charter of Human Rights granted by Islam is that a woman's chastity has to be respected and protected under all circumstances, whether she belongs to our own nation or to the nation of an enemy, whether we find her in the wild forest or in a conquered city; whether she is our co-religionist or belongs to some other religion or has no religion at all. A Muslim cannot outrage her under any circumstances. All promiscuous relationship has been forbidden to him, irrespective of the status or position of the woman, whether the woman is a willing or an unwilling partner to the act. The words of the Holy Quran in this respect are: "Do not approach (the bounds of) adultery" (17:32). Heavy punishment has been prescribed for this crime, and the order has not been qualified by any conditions. Since the violation of chastity of a woman is forbidden in Islam, a Muslim who perpetrates this crime cannot escape punishment whether he receives it in this world or in the Hereafter. This concept of sanctity of chastity and protection of women can be found nowhere else except in Islam. The armies of the Western powers need the daughters of their nation to satisfy their carnal appetites even in their own countries, and if they happen to occupy another country, the fate of its women folk can better be imagined than described. But the history of the Muslims, apart from a few lapses of the individuals here or there, has been free from this crime against womanhood. It has never happened that after the conquest of a foreign country the Muslim army has gone about raping the women of the conquered people, or in their own country, the government has arranged to provide prostitutes for them. This is also a great blessing which the human race has received through Islam.

The Right to a Basic Standard of Life.

Speaking about the economic rights the Holy Quran enjoins upon its followers:

And in their wealth, there is acknowledged right for the needy and destitute. (51:19)

The words of this injunction show that it is a categorical and un-qualified order. Furthermore, this injunction was given in Makkah where there was no Muslim society in existence and where generally the Muslims had to come in contact with the population of the disbelievers. Therefore, the clear meaning of this verse is that anyone who asks for help and anyone who is suffering from deprivation has a right in the property and wealth of the Muslims; irrespective of the fact whether he belongs to this nation or to that nation, to this country or to that country, to this race or to that race. If you are in a position to help and a needy person asks you for help or if you come to know that he is in need, then it is your duty to help him. God has established his right over you, which you have to honour as a Muslim.

Individual's Right to Freedom.

Islam has clearly and categorically forbidden the primitive practice of capturing a free man, to make him a slave or to sell him into slavery. On this point the clear and unequivocal words of the Prophet (S) are as follows: "There are three categories of people against whom I shall myself be a plaintiff on the Day of Judgement. Of these three, one is he who enslaves a free man, then sells him and eats this money" (al-Bukhari and Ibn Majjah). The words of this Tradition of the Prophet are also general, they have not been qualified or made applicable to a particular nation, race, country or followers of a particular religion. The Europeans take great pride in claiming that they abolished slavery from the world, though they had the decency to do so only in the middle of the last century. Before this, these Western powers had been raiding Africa on a very large scale, capturing their free men, putting them in bondage and transporting them to their new colonies. The treatment which they have meted out to these unfortunate people has been worse than the treatment given to animals. The books written by the Western people themselves bear testimony to this fact.

The Slave Trade of Western Nations:

After the occupation of America and the West Indies, for three hundred and fifty years, traffic in slave trade continued. The African coasts where the black-skinned captured Africans were brought from the interior of Africa and put on the ships sailing out from those ports, came to be known as the Slave Coast. During only one century (from 1680 to 1786) the total number of free people who were captured and enslaved only for British Colonies amounts, according to the estimate of British authors, to 20 million human beings. Over the period of only one year (1790) we are told that 75,000 human beings were captured and sent for slave labour in the Colonies. The ships which were used for transporting the slaves were small and dirty. These unfortunate Africans were thrust into the holds of these ships like cattle right up to the top and many of them were chained to the wooden shelves on which they could hardly move because these were only eighteen inches apart, kept one on top of the other. They were not provided with suitable food, and if they fell ill or were injured, no attempt was made to provide them with medical treatment. The Western writers themselves state that at least 20% of the total number of people who were captured for slavery and forced labour perished during their transportation from the African coast to America. It has also been estimated that the total number of people who were captured for slavery by the various European nations during the heyday of the slave trade comes to at least one hundred million. This is the record of the people who denounce Muslims day and night for recognizing the institution of slavery. It is as if a criminal is holding his finger of blame towards an innocent man.

The Position of Slavery in Islam:

Briefly I would like to tell you about the position and nature of slavery in Islam. Islam tried to solve the problem of the slaves that were in Arabia by encouraging the people in different ways to set their slaves free. The Muslims were ordered that in expiation of some of their sins they should set their slaves free. Freeing a slave by one's own free will was declared to be an act of great merit, so much so that it was said that every limb of the man who manumits a slave will be protected from hell-fire in lieu of the limb of the slave freed by him. The result of this policy was that by the time the period of the Rightly-Guided Caliphs was reached, all the old slaves of Arabia were liberated. The Prophet alone liberated as many as 63 slaves. The number of slaves freed by 'Aishah was 67, 'Abbas liberated 70, 'Abd Allah ibn 'Umar liberated one thousand, and 'Abd al-Rahman purchased thirty thousand and set them free. Similarly other Companions of the Prophet liberated a large number of slaves, the details of which are given in the Traditions and books of history of that period.

Thus, the problem of the slaves of Arabia was solved in a short period of thirty or forty years. After this the only form of slavery which was left in Islamic society was the prisoners of war, who were captured on the battlefield. These prisoners of war were retained by the Muslim Government until their government agreed to receive them back in exchange for Muslim soldiers captured by them, or arranged the payment of ransom on their behalf. If the soldiers they captured were not exchanged with Muslim prisoners of war, or their people did not pay their ransom money to purchase their liberty, then the Muslim Government used to distribute them among the soldiers of the army which had captured them. This was a more humane and proper way of disposing of them than retaining them like cattle in concentration camps and taking forced labour from them and, if their women folk were also captured, setting them aside for prostitution. In place of such a cruel and outrageous way of disposing of the prisoners of war, Islam preferred to spread them in the population and thus brought them in contact with individual human beings. Over and above, their guardians were ordered to treat them well. The result of this humane policy was that most of the men who were captured on foreign battlefields and brought to the Muslim countries as slaves embraced Islam and their descendants produced great scholars, imams, jurists, commentators, statesmen and generals of the army. So much so that later on they became the rulers of the Muslim world. The solution of this problem which has been proposed in the present age is that after the cessation of hostilities the prisoners of war of the combatant countries should be exchanged. Whereas Muslims have been practising it from the very beginning and whenever the adversary accepted the exchange of prisoners of war from both sides, it was implemented without the least hesitation or delay. In modern warfare we also find that if one government is completely routed leaving her in no position of bargaining for the prisoners of war and the winning party gets its prisoners easily, then experience has shown that the prisoners of war of the vanquished army are kept in conditions which are much worse than the conditions of slaves. Can anyone tell us what has been the fate of the thousands of prisoners of war captured by Russia from the defeated armies of Germany and Japan in the Second World War? No one has given their account so far. No one knows how many thousands of them are still alive and how many thousands of them have perished due to the hardship of the Russian concentration and labour camps. The forced labour which has been taken from them is much worse than the service one can exact from slaves. Even perhaps in the times of ancient Pharaohs of Egypt such harsh labour might not have been exacted from the slaves in building the pyramids of Egypt, as has been exacted from the prisoners of war in Russia in developing Siberia and other backward areas of Russia, or working in coal and other mines in below zero temperatures, ill-clad, ill-fed and brutally treated by their supervisors.

The Right to Justice.

This is a very important and valuable right which Islam has given to man as a human being. The Holy Quran has laid down: "Do not let your hatred of a people incite you to aggression" (5:2). "And do not let ill-will towards any folk incite you so that you swerve from dealing justly. Be just; that is nearest to heedfulness" (5:8). Stressing this point the Quran again says: "You who believe stand steadfast before God as witness for (truth and) fairplay" (4:135). This makes the point clear that Muslims have to be just not only with ordinary human beings but even with their enemies. In other words, the justice to which Islam invites her followers is not limited only to the citizens of their own country, or the people of their own tribe, nation or race, or the Muslim community as a whole, but it is meant for all the human beings of the world. Muslims therefore, cannot be unjust to anyone. Their permanent habit and character should be such that no man should ever fear injustice at their hands, and they should treat every human being everywhere with justice and fairness.

Equality of Human Beings.

Islam not only recognizes absolute equality between men irrespective of any distinction of colour, race or nationality, but makes it an important and significant principle, a reality. The Almighty God has laid down in the Holy Quran: "O mankind, we have created you from a male and female." In other words, all human beings are brothers to one another. They all are the descendants from one father and one mother. "And we set you up as nations and tribes so that you may be able to recognize each other" (49:13). This means that the division of human beings into nations, races, groups and tribes is for the sake of distinction, so that people of one race or tribe may meet and be acquainted with the people belonging to another race or tribe and cooperate with one another. This division of the human race is neither meant for one nation to take pride in its superiority over others nor is it meant for one nation to treat another with contempt or disgrace, or regard them as a mean and degraded race and usurp their rights. "Indeed, the noblest among you before God are the most heedful of you" (49:13). In other words, the superiority of one man over another is only on the basis of God-consciousness, purity of character and high morals, and not on the basis of colour, race, language or nationality, and even this superiority based on piety and pure conduct does not justify that such people should play lord or assume airs of superiority over other human beings. Assuming airs of superiority is in itself a reprehensible vice which no God-fearing and pious man can ever dream of perpetrating. Nor does the righteous have more privileged rights over others, because this runs counter to human equality, which has been laid down in the beginning of this verse as a general principle. From the moral point of view, goodness and virtue is in all cases better than vice and evil.

This has been exemplified by the Prophet in one of his sayings thus: "No Arab has any superiority over a non-Arab, nor does a non-Arab have any superiority over an Arab. Nor does a white man have any superiority over a black man, or the black man any superiority over the white man. You are all the children of Adam, and Adam was created from clay" (al-Bayhaqi and al-Bazzaz). In this manner Islam established equality for the entire human race and struck at the very root of all distinctions based on colour, race, language or nationality. According to Islam, God has given man this right of equality as a birthright. Therefore, no man should be discriminated against on the ground of the colour of his skin, his place of birth, the race or the nation in which he was born. Malcolm X, the famous leader of African Negroes in America,

who had launched a bitter struggle against the white people of America in order to win civil rights for his black compatriots, when he went to perform the pilgrimage, and saw how the Muslims of Asia, Africa, Europe, America and those of different races, languages and colours of skin, were wearing one dress and were hurrying towards God's House-the Ka'bah and offering prayers standing in one row and there was no distinction of any kind between them, then he realized that this was the solution to the problem of colour and race, and not what he had been trying to seek or achieve in America so far. Today, a number of non-Muslim thinkers, who are free from blind prejudice, openly admit that no other religion or way of life has solved this problem with the same degree of success with which Islam has done so.

The Right to Co-operate and Not to Co-operate.

Islam has prescribed a general principle of paramount importance and universal application saying: "Co-operate with one another for virtue and heedfulness and do not co-operate with one another for the purpose of vice and aggression" (5:2). This means that the man who undertakes a noble and righteous work, irrespective of the fact whether he is living at the North Pole or the South Pole, has the right to expect support and active co-operation from the Muslims. On the contrary he who perpetrates deeds of vice and aggression, even if he is our closest relation or neighbour, does not have the right to win our support and help in the name of race, country, language or nationality, nor should he have the expectation that Muslims will co-operate with him or support him. Nor is it permissible for Muslims to co-operate with him. The wicked and vicious person may be our own brother, but he is not of us, and he can have no help or support from us as long as he does not repent and reform his ways. On the other hand, the man who is doing deeds of virtue and righteousness may have no kinship with Muslims, but Muslims will be his companions and supporters or at least his well-wishers.

CHAPTER THREE RIGHTS OF CITIZENS IN AN ISLAMIC STATE

We have discussed the human rights in general. Now we would like to take up the question of rights of the citizens in an Islamic State. As these rights are more extensive than the general human rights which have been described earlier, they need separate treatment.

The Security of Life and Property

In the address which the Prophet delivered on the occasion of the Farewell Hajj, he said: "Your lives and properties are forbidden to one another till you meet your Lord on the Day of Resurrection." God Almighty has laid down in the Holy Quran: "Anyone who kills a believer deliberately will receive as his reward (a sentence) to live in Hell for ever. God will be angry with him and curse him, and prepare dreadful torment for him" (4:93). The Prophet has also said about the dhimmis (the non-Muslim citizens of the Muslim State): "One who kills a man under covenant (i.e. a dhimmi) will not even smell the fragrance of Paradise" (al-Bukhari and Abu Dawud). Islam prohibits homicide but allows only one exception, that the killing is done in the due process of law which the Quran refers to as *bi al-haqq* (with the truth). Therefore, a man can be killed only when the law demands it, and it is obvious that only a court of law can decide whether the execution is being carried out with justice or without justification. In case of war or insurrection a just and righteous government alone, which follows the Shari'ah or the Islamic Law, can decide whether a war is just or unjust, whether taking of a life is justified or not; and whether a person is a rebel or not and who can be sentenced to death as a punishment. These weighty decisions cannot be left in the hands of a court which has become heedless to

God and is under the influence of the administration. A judiciary like this may miscarry justice. Nor can the crimes of state be justified on the authority of the Holy Quran or Traditions (hadith) when the state murders its citizens openly and secretly without any hesitation or on the slightest pretext, because they are opposed to its unjust policies and actions or criticize it for its misdeed, and also provides protection to its hired assassins who have been guilty of the heinous crime of murder of an innocent person resulting in the fact, that neither the police take any action against such criminals nor can any proof or witnesses against these criminals be produced in the courts of law. The very existence of such a government is a crime and none of the killings carried out by them can be called "execution for the sake of justice" in the phraseology of the Holy Quran.

Along with security of life, Islam has with equal clarity and definiteness conferred the right of security of ownership of property, as mentioned earlier with reference to the address of the Farewell Hajj. On the other hand, the Holy Quran goes so far as to declare that the taking of people's possessions or property is completely prohibited unless they are acquired by lawful means as permitted in the Laws of God. The Law of God categorically declares "Do not devour one another's wealth by false and illegal means" (2:188).

The Protection of Honour.

The second important right is the right of the citizens to the protection of their honour. In the address delivered on the occasion of the Farewell Hajj, to which I have referred earlier, the Prophet did not only prohibit the life and property of the Muslims to one another, but also any encroachment upon their honour, respect and chastity were forbidden to one another. The Holy Quran clearly lays down:

- (a) "You who believe, do not let one (set of) people make fun of another set.
- (b) Do not defame one another.
- (c) Do not insult by using nicknames.
- (d) And do not backbite or speak ill of one another" (49:11-12).

This is the law of Islam for the protection of honour which is indeed much superior to and better than the Western Law of Defamation. According to the Islamic Law if it is proved that someone has attacked the honour of another person, then irrespective of the fact whether or not the victim is able to prove himself a respectable and honourable person the culprit will in any case get his due punishment. But the interesting fact about the Western Law of Defamation is that the person who files suit for defamation has first to prove that he is a man of honour and public esteem and during the interrogation he is subjected to the scurrilous attacks, accusations and innuendoes of the defence council to such an extent that he earns more disgrace than the attack on his reputation against which he had knocked the door of the court of law. On top of it he has also to produce such witnesses as would testify in the court that due to the defamatory accusations of the culprit, the accused stands disgraced in their eyes. Good Gracious! what a subtle point of law, and what an adherence to the spirit of Law! How can this unfair and unjust law be compared to the Divine law? Islam declared blasphemy as a crime irrespective of the fact whether the accused is a man of honour or not, and whether the words used for blasphemy have actually disgraced the victim and harmed his reputation in the eyes of the public or not. According to the Islamic Law the mere proof of the fact that the accused said things which

according to common sense could have damaged the reputation and honour of the plaintiff, is enough for the accused to be declared guilty of defamation.

The Sanctity and Security of Private Life.

Islam recognizes the right of every citizen of its state that there should be no undue interference or encroachment on the privacy of his life. The Holy Quran has laid down the injunction: "Do not spy on one another" (49:12). "Do not enter any houses except your own homes unless you are sure of their occupants' consent" (24:27). The Prophet has gone to the extent of instructing his followers that a man should not enter even his own house suddenly or surreptitiously. He should somehow or other inform or indicate to the dwellers of the house that he is entering the house, so that he may not see his mother, sister or daughter in a condition in which they would not like to be seen, nor would he himself like to see them in that condition. Peering into the houses of other people has also been strictly prohibited, so much so that there is the saying of the Prophet that if a man finds another person secretly peering into his house, and he blinds his eye or eyes as a punishment then he cannot be called to question nor will he be liable to prosecution. The Prophet has even prohibited people from reading the letters of others, so much so that if a man is reading his letter and another man casts sidelong glances at it and tries to read it, his conduct becomes reprehensible. This is the sanctity of privacy that Islam grants to individuals. On the other hand, in the modern civilized world we find that not only the letters of other people are read and their correspondence censored, but even their photostat copies are retained for future use or blackmail. Even bugging devices are secretly fixed in the houses of the people so that one can hear and tape from a distance the conversation taking place behind closed doors. In other words, it means that there is no such thing as privacy and to all practical purposes the private life of an individual does not exist.

This espionage on the life of the individual cannot be justified on moral grounds by the government saying that it is necessary to know the secrets of the dangerous persons. Though, to all intents and purposes, the basis of this policy is the fear and suspicion with which modern governments look at their citizens who are intelligent and dissatisfied with the official policies of the government. This is exactly what Islam has called as the root cause of mischief in politics. The injunction of the Prophet is: "When the ruler begins to search for the causes of dissatisfaction amongst his people, he spoils them" (Abu Dawud). The Amir Mu'awiyah has said that he himself heard the Prophet saying: "If you try to find out the secrets of the people, then you will definitely spoil them or at least you will bring them to the verge of ruin." The meaning of the phrase 'spoil them' is that when spies (C.I.D. or F.B.I. Agents) are spread all around the country to find out the affairs of men, then the people begin to look at one another with suspicion, so much so that people are afraid of talking freely in their houses lest some word should escape from the lips of their wives and children which may put them in embarrassing situations. In this manner it becomes difficult for a common citizen to speak freely, even in his own house and society begins to suffer from a state of general distrust and suspicion.

The Security of Personal Freedom

Islam has also laid down the principle that no citizen can be imprisoned unless his guilt has been proved in an open court. To arrest a man only on the basis of suspicion and to throw him into a prison without proper court proceedings and without providing him a reasonable opportunity to produce his defence is not permissible in Islam. It is related in the hadith that

once the Prophet was delivering a lecture in the mosque, when a man rose during the lecture and said: "O Prophet of God, for what crime have my neighbours been arrested?" The Prophet heard the question and continued his speech. The man rose once again and repeated the same question. The Prophet again did not answer and continued his speech. The man rose for a third time and repeated the same question. Then the Prophet ordered that the man's neighbours be released. The reason why the Prophet had kept quiet when the question was repeated twice earlier was that the police officer was present in the mosque and if there were proper reasons for the arrest of the neighbours of this man, he would have got up to explain his position. Since the police officer gave no reasons for these arrests the Prophet ordered that the arrested persons should be released. The police officer was aware of the Islamic law and therefore he did not get up to say: "the administration is aware of the charges against the arrested men, but they cannot be disclosed in public. If the Prophet would inquire about their guilt in camera, I would enlighten him." If the police officer had made such a statement, he would have been dismissed then and there. The fact that the police officer did not give any reasons for the arrests in the open court was sufficient reason for the Prophet to give immediate orders for the release of the arrested men. The injunction of the Holy Quran is very clear on this point. "Whenever you judge between people, you should judge with (a sense of) justice" (4:58). And the Prophet has also been asked by God: "I have been ordered to dispense justice between you." This was the reason why the Caliph 'Umar said: "In Islam no one can be imprisoned except in pursuance of justice." The words used here clearly indicate that justice means due process of law. What has been prohibited and condemned is that a man be arrested and imprisoned without proof of his guilt in an open court and without providing him an opportunity to defend himself against those charges. If the Government suspects that a particular individual has committed a crime or he is likely to commit an offence in the near future then they should give reasons for their suspicion before a court of law and the culprit or the suspect should be allowed to produce his defence in an open court, so that the court may decide whether the suspicion against him is based on sound grounds or not and if there is good reason for suspicion, then he should be informed of how long he will be in preventive detention. This decision should be taken under all circumstances in an open court, so that the public may hear the charges brought by the government, as well as the defence made by the accused and see that the due process of law is being applied to him and he is not being victimized.

The correct method of dealing with such cases in Islam is exemplified in the famous decision of the Prophet which took place before the conquest of Makkah. The Prophet was making preparations for the attack on Makkah, when one of his Companions, Hatib ibn Abi Balta'ah sent a letter through a woman to the authorities in Makkah informing them about the impending attack. The Prophet came to know of this through a Divine inspiration. He ordered 'Ali and Zubayr: "Go quickly on the route to Makkah, at such and such a place, you will find a woman carrying a letter. Recover the letter from her and bring it to me." So, they went and found the woman exactly where the Prophet had said. They recovered the letter from her and brought it to the Prophet. This was indeed a clear case of treachery. To inform the enemy about a secret of an army and that too at the time of a war is a very serious offence tantamount to treachery. In fact, one cannot think of a more serious crime during war than giving out a military secret to one's enemy. What could have been a more suitable case for a secret hearing; a military secret had been betrayed and common sense demanded that he should be tried in camera. But the Prophet summoned Hatib to the open court of the Mosque of the Prophet and in the presence of hundreds of people asked him to explain his position with regard to his letter addressed to

the leaders of Quraysh which had been intercepted on its way. The accused said: "O God's Messenger (may God's blessings be on you) I have not revolted against Islam, nor have I done this with the intention of betraying a military secret. The truth of the matter is that my wife and children are living in Makkah and I do not have my tribe to protect them there. I had written this letter so that the leaders of Quraysh may be indebted to me and may protect my wife and children out of gratitude." Umar rose and respectfully submitted: "O Prophet, please permit me to put this traitor to the sword." The Prophet replied: "He is one of those people who had participated in the Battle of Badr, and the explanation he has advanced in his defence would seem to be correct."

Let us look at this decision of the Prophet in perspective. It was a clear case of treachery and betrayal of military secrets. But the Prophet acquitted Hatib on two counts. Firstly, that his past records were very clean and showed that he could not have betrayed the cause of Islam, since on the occasion of the Battle of Badr when there were heavy odds against the Muslims, he had risked his life for them. Secondly, his family was in fact in danger at Makkah. Therefore, if he had shown some human weakness for his children and written this letter, then this punishment was quite sufficient for him that his secret offence was divulged in public and he had been disgraced and humiliated in the eyes of the believers. God has referred to this offence of Hatib in the Holy Quran but did not propose any punishment for him except rebuke and admonition.

The attitude and activities of the Kharijis in the days of the Caliph 'Ali are well-known to the students of Muslim history. They used to abuse the Caliph openly, and threaten him with murder. But whenever they were arrested for these offences, 'Ali would set them free and tell his officers "As long as they do not actually perpetrate offences against the State, the mere use of abusive language or the threat of use of force are not such offences for which they can be imprisoned." The imam Abu Hanifah has recorded the following saying of the Caliph 'Ali (A): "As long as they do not set out on armed rebellion, the Caliph of the Faithful will not interfere with them." On another occasion 'Ali was delivering a lecture in the mosque when the Kharijis raised their special slogan there. 'Ali said: "We will not deny you the right to come to the mosques to worship God, nor will we stop to give your share from the wealth of the State, as long as you are with us (and support us in our wars with the unbelievers) and we shall never take military action against you as long as you do not fight with us." One can visualize the opposition which 'Ali was facing; more violent and vituperative opposition cannot even be imagined in a present-day democratic State; but the freedom that he had allowed to the opposition was such that no government has ever been able to give to its opposition. He did not arrest even those who threatened him with murder nor did he imprison them.

The Right to Protest Against Tyranny.

Amongst the rights that Islam has conferred on human beings is the right to protest against government's tyranny. Referring to it the Quran says: "God does not love evil talk in public unless it is by some one who has been injured thereby" (4:148). This means that God strongly disapproves of abusive language or strong words of condemnation, but the person who has been the victim of injustice or tyranny, God gives him the right to openly protest against the injury that has been done to him. This right is not limited only to individuals. The words of the verse are general. Therefore, if an individual or a group of people or a party usurps power, and after assuming the reins of authority begins to tyrannize individuals or groups of men or the entire population of the country, then to raise the voice of protest against it openly is the God-

given right of man and no one has the authority to usurp or deny this right. If anyone tries to usurp this right of citizens then he rebels against God. The talisman of Section 1444 may protect such a tyrant in this world, but it cannot save him from the hell-fire in the Hereafter.

Freedom of Expression.

Islam gives the right of freedom of thought and expression to all citizens of the Islamic State on the condition that it should be used for the propagation of virtue and truth and not for spreading evil and wickedness. This Islamic concept of freedom of expression is much superior to the concept prevalent in the West. Under no circumstances would Islam allow evil and wickedness to be propagated. It also does not give anybody the right to use abusive or offensive language in the name of criticism. The right to freedom of expression for the sake of propagating virtue and righteousness is not only a right in Islam but an obligation. One who tries to deny this right to his people is openly at war with God, the All-Powerful. And the same thing applies to the attempt to stop people from evil. Whether this evil is perpetrated by an individual or by a group of people or the government of one's own country, or the government of some other country; it is the right of a Muslim and it is also his obligation that he should warn and reprimand the evil-doer and try to stop him from doing it. Over and above, he should openly and publicly condemn it and show the course of righteousness which that individual, nation or government should adopt.

The Holy Quran has described this quality of the Faithful in the following words: "They enjoin what is proper and forbid what is improper" (9:71). In contrast, describing the qualities of a hypocrite, the Quran mentions: "They bid what is improper and forbid what is proper" (9:67). The main purpose of an Islamic Government has been defined by God in the Quran as follows: "If we give authority to these men on earth, they will keep up prayers, and offer poor-due, bid what is proper and forbid what is improper" (22:41). The Prophet has said: "If any one of you comes across an evil, he should try to stop it with his hand (using force), if he is not in a position to stop it with his hand then he should try to stop it by means of his tongue (meaning he should speak against it). If he is not even able to use his tongue then he should at least condemn it in his heart. This is the weakest degree of faith" (Muslim). This obligation of inviting people to righteousness and forbidding them to adopt the paths of evil is incumbent on all true Muslims. If any government deprives its citizens of this right, and prevents them from performing this duty, then it is in direct conflict with the injunction of God. The government is not in conflict with its people, but is in conflict with God. In this way it is at war with God and is trying to usurp that right of its people which God has conferred not only as a right but as an obligation. As far as the government which itself propagates evil, wickedness and obscenity and interferes with those who are inviting people to virtue and righteousness is concerned, according to the Holy Quran it is the government of the hypocrites.

Freedom of Association.

Islam has also given people the right to freedom of association and formation of parties or organizations. This right is also subject to certain general rules. It should be exercised for propagating virtue and righteousness and should never be used for spreading evil and mischief. We have not only been given this right for spreading righteousness and virtue, but have been ordered to exercise this right. Addressing the Muslims, the Holy Quran declares:

You are the best community which has been brought forth for mankind. You command what is proper and forbid what is improper and you believe in God ... (3:110)

This means that it is the obligation and duty of the entire Muslim community that it should invite and enjoin people to righteousness and virtue and forbid them from doing evil. If the entire Muslim community is not able to perform this duty, then "let there be a community among you who will invite (people) to (do) good, command what is proper and forbid what is improper, those will be prosperous" (3:104). This clearly indicates that if the entire Muslim nation collectively begins to neglect its obligation to invite people to goodness and forbid them from doing evil then it is absolutely essential that it should contain at least a group of people which may perform this obligation. As has been said before this is not only a right but an obligation and on the fulfilment of which depends success and prosperity here as well as in the Hereafter. It is an irony with the religion of God that in a Muslim country the assembly and association that is formed for the purposes of spreading evil and mischief should have the right to rule over the country and the association and party which has been formed for propagating righteousness and virtue should live in perpetual fear of harassment and of being declared illegal. Conditions here are just the reverse of what has been prescribed by God. The claim is that we are Muslims and this is an Islamic State⁵ but the work that is being done is directed to spreading evil, to corrupt and morally degrade and debase the people while there is an active and effective check on the work being carried out for reforming society and inviting people to righteousness. Moreover, the life of those who are engaged in spreading righteousness and checking the spread of evil and wickedness is made intolerable and hard to bear.

Freedom of Conscience and Conviction.

Islam also gives the right to freedom of conscience and conviction to its citizens in an Islamic State. The Holy Quran has laid down the injunction: "There should be no coercion in the matter of faith" (2:256). Though there is no truth and virtue greater than the religion of Truth-Islam, and Muslims are enjoined to invite people to embrace Islam and advance arguments in favour of it, they are not asked to enforce this faith on them. No force will be applied in order to compel them to accept Islam. Whoever accepts it he does so by his own choice. Muslims will welcome such a convert to Islam with open arms and admit him to their community with equal rights and privileges. But if somebody does not accept Islam, Muslims will have to recognize and respect his decision, and no moral, social or political pressure will be put on him to change his mind.

Protection of Religious Sentiments.

Along with the freedom of conviction and freedom of conscience, Islam has given the right to the individual that his religious sentiments will be given due respect and nothing will be said or done which may encroach upon this right. It has been ordained by God in the Holy Quran: "Do not abuse those they appeal to instead of God" (6:108). These instructions are not only limited to idols and deities, but they also apply to the leaders or national heroes of the people. If a group of people holds a conviction which according to you is wrong, and holds certain persons in high esteem which according to you is not deserved by them, then it will not be justified in Islam that you use abusive language for them and thus injure their feelings. Islam does not prohibit people from holding debate and discussion on religious matters, but it wants that these discussions should be conducted in decency. "Do not argue with the people of the Book unless it is in the politest manner" (29:46)-says the Quran. This order is not merely

limited to the people of the Scriptures, but applies with equal force to those following other faiths.

Protection from Arbitrary Imprisonment.

Islam also recognizes the right of the individual that he will not be arrested or imprisoned for the offences of others. The Holy Quran has laid down this principle clearly: "No bearer of burdens shall be made to bear the burden of another" (6:164). Islam believes in personal responsibility. We ourselves are responsible for our acts, and the consequence of our actions cannot be transferred to someone else. In other words, this means that every man is responsible for his actions. If another man has not shared this action, then he cannot be held responsible for it, nor can he be arrested. It is a matter of great regret and shame that we are seeing this just and equitable principle which has not been framed by any human being, but by the Creator and Nourisher of the entire universe, being flouted and violated before our eyes. So much so that a man is guilty of a crime or he is a suspect, but his wife being arrested for his crime. Things have gone so far that innocent people are being punished for the crimes of others. To give a recent example, in Karachi (Pakistan), a man was suspected of being involved in a bomb throwing incident. In the course of police investigation, he was subjected to horrible torture in order to extract a confession from him. When he insisted on his innocence, then the police arrested his mother, his wife, daughter and sister and brought them to the police station. They were all stripped naked in his presence and he was stripped naked of all his clothes before their eyes so that a confession of the crime could be extracted from him. It appears as if for the sake of investigation of crime, it has become proper and legal in our country to strip the innocent women folk of the household in order to bring pressure on the suspect. This is indeed very outrageous and shameful. This is the height of meanness and depravity. This is not a mere hearsay which I am repeating here, but I have full information about this case and can prove my allegations in any court of law. I would here like to ask what right such tyrants who perpetrate these crimes against mankind have to tell us that they are Muslims or that they are conducting the affairs of the state according to the teachings of Islam and their state is an Islamic State. They are breaching and flouting a clear law of the Holy Quran. They are stripping men and women naked which is strictly forbidden in Islam. They disgrace and humiliate humanity and then they claim that they are Muslims.

The Right to Basic Necessities of Life.

Islam has recognized the right of the needy people that help and assistance will be provided for them. "And in their wealth, there is acknowledged right for the needy and the destitute" (51:19). In this verse, the Quran has not only conferred a right on every man who asks for assistance in the wealth of the Muslims, but has also laid down that if a Muslim comes to know that a certain man is without the basic necessities of life, then irrespective of the fact whether he asks for assistance or not, it is his duty to reach him and give all the help that he can extend. For this purpose, Islam has not depended only on the help and charity that is given voluntarily, but has made compulsory charity, zakat as the third pillar of Islam, next only to profession of faith and worship of God through holding regular prayers. The Prophet has clearly instructed in this respect that: "It will be taken from their rich and given to those in the community in need" (al-Bukhari and Muslim). In addition to this, it has also been declared that the Islamic State should support those who have nobody to support them. The Prophet has said: "The Head of state is the guardian of him, who has nobody to support him" (Abu Dawud, al-Tirmidhi). The word

wali which has been used by the Prophet is a very comprehensive word and has a wide range of meanings. If there is an orphan or an aged man, if there is a crippled or unemployed person, if one is invalid or poor and has no one else to support him or help him, then it is the duty and the responsibility of the state to support and assist him. If a dead man has no guardian or heir, then it is the duty of the state to arrange for his proper burial. In short, the state has been entrusted with the duty and responsibility of looking after all those who need help and assistance. A truly Islamic State is therefore a truly welfare state which will be the guardian and protector of all those in need.

Equality Before Law.

Islam gives its citizens the right to absolute and complete equality in the eyes of the law. As far as the Muslims are concerned, there are clear instructions in the Holy Quran and hadith that in their rights and obligations they are all equal: "The believers are brothers (to each other)" (49:10). "If they (disbelievers) repent and keep up prayer and pay the Ipoor-due, they are your brothers in faith" (9:11). The Prophet has said that: "The life and blood of Muslims are equally precious" (Abu Dawud; Ibn Majjah). In another hadith he has said: "The protection given by all Muslims is equal. Even an ordinary man of them can grant protection to any man" (al-Bukhari; Muslim; Abu Dawud). In another more detailed Tradition of the Prophet, it has been said that those who accept the Oneness of God, believe in the Prophet- hood of His Messenger, give up primitive prejudices and join the Muslim community and brotherhood, "then they have the same rights and obligations as other Muslims have" (al-Bukhari; al-Nisa'i). Thus, there is absolute equality between the new converts to Islam and the old followers of the Faith.

This religious brotherhood and the uniformity of their rights and obligations is the foundation of equality in Islamic society, in which the rights and obligations of any person are neither greater nor lesser in any way than the rights and obligations of other people. As far as the non-Muslim citizens of the Islamic State are concerned, the rule of Islamic Shari'ah (law) about them has been very well expressed by the Caliph 'Ali in these words: "They have accepted our protection only because their lives may be like our lives and their properties like our properties" (Abu Dawud). In other words, their (of the dhimmis) lives and properties are as sacred as the lives and properties of the Muslims. Discrimination of people into different classes was one of the greatest crimes that, according to the Quran, Pharaoh used to indulge in: "He had divided his people into different classes," ... "And he suppressed one group of them (at the cost of others)" (28:4).

Rulers are Not Above the Law.

Islam clearly insists and demands that all officials of the Islamic State, whether he be the head or an ordinary employee, are equal in the eyes of the law. None of them is above the law or can claim immunity. Even an ordinary citizen in Islam has the right to put forward a claim or file a legal complaint against the highest executive of the country. The Caliph 'Umar said, "I have myself seen the Prophet, may God's blessings be on him, taking revenge against himself (penalizing himself for some shortcoming or failing)." On the occasion of the Battle of Badr, when the Prophet was straightening the rows of the Muslim army, he hit the belly of a soldier in an attempt to push him back in line. The soldier complained "O Prophet, you have hurt me with your stick." The Prophet immediately bared his belly and said: "I am very sorry; you can revenge by doing the same to me." The soldier came forward and kissed the abdomen of the Prophet and said that this was all that he wanted.

A woman belonging to a high and noble family was arrested in connection with a theft. The case was brought to the Prophet, and it was recommended that she may be spared the punishment of theft. The Prophet replied: "The nations that lived before you were destroyed by God because they punished the common men for their offences and let their dignitaries go unpunished for their crimes; I swear by Him (God) who holds my life in His hand that even if Fatimah, the daughter of Muhammad, has committed this crime then I would have amputated her hand." During the caliphate of 'Umar, Muhammad the son of 'Amr ibn al-'As the Governor of Egypt, whipped an Egyptian. The Egyptian went to Medina and lodged his complaint with the Righteous Caliph, who immediately summoned the Governor and his son to Medina. When they appeared before him in Medina, the Caliph handed a whip to the Egyptian complainant and asked him to whip the son of the Governor in his presence. After taking his revenge when the Egyptian was about to hand over the whip to 'Umar, he said to the Egyptian: "Give one stroke of the whip to the Honourable Governor as well. His son would certainly have not beaten you were it not for the false pride that he had in his father's high office." The plaintiff submitted: "The person who had beaten me, I have already avenged myself on him." 'Umar said: "By God, if you had beaten him (the Governor) I would not have checked you from doing so. You have spared him of your own free will." Then he ('Umar) angrily turned to 'Amr ibn al-'As and said: "O 'Amr, when did you start to enslave the people, though they were born free of their mothers?" When the Islamic State was flourishing in its pristine glory and splendour, the common people could equally lodge complaints against the caliph of the time in the court and the caliph had to appear before the qadi to answer the charges. And if the caliph had any complaint against any citizen, he could not use his administrative powers and authority to set the matter right, but had to refer the case to the court of law for proper adjudication.

The Right to Avoid Sin.

Islam also confers this right on every citizen that he will not be ordered to commit a sin, a crime or an offence; and if any government, or the administrator, or the head of department orders an individual to do a wrong, then he has the right to refuse to comply with the order. His refusal to carry out such crime or unjust instructions would not be regarded as an offence in the eyes of the Islamic law. On the contrary giving orders to one's subordinates to commit a sin or do a wrong is itself an offence and such a serious offence that the officer who gives this sinful order whatever his rank and position may be, is liable to be summarily dismissed. These clear instructions of the Prophet are summarized in the following hadith: "It is not permissible to disobey God in obedience to the orders of any human being" (Musnad of Ibn Hanbal). In other words, no one has the right to order his subordinates to do anything against the laws of God. If such an order is given, the subordinate has the right to ignore it or openly refuse to carry out such instructions. According to this rule no offender will be able to prove his innocence or escape punishment by saying that this offence was committed on the orders of the government or superior officers. If such a situation arises then the person who commits the offence and the person who orders that such an offence be committed, will both be liable to face criminal proceedings against them. And if an officer takes any improper and unjust measures against a subordinate who refuses to carry out illegal orders, then the subordinate has the right to go to the court of law for the protection of his rights, and he can demand that the officer be punished for his wrong or unjust orders.

The Right to Participate in the Affairs of State.

According to Islam, governments in this world are actually representatives (khulafa') of the Creator of the universe, and this responsibility is not entrusted to any individual or family or a particular class or group of people but to the entire Muslim nation. The Holy Quran says: "God has promised to appoint those of you who believe and do good deeds as (His) representatives on earth" (24:55). This clearly indicates that khilafah is a collective gift of God in which the right of every individual Muslim is neither more nor less than the right of any other person. The correct method recommended by the Holy Quran for running the affairs of the state is as follows: "And their business is (conducted) through consultation among themselves" (42:38). According to this principle it is the right of every Muslim that either he should have a direct say in the affairs of the state or a representative chosen by him and other Muslims should participate in the consultation of the state. Islam, under no circumstance, permits or tolerates that an individual or a group or party of individuals may deprive the common Muslims of their rights, and usurp powers of the state. Similarly, Islam does not regard it right and proper that an individual may put up a false show of setting up a legislative assembly and by means of underhand tactics such as fraud, persecution, bribery, etc., gets himself and men of his choice elected in the assembly. This is not only a treachery against the people whose rights are usurped by illegal and unfair means, but against the Creator Who has entrusted the Muslims to rule on this earth on His behalf, and has prescribed the procedure of an assembly for exercising these powers. The shura or the legislative assembly has no other meaning except that:

- (1) The executive head of the government and the members of the assembly should be elected by free and independent choice of the people.
- (2) The people and their representatives should have the right to criticize and freely express their opinions.
- (3) The real conditions of the country should be brought before the people without suppressing any fact so that they may be able to form their opinion about whether the government is working properly or not.
- (4) There should be adequate guarantee that only those people who have the support of the masses should rule over the country and those who fail to win this support should be removed from their position of authority.

RIGHTS OF ENEMIES AT WAR

After dealing with the rights of the citizens of an Islamic State, I would like to briefly discuss the rights which Islam has conferred on its enemies. In the days when Islam came into focus the world was completely unaware of the concept of humane and decent rules of war. The West became conscious of this concept for the first time through the works of the seventeenth century thinker, Grotius. But the actual codification of the 'international law' in war began in the middle of the nineteenth century. Prior to this no concept of civilized behaviour in war was found in the West. All forms of barbarity and savagery were perpetrated in war, and the rights of those at war were not even recognized, let alone respected. The laws which were framed in this field during the nineteenth century or over the following period up to the present day, cannot be called 'laws' in the real sense of the word. They are only in the nature of conventions and agreements and calling them 'international law' is actually a kind of misnomer, because no nation regards them binding when they are at war, unless, of course, when the adversaries also agree to abide by them. In other words, these civilized laws imply that if our enemies respect

them then we shall also abide by them, and if they ignore these human conventions and take recourse to barbaric and cruel ways of waging war, then we shall also adopt the same or similar techniques. It is obvious that such a course which depends on mutual acceptance and agreement cannot be called 'law'. And this is the reason why the provisions of this so-called 'inter-national law' have been flouted and ignored in every way, and every time they have been revised, additions or deletions have been made in them.

Law of War and Peace in Islam:

The rules which have been framed by Islam to make war civilized and humane, are in the nature of law, because they are the injunctions of God and His Prophet which are followed by Muslims in all circumstances, irrespective of the behaviour of the enemy. It is now for the scholars to find out how far the West has availed of the laws of war given by Islam thirteen hundred years ago; and even after the adaptation of some of the laws of Islam how far the West attained those heights of civilized and humane methods of warfare which Muslims reached through the blessings of Islam. Western writers have often asserted that the Prophet had borrowed everything in his teachings from the Jews and the Christians. Instead of saying anything in its refutation I will only recommend the reader to refer to the Bible so that he can see which methods of war are recommended by the sacred Book to civilization and culture.

We have examined in some detail the basic human rights that Islam has conferred on man. Let us now find out what rights and obligations Islam recognizes for an enemy.

The Rights of the Non-Combatants:

Islam has first drawn a clear line of distinction between the combatants and the non-combatants of the enemy country. As far as the non-combatant population is concerned such as women, children, the old and the infirm, etc., the instructions of the Prophet are as follows: "Do not kill any old person, any child or any woman" (Abu Dawud). "Do not kill the monks in monasteries" or "Do not kill the people who are sitting in places of worship" (Musnad of Ibn Hanbal).

During a war, the Prophet saw the corpse of a woman lying on the ground and observed: "She was not fighting. How then she came to be killed?" From this statement of the Prophet the exegetists and jurists have drawn the principle that those who are non-combatants should not be killed during or after the war.

The Rights of the Combatants:

Now let us see what rights Islam has conferred on the combatants.

Torture with Fire

In the hadith there is a saying of the Prophet that: "Punishment by fire does not behove anyone except the Master of the Fire" (Abu Dawud). The injunction deduced from this saying is that the adversary should not be burnt alive.

Protection of the Wounded.

"Do not attack a wounded person"-thus said the Prophet. This means that the wounded soldiers who are not fit to fight, nor actually fighting, should not be attacked.

The Prisoner of War Should not be Slain.

"No prisoner should be put to the sword"-a very clear and unequivocal instruction given by the Prophet (S).

No one Should be Tied to be Killed.

"The Prophet has prohibited the killing of anyone who is tied or is in captivity."

No Looting and Destruction in the Enemy's Country

Muslims have also been instructed by the Prophet that if they should enter the enemy's territory, they should not indulge in pillage or plunder nor destroy the residential areas, nor touch the property of anyone except those who are fighting with them. It has been narrated in the hadith: "The Prophet has prohibited the believers from loot and plunder" (al-Bukhari; Abu Dawud). His injunction is: "The loot is no more lawful than the carrion" (Abu Dawud). Abu Bakr al-Siddiq used to instruct the soldiers while sending them to war, "Do not destroy the villages and towns, do not spoil the cultivated fields and gardens, and do not slaughter the cattle." The booty of war which is acquired from the battleground is altogether different from this. It consists of the wealth, provisions and equipment captured only from the camps and military headquarters of the combatant armies.

Sanctity of Property.

The Muslims have also been prohibited from taking anything from the general public of a conquered country without paying for it. If in a war the Muslim army occupies an area of the enemy country, and is encamped there, it does not have the right to use the things belonging to the people without their consent. If they need anything, they should purchase it from the local population or should obtain permission from the owners. Abu Bakr al-Siddiq, while instructing the Muslim armies being despatched to the battlefield would go to the extent of saying that Muslim soldiers should not even use the milk of the milch cattle without the permission of their owners.

Sanctity of a Dead Body

Islam has categorically prohibited its followers from disgracing or mutilating the corpses of their enemies as was practised in Arabia before the advent of Islam. It has been said in the hadith: "The Prophet has prohibited us from mutilating the corpses of the enemies" (al-Bukhari; Abu Dawud). The occasion on which this order was given is highly instructive. In the Battle of Uhud the disbelievers mutilated the bodies of the Muslims, who had fallen on the battlefield and sacrificed their lives for the sake of Islam, by cutting off their ears and noses, and threading them together to put round their necks as trophies of war. The abdomen of Hamzah, the uncle of the Prophet, was ripped open by Quraysh, his liver was taken out and chewed by Hind, the wife of Abu Sufyan, the leader of the Meccan army. The Muslims were naturally enraged by this horrible sight. But the Prophet asked his followers not to mete out similar treatment to the dead bodies of the enemies. This great example of forbearance and restraint is sufficient to convince any reasonable man who is not blinded by prejudice or bias, that Islam is really the religion sent down by the Creator of the universe, and that if human emotions had any admission in Islam, then this horrible sight on the battlefield of Uhud would have provoked the Prophet to order his followers to mutilate the bodies of their enemy in the same manner.

Return of Corpses of the Enemy

In the Battle of Ahzab a very renowned and redoubtable warrior of the enemy was killed and his body fell down in the trench which the Muslims had dug for the defence of Medina. The unbelievers presented ten thousand dinars to the Prophet and requested that the dead body of their fallen warrior may be handed over to them. The Prophet replied "I do not sell dead bodies. You can take away the corpse of your fallen comrade."

Prohibition of Breach of Treaties

Islam has strictly prohibited treachery. One of the instructions that the Prophet used to give to the Muslim warriors while sending them to the battlefield was: "Do not be guilty of breach of faith." This order has been repeated in the Holy Quran and the hadith again and again, that if the enemy acts treacherously let him do so, you should never go back on your promise. There is a famous incident in the peace treaty of Hudaibiyyah, when after the settlement of the terms of the treaty, Abu Jandal, the son of the emissary of the unbelievers who had negotiated this treaty with the Muslims, came, fettered and blood-stained, rushing to the Muslim camp and crying for help. The Prophet told him "Since the terms of the treaty have been settled, we are not in a position to help you out. You should go back with your father. God will provide you with some other opportunity to escape this persecution." The entire Muslim army was deeply touched and grieved at the sad plight of Abu Jandal and many of them were moved to tears. But when the Prophet declared that "We cannot break the agreement", not even a single person came forward to help the unfortunate prisoner, so the unbelievers forcibly dragged him back to Makkah. This is an unparalleled example of the observance of the terms of agreement by the Muslims, and Islamic history can show many examples of a similar nature.

Rules About Declaration of War.

It has been laid down in the Holy Quran: "If you apprehend breach of treaty from a people, then openly throw the treaty at their faces" (8:58). In this verse, Muslims have been prohibited from opening hostilities against their enemies without properly declaring war against them, unless of course, the adversary has already started aggression against them. Otherwise, the Quran has clearly given the injunction to Muslims that they should intimate to their enemies that no treaty exists between them, and they are at war with them. The present day 'international law' has also laid down that hostilities should not be started without declaration of war, but since it is a man-made rule, they are free to violate it whenever it is convenient. On the other hand, the laws for Muslims have been framed by God, hence they cannot be violated.

Conclusion:

This is a brief sketch of those rights which fourteen hundred years ago Islam gave to man, to those who were at war with each other and to the citizens of its state, which every believer regards as sacred as law. On the one hand, it refreshes and strengthens our faith in Islam when we realize that even in this modern age which makes such loud claims of progress and enlightenment, the world has not been able to produce juster and more equitable laws than those given 1400 years ago. On the other hand, it hurts one's feelings that Muslims are in possession of such a splendid and comprehensive system of law and yet they look forward for guidance to those leaders of the West who could not have dreamed of attaining those heights of truth and justice which was achieved a long time ago. Even more painful than this is the realization that throughout the world the rulers who claim to be Muslims have made

disobedience to their God and the Prophet as the basis and foundation of their government. May God have mercy on them and give them the true guidance.

League of Arab States

Arab Charter on Human Rights

Based on the faith of the Arab nation in the dignity of the human person whom God has exalted ever since the beginning of creation and in the fact that the Arab homeland is the cradle of religions and civilizations whose lofty human values affirm the human right to a decent life based on freedom, justice and equality,

In furtherance of the eternal principles of fraternity, equality and tolerance among human beings consecrated by the noble Islamic religion and the other divinely-revealed religions,

Being proud of the humanitarian values and principles that the Arab nation has established throughout its long history, which have played a major role in spreading knowledge between East and West, so making the region a point of reference for the whole world and a destination for seekers of knowledge and wisdom,

Believing in the unity of the Arab nation, which struggles for its freedom and defends the right of nations to self-determination, to the preservation of their wealth and to development; believing in the sovereignty of the law and its contribution to the protection of universal and interrelated human rights and convinced that the human person's enjoyment of freedom, justice and equality of opportunity is a fundamental measure of the value of any society,

Rejecting all forms of racism and Zionism, which constitute a violation of human rights and a threat to international peace and security, recognizing the close link that exists between human rights and international peace and security, reaffirming the principles of the Charter of the United Nations, the Universal Declaration of Human Rights and the provisions of the

International Covenant on Civil and Political Rights and the International

Covenant on Economic, Social and Cultural Rights, and having regard to the Cairo Declaration on Human Rights in Islam,

The States parties to the Charter have agreed as follows:

Article 1

The present Charter seeks, within the context of the national identity of the Arab States and their sense of belonging to a common civilization, to achieve the following aims:

1. To place human rights at the centre of the key national concerns of Arab

States, making them lofty and fundamental ideals that shape the will of the individual in Arab States and enable him to improve his life in accordance with noble human values.

2. To teach the human person in the Arab States pride in his identity, loyalty to his country, attachment to his land, history and common interests and to instil in him a culture of human brotherhood, tolerance and openness towards others, in accordance with universal principles and values and with those proclaimed in international human rights instruments.

3. To prepare the new generations in Arab States for a free and responsible life in a civil society that is characterized by solidarity, founded on a balance between awareness of rights and respect for obligations, and governed by the values of equality, tolerance and moderation.

4. To entrench the principle that all human rights are universal, indivisible, interdependent and interrelated.

Article 2

1. All peoples have the right of self-determination and to control over their natural wealth and resources, and the right to freely choose their political system and to freely pursue their economic, social and cultural development.

2. All peoples have the right to national sovereignty and territorial integrity.

3. All forms of racism, Zionism and foreign occupation and domination constitute an impediment to human dignity and a major barrier to the exercise of the fundamental rights of peoples; all such practices must be condemned and efforts must be deployed for their elimination.

4. All peoples have the right to resist foreign occupation.

Article 3

1. Each State party to the present Charter undertakes to ensure to all individuals subject to its jurisdiction the right to enjoy the rights and freedoms set forth herein, without distinction on grounds of race, colour, sex, language, religious belief, opinion, thought, national or social origin, wealth, birth or physical or mental disability.

2. The States parties to the present Charter shall take the requisite measures to guarantee effective equality in the enjoyment of all the rights and freedoms

enshrined in the present Charter in order to ensure protection against all forms of discrimination based on any of the grounds mentioned in the preceding paragraph.

3. Men and women are equal in respect of human dignity, rights and obligations within the framework of the positive discrimination established in favour of women by the Islamic Sharia, other divine laws and by applicable laws and legal instruments. Accordingly, each State party pledges to take all the requisite measures to guarantee equal opportunities and effective equality between men and women in the enjoyment of all the rights set out in this Charter.

Article 4

1. In exceptional situations of emergency which threaten the life of the nation and the existence of which is officially proclaimed, the States parties to the present Charter may take measures derogating from their obligations under the present Charter, to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the grounds of race, colour, sex, language, religion or social origin.

2. In exceptional situations of emergency, no derogation shall be made from the following articles: article 5, article 8, article 9, article 10, article 13, article 14, paragraph 6, article 15, article 18, article 19, article 20, article 22, article 27, article 28, article 29 and article 30. In

addition, the judicial guarantees required for the protection of the aforementioned rights may not be suspended.

3. Any State party to the present Charter availing itself of the right of derogation shall immediately inform the other States parties, through the intermediary of the Secretary-General of the League of Arab States, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

Article 5

1. Every human being has the inherent right to life.
2. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Article 6

Sentence of death may be imposed only for the most serious crimes in accordance with the laws in force at the time of commission of the crime and pursuant to a final judgment rendered by a competent court. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence.

Article 7

1. Sentence of death shall not be imposed on persons under 18 years of age, unless otherwise stipulated in the laws in force at the time of the commission of the crime.
2. The death penalty shall not be inflicted on a pregnant woman prior to her delivery or on a nursing mother within two years from the date of her delivery; in all cases, the best interests of the infant shall be the primary consideration.

Article 8

1. No one shall be subjected to physical or psychological torture or to cruel, degrading, humiliating or inhuman treatment.
2. Each State party shall protect every individual subject to its jurisdiction from such practices and shall take effective measures to prevent them. The commission of, or participation in, such acts shall be regarded as crimes that are punishable by law and not subject to any statute of limitations. Each State party shall guarantee in its legal system redress for any victim of torture and the right to rehabilitation and compensation.

Article 9

No one shall be subjected to medical or scientific experimentation or to the use of his organs without his free consent and full awareness of the consequences and provided that ethical, humanitarian and professional rules are followed and medical procedures are observed to ensure his personal safety pursuant to the relevant domestic laws in force in each State party. Trafficking in human organs is prohibited in all circumstances.

Article 10

1. All forms of slavery and trafficking in human beings are prohibited and are punishable by law. No one shall be held in slavery and servitude under any circumstances.
2. Forced labour, trafficking in human beings for the purposes of prostitution or sexual exploitation, the exploitation of the prostitution of others or any other form of exploitation or the exploitation of children in armed conflict are prohibited.

Article 11

All persons are equal before the law and have the right to enjoy its protection without discrimination.

Article 12

All persons are equal before the courts and tribunals. The States parties shall guarantee the independence of the judiciary and protect magistrates

against any interference, pressure or threats. They shall also guarantee every person subject to their jurisdiction the right to seek a legal remedy before courts of all levels.

Article 13

1. Everyone has the right to a fair trial that affords adequate guarantees before a competent, independent and impartial court that has been constituted by law to hear any criminal charge against him or to decide on his rights or his obligations. Each State party shall guarantee to those without the requisite financial resources legal aid to enable them to defend their rights.
2. Trials shall be public, except in exceptional cases that may be warranted by the interests of justice in a society that respects human freedoms and rights.

Article 14

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest, search or detention without a legal warrant.
2. No one shall be deprived of his liberty except on such grounds and in such circumstances as are determined by law and in accordance with such procedure as is established thereby.
3. Anyone who is arrested shall be informed, at the time of arrest, in a language that he understands, of the reasons for his arrest and shall be promptly informed of any charges against him. He shall be entitled to contact his family members.
4. Anyone who is deprived of his liberty by arrest or detention shall have the right to request a medical examination and must be informed of that right.
5. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. His release may be subject to guarantees to appear for trial. Pre-trial detention shall in no case be the general rule.
6. Anyone who is deprived of his liberty by arrest or detention shall be entitled to petition a competent court in order that it may decide without delay on the lawfulness of his arrest or detention and order his release if the arrest or detention is unlawful.

7. Anyone who has been the victim of arbitrary or unlawful arrest or detention shall be entitled to compensation.

Article 15

No crime and no penalty can be established without a prior provision of the law. In all circumstances, the law most favourable to the defendant shall be applied.

Article 16

Everyone charged with a criminal offence shall be presumed innocent until proved guilty by a final judgment rendered according to law and, in the course of the investigation and trial, he shall enjoy the following minimum guarantees:

1. The right to be informed promptly, in detail and in a language which he understands, of the charges against him.
2. The right to have adequate time and facilities for the preparation of his defence and to be allowed to communicate with his family.
3. The right to be tried in his presence before an ordinary court and to defend himself in person or through a lawyer of his own choosing with whom he can communicate freely and confidentially.
4. The right to the free assistance of a lawyer who will defend him if he cannot defend himself or if the interests of justice so require, and the right to the free assistance of an interpreter if he cannot understand or does not speak the language used in court.
5. The right to examine or have his lawyer examine the prosecution witnesses and to on defence according to the conditions applied to the prosecution witnesses.
6. The right not to be compelled to testify against himself or to confess guilt.
7. The right, if convicted of the crime, to file an appeal in accordance with the law before a higher tribunal.
8. The right to respect for his security of person and his privacy in all circumstances.

Article 17

Each State party shall ensure in particular to any child at risk or any delinquent charged with an offence the right to a special legal system for minors in all stages of investigation, trial and enforcement of sentence, as well as to special treatment that takes account of his age, protects his dignity, facilitates his rehabilitation and reintegration and enables him to play a constructive role in society.

Article 18

No one who is shown by a court to be unable to pay a debt arising from a contractual obligation shall be imprisoned.

Article 19

1. No one may be tried twice for the same offence. Anyone against whom such proceedings are brought shall have the right to challenge their legality and to demand his release.

2. Anyone whose innocence is established by a final judgment shall be entitled to compensation for the damage suffered.

Article 20

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2. Persons in pre-trial detention shall be separated from convicted persons and shall be treated in a manner consistent with their status as unconvicted persons.

3. The aim of the penitentiary system shall be to reform prisoners and effect their social rehabilitation.

Article 21

1. No one shall be subjected to arbitrary or unlawful interference with regard to his privacy, family, home or correspondence, nor to unlawful attacks on his honour or his reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

Article 22

Everyone shall have the right to recognition as a person before the law.

Article 23

Each State party to the present Charter undertakes to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.

Article 24

Every citizen has the right:

1. To freely pursue a political activity.

2. To take part in the conduct of public affairs, directly or through freely chosen representatives.

3. To stand for election or choose his representatives in free and impartial elections, in conditions of equality among all citizens that guarantee the free expression of his will.

4. To the opportunity to gain access, on an equal footing with others, to public office in his country in accordance with the principle of equality of opportunity.

5. To freely form and join associations with others.

6. To freedom of association and peaceful assembly.

7. No restrictions may be placed on the exercise of these rights other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public health or morals or the protection of the rights and freedoms of others.

Article 25

Persons belonging to minorities shall not be denied the right to enjoy their own culture, to use their own language and to practice their own religion. The exercise of these rights shall be governed by law.

Article 26

1. Everyone lawfully within the territory of a State party shall, within that territory, have the right to freedom of movement and to freely choose his residence in any part of that territory in conformity with the laws in force.

2. No State party may expel a person who does not hold its nationality but is lawfully in its territory, other than in pursuance of a decision reached in accordance with law and after that person has been allowed to submit a petition to the competent authority, unless compelling reasons of national security preclude it. Collective expulsion is prohibited under all circumstances.

Article 27

1. No one may be arbitrarily or unlawfully prevented from leaving any country, including his own, nor prohibited from residing, or compelled to reside, in any part of that country.

2. No one may be exiled from his country or prohibited from returning thereto.

Article 28

Everyone has the right to seek political asylum in another country in order to escape persecution. This right may not be invoked by persons facing prosecution for an offence under ordinary law. Political refugees may not be extradited.

Article 29

1. Everyone has the right to nationality. No one shall be arbitrarily or unlawfully deprived of his nationality.

2. States parties shall take such measures as they deem appropriate, in accordance with their domestic laws on nationality, to allow a child to acquire the mother's nationality, having due regard, in all cases, to the best interests of the child.

3. No one shall be denied the right to acquire another nationality, having due regard for the domestic legal procedures in his country.

Article 30

1. Everyone has the right to freedom of thought, conscience and religion and no restrictions may be imposed on the exercise of such freedoms except as provided for by law.

2. The freedom to manifest one's religion or beliefs or to perform religious

observances, either alone or in community with others, shall be subject only to such limitations as are prescribed by law and are necessary in a tolerant society that respects human rights and freedoms for the protection of public safety, public order, public health or morals or the fundamental rights and freedoms of others.

3. Parents or guardians have the freedom to provide for the religious and moral education of their children.

Article 31

Everyone has a guaranteed right to own private property, and shall not under any circumstances be arbitrarily or unlawfully divested of all or any part of his property.

Article 32

1. The present Charter guarantees the right to information and to freedom of opinion and expression, as well as the right to seek, receive and impart information and ideas through any medium, regardless of geographical boundaries.

2. Such rights and freedoms shall be exercised in conformity with the fundamental values of society and shall be subject only to such limitations as are required to ensure respect for the rights or reputation of others or the protection of national security, public order and public health or morals.

Article 33

1. The family is the natural and fundamental group unit of society; it is based on marriage between a man and a woman. Men and women of marrying age have the right to marry and to found a family according to the rules and conditions of marriage. No marriage can take place without the full and free consent of both parties. The laws in force regulate the rights and duties of the man and woman as to marriage, during marriage and at its dissolution.

2. The State and society shall ensure the protection of the family, the strengthening of family ties, the protection of its members and the prohibition of all forms of violence or abuse in the relations among its members, and particularly against women and children. They shall also ensure the necessary protection and care for mothers, children, older persons and persons with special needs and shall provide adolescents and young persons with the best opportunities for physical and mental development.

3. The States parties shall take all necessary legislative, administrative and judicial measures to guarantee the protection, survival, development and well-being of the child in an atmosphere of freedom and dignity and shall ensure, in all cases, that the child's best interests are the basic criterion for all measures taken in his regard, whether the child is at risk of delinquency or is a juvenile offender.

4. The States parties shall take all the necessary measures to guarantee, particularly to young persons, the right to pursue a sporting activity.

Article 34

1. The right to work is a natural right of every citizen. The State shall endeavour to provide, to the extent possible, a job for the largest number of those willing to work, while ensuring production, the freedom to choose one's work and equality of opportunity without discrimination of any kind on grounds of race, colour, sex, religion, language, political opinion, membership in a union, national origin, social origin, disability or any other situation.

2. Every worker has the right to the enjoyment of just and favourable conditions of work which ensure appropriate remuneration to meet his essential needs and those of his family and regulate working hours, rest and holidays with pay, as well as the rules for the preservation of occupational health and safety and the protection of women, children and disabled persons in the place of work.

3. The States parties recognize the right of the child to be protected from economic exploitation and from being forced to perform any work that is likely to be hazardous or to interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual, moral or social development. To this end, and having regard to the relevant provisions of other international instruments, States parties shall in particular:

(a) Define a minimum age for admission to employment;

(b) Establish appropriate regulation of working hours and conditions;

(c) Establish appropriate penalties or other sanctions to ensure the effective endorsement of these provisions.

4. There shall be no discrimination between men and women in their enjoyment of the right to effectively benefit from training, employment and job protection and the right to receive equal remuneration for equal work.

5. Each State party shall ensure to workers who migrate to its territory the requisite protection in accordance with the laws in force.

Article 35

1. Every individual has the right to freely form trade unions or to join trade unions and to freely pursue trade union activity for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights and freedoms except such as are prescribed by the laws in force and that are necessary for the maintenance of national security, public safety or order or for the protection of public health or morals or the rights and freedoms of others.

3. Every State party to the present Charter guarantees the right to strike within the limits laid down by the laws in force.

Article 36

The States parties shall ensure the right of every citizen to social security, including social insurance.

Article 37

The right to development is a fundamental human right and all States are required to establish the development policies and to take the measures needed to guarantee this right. They have a duty to give effect to the values of solidarity and cooperation among them and at the international level with a view to eradicating poverty and achieving economic, social, cultural and political development. By virtue of this right, every citizen has the right to participate in the realization of development and to enjoy the benefits and fruits thereof.

Article 38

Every person has the right to an adequate standard of living for himself and his family, which ensures their well-being and a decent life, including food, clothing, housing, services and the right to a healthy environment. The States parties shall take the necessary measures commensurate with their resources to guarantee these rights.

Article 39

1. The States parties recognize the right of every member of society to the enjoyment of the highest attainable standard of physical and mental health and the right of the citizen to free basic health-care services and to have access to medical facilities without discrimination of any kind.

2. The measures taken by States parties shall include the following:

(a) Development of basic health-care services and the guaranteeing of free and easy access to the centres that provide these services, regardless of geographical location or economic status.

(b) efforts to control disease by means of prevention and cure in order to reduce the mortality rate.

(c) promotion of health awareness and health education.

(d) suppression of traditional practices which are harmful to the health of the individual.

(e) provision of the basic nutrition and safe drinking water for all.

(f) Combating environmental pollution and providing proper sanitation systems;

(g) Combating drugs, psychotropic substances, smoking and substances that are damaging to health.

Article 40

1. The States parties undertake to ensure to persons with mental or physical disabilities a decent life that guarantees their dignity, and to enhance their self-reliance and facilitate their active participation in society.

2. The States parties shall provide social services free of charge for all persons with disabilities, shall provide the material support needed by those persons, their families or the families caring for them, and shall also do whatever is needed to avoid placing those persons in institutions. They shall in all cases take account of the best interests of the disabled person.

3. The States parties shall take all necessary measures to curtail the incidence of disabilities by all possible means, including preventive health programmes, awareness raising and education.

4. The States parties shall provide full educational services suited to persons with disabilities, taking into account the importance of integrating these persons in the educational system and the importance of vocational training and apprenticeship and the creation of suitable job opportunities in the public or private sectors.

5. The States parties shall provide all health services appropriate for persons with disabilities, including the rehabilitation of these persons with a view to integrating them into society.
6. The States parties shall enable persons with disabilities to make use of all public and private services.

Article 41

1. The eradication of illiteracy is a binding obligation upon the State and everyone has the right to education.
2. The States parties shall guarantee their citizens free education at least throughout the primary and basic levels. All forms and levels of primary education shall be compulsory and accessible to all without discrimination of any kind.
3. The States parties shall take appropriate measures in all domains to ensure partnership between men and women with a view to achieving national development goals.
4. The States parties shall guarantee to provide education directed to the full development of the human person and to strengthening respect for human rights and fundamental freedoms.
5. The States parties shall endeavour to incorporate the principles of human rights and fundamental freedoms into formal and informal education curricula and educational and training programmes.
6. The States parties shall guarantee the establishment of the mechanisms necessary to provide ongoing education for every citizen and shall develop national plans for adult education.

Article 42

1. Every person has the right to take part in cultural life and to enjoy the benefits of scientific progress and its application.
2. The States parties undertake to respect the freedom of scientific research and creative activity and to ensure the protection of moral and material interests resulting from scientific, literary and artistic production.
3. The state parties shall work together and enhance cooperation among them at all levels, with the full participation of intellectuals and inventors and their organizations, in order to develop and implement recreational, cultural, artistic and scientific programmes.

Article 43

Nothing in this Charter may be construed or interpreted as impairing the rights and freedoms protected by the domestic laws of the States parties or those set force in the international and regional human rights instruments which the states parties have adopted or ratified, including the rights of women, the rights of the child and the rights of persons belonging to minorities.

Article 44

The states parties undertake to adopt, in conformity with their constitutional procedures and with the provisions of the present Charter, whatever legislative or non-legislative measures that may be necessary to give effect to the rights set forth herein.

Article 45

1. Pursuant to this Charter, an "Arab Human Rights Committee", hereinafter referred to as "the Committee" shall be established. This Committee shall consist of seven members who shall be elected by secret ballot by the state's parties to this Charter.
2. The Committee shall consist of nationals of the state's parties to the present Charter, who must be highly experienced and competent in the Committee's field of work. The members of the Committee shall serve in their personal capacity and shall be fully independent and impartial.
3. The Committee shall include among its members not more than one national of a State party; such member may be re-elected only once. Due regard shall be given to the rotation principle.
4. The members of the Committee shall be elected for a four-year term, although the mandate of three of the members elected during the first election shall be for two years and shall be renewed by lot.
5. Six months prior to the date of the election, the Secretary-General of the League of Arab States shall invite the States parties to submit their nominations within the following three months. He shall transmit the list of candidates to the States parties two months prior to the date the election.

The candidates who obtain the largest number of votes cast shall be elected to membership of the Committee. If, because two or more candidates have an equal number of votes, the number of candidates with the largest number of votes exceeds the number required, a second ballot will be held between the persons with equal numbers of votes. If the votes are again equal, the member or members shall be selected by lottery. The first election for membership of the Committee shall be held at least six months after the Charter enters into force.

6. The Secretary-General shall invite the States parties to a meeting at the headquarters the League of Arab States in order to elect the member of the Committee. The presence of the majority of the States parties shall constitute a quorum. If there is no quorum, the secretary-General shall call another meeting at which at least two thirds of the States parties must be present. If there is still no quorum, the Secretary-General shall call a third meeting, which will be held regardless of the number of States parties present.
7. The Secretary-General shall convene the first meeting of the Committee, during the course of which the Committee shall elect its Chairman from among its members, for a two-year n which may be renewed only once and for an identical period. The Committee shall establish its own rules of procedure and methods of work and shall determine how often it shall et.

The Committee shall hold its meetings at the headquarters of the League of Arab States. ~ay also meet in any other State party to the present Charter at that party's invitation.

Article 46

1. The Secretary-General shall declare a seat vacant after being notified by the Chairman of a member:
 - (a) Death;

(b) Resignation; or

(c) If, in the unanimous, opinion of the other members, a member of the Committee has ceased to perform his functions without offering an acceptable justification or for any reason other than a temporary absence.

2. If a member's seat is declared vacant pursuant to the provisions of paragraph 1 and the term of office of the member to be replaced does not expire within six months from the date on which the vacancy was declared, the Secretary-General of the League of Arab States shall refer the matter to the States parties to the present Charter, which may, within two months, submit nominations, pursuant to article 45, in order to fill the vacant seat.

3. The Secretary-General of the League of Arab States shall draw up an alphabetical list of all the duly nominated candidates, which he shall transmit to the States parties to the present Charter. The elections to fill the vacant seat shall be held in accordance with the relevant provisions.

4. Any member of the Committee elected to fill a seat declared vacant in accordance with the provisions of paragraph 1 shall remain a member of the Committee until the expiry of the remainder of the term of the member whose seat was declared vacant pursuant to the provisions of that paragraph.

5. The Secretary-General of the League of Arab States shall make provision within the budget of the League of Arab States for all the necessary financial and human resources and facilities that the Committee needs to discharge its functions effectively. The Committee's experts shall be afforded the same treatment with respect to remuneration and reimbursement of expenses as experts of the secretariat of the League of Arab States.

Article 47

The States parties undertake to ensure that members of the Committee shall enjoy the immunities necessary for their protection against any form of harassment or moral or material pressure or prosecution on account of the positions they take or statements they make while carrying out their functions as members of the Committee.

Article 48

1. The States parties undertake to submit reports to the Secretary-General of the League of Arab States on the measures they have taken to give effect to the rights and freedoms recognized in this Charter and on the progress made towards the enjoyment thereof. The Secretary-General shall transmit these reports to the Committee for its consideration.

2. Each State party shall submit an initial report to the Committee within one year from the date on which the Charter enters into force and a periodic report every three years thereafter. The Committee may request the States parties to supply it with additional information relating to the implementation of the Charter.

3. The Committee shall consider the reports submitted by the States parties under paragraph 2 of this article in the presence of the representative of the State party whose report is being considered.

4. The Committee shall discuss the report, comment thereon and make the necessary recommendations in accordance with the aims of the Charter.
5. The Committee shall submit an annual report containing its comments and recommendations to the Council of the League, through the intermediary of the Secretary-General.
6. The Committee's reports, concluding observations and recommendations shall be public documents which the Committee shall disseminate widely.

Article 49

1. The Secretary-General of the League of Arab States shall submit the present Charter, once it has been approved by the Council of the League, to the States members for signature, ratification or accession.
2. The present Charter shall enter into effect two months from the date on which the seventh instrument of ratification is deposited with the secretariat of the League of Arab States.
3. After its entry into force, the present Charter shall become effective for each State two months after the State in question has deposited its instrument of ratification or accession with the secretariat.
4. The Secretary-General shall notify the States members of the deposit of each instrument of ratification or accession.

Article 50

Any State party may submit written proposals, through the Secretary-General, for the amendment of the present Charter. After these amendments have been circulated among the States members, the Secretary-General shall invite the States parties to consider the proposed amendments before submitting them to the Council of the League for adoption.

Article 51

The amendments shall take effect, with regard to the States parties that have approved them, once they have been approved by two thirds of the States parties.

Article 52

Any State party may propose additional optional protocols to the present Charter and they shall be adopted in accordance with the procedures used for the adoption of amendments to the Charter.

Article 53

1. Any State party, when signing this Charter, depositing the instruments of ratification or acceding hereto, may make a reservation to any article of the Charter, provided that such reservation does not conflict with the aims and fundamental purposes of the Charter.
2. Any State party that has made a reservation pursuant to paragraph 1 of this article may withdraw it at any time by addressing a notification to the Secretary-General of the League of Arab States.

An ideal code of human rights to the Man kind.

*This is a declaration for mankind, a guidance and instruction to those who fear God.
(Al Qur'an, Al-Imran 3:138)*

Foreword

Islam gave to mankind an ideal code of human rights fourteen centuries ago. 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 God, and God 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 God, 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.

It is unfortunate that human rights are being trampled upon with impunity in many countries of the world, including some Muslim countries. Such violations are a matter of serious concern and are arousing the conscience of more and more people throughout the world.

I sincerely hope that this *Declaration of Human Rights* will give a powerful impetus to the Muslim peoples to stand firm and defend resolutely and courageously the rights conferred on them by God.

This *Declaration of Human Rights* is the second fundamental document proclaimed by the Islamic Council to mark the beginning of the 15th Century of the Islamic era, the first being the *Universal Islamic Declaration* announced at the International Conference on The Prophet Muhammad (peace and blessings be upon him) and his Message, held in London from 12 to 15 April 1980.

The *Universal Islamic Declaration of Human Rights* is based on the Qur'an and the Sunnah and has been compiled by eminent Muslim scholars, jurists and representatives of Islamic movements and thought. May God reward them all for their efforts and guide us along the right path.

Paris 21 Dhul Qaidah 1401 Salem Azzam
19th September 1981 *Secretary General*

O men! Behold, We have created you all out of a male and a female, and have made you into nations and tribes, so that you might come to know one another. Verily, the noblest of you in the sight of God is the one who is most deeply conscious of Him. Behold, God is all-knowing, all

aware.
(Al Qur'an, Al-Hujurat 49:13)

Preamble

WHEREAS the age-old human aspiration for a just world order wherein people could live, develop and prosper in an environment free from fear, oppression, exploitation and deprivation, remains largely unfulfilled;

WHEREAS the Divine Mercy unto mankind reflected in its having been endowed with super-abundant economic sustenance is being wasted, or unfairly or unjustly withheld from the inhabitants of the earth;

WHEREAS Allah (God) has given mankind through His revelations in the Holy Qur'an and the Sunnah of His Blessed Prophet Muhammad an abiding legal and moral framework within which to establish and regulate human institutions and relationships;

WHEREAS the human rights decreed by the Divine Law aim at conferring dignity and honour on mankind and are designed to eliminate oppression and injustice;

WHEREAS by virtue of their Divine source and sanction these rights can neither be curtailed, abrogated or disregarded by authorities, assemblies or other institutions, nor can they be surrendered or alienated;

Therefore we, as Muslims, who believe

a) in God, the Beneficent and Merciful, the Creator, the Sustainer, the Sovereign, the sole Guide of mankind and the Source of all Law;

b) in the Vicegerency (Khilafah) of man who has been created to fulfill the Will of God on earth;

c) in the wisdom of Divine guidance brought by the Prophets, whose mission found its culmination in the final Divine message that was conveyed by the Prophet Muhammad (Peace be upon him) to all mankind;

d) that rationality by itself without the light of revelation from God can neither be a sure guide in the affairs of mankind nor provide spiritual nourishment to the human soul, and, knowing that the teachings of Islam represent the quintessence of Divine guidance in its final and perfect form, feel duty-bound to remind man of the high status and dignity bestowed on him by God;

e) in inviting all mankind to the message of Islam;

f) that by the terms of our primeval covenant with God our duties and obligations have priority over our rights, and that each one of us is under a bounden duty to spread the teachings of Islam by word, deed, and indeed in all gentle ways, and to make them effective not only in our individual lives but also in the society around us;

g) in our obligation to establish an Islamic order:

i) wherein all human beings shall be equal and none shall enjoy a privilege or suffer a disadvantage or discrimination by reason of race, colour, sex, origin or language;

ii) wherein all human beings are born free;

iii) wherein slavery and forced labour are abhorred;

- iv) wherein conditions shall be established such that the institution of family shall be preserved, protected and honoured as the basis of all social life;
- v) wherein the rulers and the ruled alike are subject to, and equal before, the Law;
- vi) wherein obedience shall be rendered only to those commands that are in consonance with the Law;
- vii) wherein all worldly power shall be considered as a sacred trust, to be exercised within the limits prescribed by the Law and in a manner approved by it, and with due regard for the priorities fixed by it;
- viii) wherein all economic resources shall be treated as Divine blessings bestowed upon mankind, to be enjoyed by all in accordance with the rules and the values set out in the Qur'an and the Sunnah;
- ix) wherein all public affairs shall be determined and conducted, and the authority to administer them shall be exercised after mutual consultation (*Shura*) between the believers qualified to contribute to a decision which would accord well with the Law and the public good;
- x) wherein everyone shall undertake obligations proportionate to his capacity and shall be held responsible pro rata for his deeds;
- xi) wherein everyone shall, in case of an infringement of his rights, be assured of appropriate remedial measures in accordance with the Law;
- xii) wherein no one shall be deprived of the rights assured to him by the Law except by its authority and to the extent permitted by it;
- xiii) wherein every individual shall have the right to bring legal action against anyone who commits a crime against society as a whole or against any of its members;
- xiv) wherein every effort shall be made to
 - (a) secure unto mankind deliverance from every type of exploitation, injustice and oppression,
 - (b) ensure to everyone security, dignity and liberty in terms set out and by methods approved and within the limits set by the Law;

Do hereby, as servants of Allah and as members of the Universal Brotherhood of Islam, at the beginning of the Fifteenth Century of the Islamic Era, affirm our commitment to uphold the following inviolable and inalienable human rights that we consider are enjoined by Islam.

I. Right to Life

- a) Human life is sacred and inviolable and every effort shall be made to protect it. In particular no one shall be exposed to injury or death, except under the authority of the Law.
- b) Just as in life, so also after death, the sanctity of a person's body shall be inviolable. It is the obligation of believers to see that a deceased person's body is handled with due solemnity.

II. Right to Freedom

- a) Man is born free. No inroads shall be made on his right to liberty except under the authority and in due process of the Law.

b) Every individual and every people have the inalienable right to freedom in all its forms^{3/4} physical, cultural, economic and political — and shall be entitled to struggle by all available means against any infringement or abrogation of this right; and every oppressed individual or people has a legitimate claim to the support of other individuals and/or peoples in such a struggle.

III. Right to Equality and Prohibition Against Impermissible Discrimination

a) All persons are equal before the Law and are entitled to equal opportunities and protection of the Law.

b) All persons shall be entitled to equal wage for equal work.

c) No person shall be denied the opportunity to work or be discriminated against in any manner or exposed to greater physical risk by reason of religious belief, colour, race, origin, sex or language.

IV. Right to Justice

a) Every person has the right to be treated in accordance with the Law, and only in accordance with the Law.

b) Every person has not only the right but also the obligation to protest against injustice; to recourse to remedies provided by the Law in respect of any unwarranted personal injury or loss; to self-defence against any charges that are preferred against him and to obtain fair adjudication before an independent judicial tribunal in any dispute with public authorities or any other person.

c) It is the right and duty of every person to defend the rights of any other person and the community in general (*Hisbah*).

d) No person shall be discriminated against while seeking to defend private and public rights.

e) It is the right and duty of every Muslim to refuse to obey any command which is contrary to the Law, no matter by whom it may be issued.

V. Right to Fair Trial

a) No person shall be adjudged guilty of an offence and made liable to punishment except after proof of his guilt before an independent judicial tribunal.

b) No person shall be adjudged guilty except after a fair trial and after reasonable opportunity for defence has been provided to him.

c) Punishment shall be awarded in accordance with the Law, in proportion to the seriousness of the offence and with due consideration of the circumstances under which it was committed.

d) No act shall be considered a crime unless it is stipulated as such in the clear wording of the Law.

e) Every individual is responsible for his actions. Responsibility for a crime cannot be vicariously extended to other members of his family or group, who are not otherwise directly or indirectly involved in the commission of the crime in question.

VI. Right to Protection Against Abuse of Power

Every person has the right to protection against harassment by official agencies. He is not liable to account for himself except for making a defence to the charges made against him or where he is found in a situation wherein a question regarding suspicion of his involvement in a crime could be *reasonably* raised

VII. Right to Protection Against Torture

No person shall be subjected to torture in mind or body, or degraded, or threatened with injury either to himself or to anyone related to or held dear by him, or forcibly made to confess to the commission of a crime, or forced to consent to an act which is injurious to his interests.

VIII. Right to Protection of Honour and Reputation

Every person has the right to protect his honour and reputation against calumnies, groundless charges or deliberate attempts at defamation and blackmail.

IX. Right to Asylum

- a) Every persecuted or oppressed person has the right to seek refuge and asylum. This right is guaranteed to every human being irrespective of race, religion, colour and sex.
- b) Al Masjid Al Haram (the sacred house of Allah) in Mecca is a sanctuary for all Muslims.

X. Rights of Minorities

- a) The Qur'anic principle "There is no compulsion in religion" shall govern the religious rights of non-Muslim minorities.
- b) In a Muslim country religious minorities shall have the choice to be governed in respect of their civil and personal matters by Islamic Law, or by their own laws.

XI. Right and Obligation to Participate in the Conduct and Management of Public Affairs

- a) Subject to the Law, every individual in the community (*Ummah*) is entitled to assume public office.
- b) Process of free consultation (*Shura*) is the basis of the administrative relationship between the government and the people. People also have the right to choose and remove their rulers in accordance with this principle.

XII. Right to Freedom of Belief, Thought and Speech

- a) Every person has the right to express his thoughts and beliefs so long as he remains within the limits prescribed by the Law. No one, however, is entitled to disseminate falsehood or to circulate reports which may outrage public decency, or to indulge in slander, innuendo or to cast defamatory aspersions on other persons.
- b) Pursuit of knowledge and search after truth is not only a right but a duty of every Muslim.
- c) It is the right and duty of every Muslim to protest and strive (within the limits set out by the Law) against oppression even if it involves challenging the highest authority in the state.

- d) There shall be no bar on the dissemination of information provided it does not endanger the security of the society or the state and is confined within the limits imposed by the Law.
- e) No one shall hold in contempt or ridicule the religious beliefs of others or incite public hostility against them; respect for the religious feelings of others is obligatory on all Muslims.

XIII. Right to Freedom of Religion

Every person has the right to freedom of conscience and worship in accordance with his religious beliefs.

XIV. Right to Free Association

- a) Every person is entitled to participate individually and collectively in the religious, social, cultural and political life of his community and to establish institutions and agencies meant to enjoin what is right (*ma'roof*) and to prevent what is wrong (*munkar*).
- b) Every person is entitled to strive for the establishment of institutions whereunder an enjoyment of these rights would be made possible. Collectively, the community is obliged to establish conditions so as to allow its members full development of their personalities.

XV. The Economic Order and the Rights Evolving Therefrom

- a) In their economic pursuits, all persons are entitled to the full benefits of nature and all its resources. These are blessings bestowed by God for the benefit of mankind as a whole.
- b) All human beings are entitled to earn their living according to the Law.
- c) Every person is entitled to own property individually or in association with others. State ownership of certain economic resources in the public interest is legitimate.
- d) The poor have the right to a prescribed share in the wealth of the rich, as fixed by Zakah, levied and collected in accordance with the Law.
- e) All means of production shall be utilised in the interest of the community (*Ummah*) as a whole, and may not be neglected or misused.
- f) In order to promote the development of a balanced economy and to protect society from exploitation, Islamic Law forbids monopolies, unreasonable restrictive trade practices, usury, the use of coercion in the making of contracts and the publication of misleading advertisements.
- g) All economic activities are permitted provided they are not detrimental to the interests of the community (*Ummah*) and do not violate Islamic laws and values.

XVI. Right to Protection of Property

No property may be expropriated except in the public interest and on payment of fair and adequate compensation.

XVII. Status and Dignity of Workers

Islam honours work and the worker and enjoins Muslims not only to treat the worker justly but also generously. He is not only to be paid his earned wages promptly, but is also entitled to adequate rest and leisure.

XVIII. Right to Social Security

Every person has the right to food, shelter, clothing, education and medical care consistent with the resources of the community. This obligation of the community extends in particular to all individuals who cannot take care of themselves due to some temporary or permanent disability.

XIX. Right to Found a Family and Related Matters

a) Every person is entitled to marry, to found a family and to bring up children in conformity with his religion, traditions and culture. Every spouse is entitled to such rights and privileges and carries such obligations as are stipulated by the Law.

b) Each of the partners in a marriage is entitled to respect and consideration from the other.

c) Every husband is obligated to maintain his wife and children according to his means.

d) Every child has the right to be maintained and properly brought up by its parents, it being forbidden that children are made to work at an early age or that any burden is put on them which would arrest or harm their natural development.

e) If parents are for some reason unable to discharge their obligations towards a child it becomes the responsibility of the community to fulfill these obligations at public expense.

f) Every person is entitled to material support, as well as care and protection, from his family during his childhood, old age or incapacity. Parents are entitled to material support as well as care and protection from their children.

g) Motherhood is entitled to special respect, care and assistance on the part of the family and the public organs of the community (*Ummah*).

h) Within the family, men and women are to share in their obligations and responsibilities according to their sex, their natural endowments, talents and inclinations, bearing in mind their common responsibilities toward their progeny and their relatives.

i) No person may be married against his or her will, or lose or suffer diminution of legal personality on account of marriage.

XX. Rights of Married Women

Every married woman is entitled to:

a) live in the house in which her husband lives;

b) receive the means necessary for maintaining a standard of living which is not inferior to that of her spouse, and, in the event of divorce, receive during the statutory period of waiting (*iddah*) means of maintenance commensurate with her husband's resources, for herself as well as for the children she nurses or keeps, irrespective of her own financial status, earnings, or property that she may hold in her own rights;

c) seek and obtain dissolution of marriage (*Khul'a*) in accordance with the terms of the Law. This right is in addition to her right to seek divorce through the courts.

d) inherit from her husband, her parents, her children and other relatives according to the Law;

e) strict confidentiality from her spouse, or ex-spouse if divorced, with regard to any information that he may have obtained about her, the disclosure of which could prove detrimental to her interests. A similar responsibility rests upon her in respect of her spouse or ex-spouse.

XXI. Right to Education

- a) Every person is entitled to receive education in accordance with his natural capabilities.
- b) Every person is entitled to a free choice of profession and career and to the opportunity for the full development of his natural endowments.

XXII. Right of Privacy

Every person is entitled to the protection of his privacy.

XXIII Right to Freedom of Movement and Residence

- a) In view of the fact that the World of Islam is veritably *Ummah Islamia*, every Muslim shall have the right to freely move in and out of any Muslim country.
- b) No one shall be forced to leave the country of his residence, or be arbitrarily deported therefrom without recourse to due process of Law.

Explanatory Notes

1 In the above formulation of Human Rights, unless the context provides otherwise:

- a) the term 'person' refers to both the male and female sexes.
- b) the term 'Law' denotes the *Shari'ah*, i.e. the totality of ordinances derived from the Qur'an and the Sunnah and any other laws that are deduced from these two sources by methods considered valid in Islamic jurisprudence.

2 Each one of the Human Rights enunciated in this declaration carries a corresponding duty.

3 In the exercise and enjoyment of the rights referred to above every person shall be subject only to such limitations as are enjoined by the Law for the purpose of securing the due recognition of, and respect for, the rights and the freedom of others and of meeting the just requirements of morality, public order and the general welfare of the Community (*Ummah*).

Glossary of Arabic Terms

SUNNAH - The example or way of life of the Prophet (peace be upon him), embracing what he said, did or agreed to.

KHALIFAH - The vicegerency of man on earth or succession to the Prophet, transliterated into English as the Caliphate.

HISBAH - Public vigilance, an institution of the Islamic State enjoined to observe and facilitate the fulfillment of right norms of public behaviour. The "Hisbah" consists in public vigilance as well as an opportunity to private individuals to seek redress through it.

MA'ROOF - Good act.

MUNKAR - Reprehensible deed.

ZAKAH - The 'purifying' tax on wealth, one of the five pillars of Islam obligatory on Muslims.

'IDDAH - The waiting period of a widowed or divorced woman during which she is not to re-marry.

KHUL'A - Divorce a woman obtains at her own request.

UMMAH ISLAMIA - *World Muslim community.*

SHARI'AH - Islamic law.

Cairo Declaration of Human Rights in Islam.

The Cairo Declaration on Human Rights in Islam (CDHRI) is a declaration of the member states of the Organisation of Islamic Cooperation (OIC) first adopted in Cairo, Egypt, on 5 August 1990, (Conference of Foreign Ministers, 9–14 Muharram 1411H in the Islamic calendar), and later revised in 2020 and adopted on 28 November 2020 (Council of Foreign Ministers at its 47th session in Niamey, Republic of Niger). It provides an overview on the Islamic perspective on human rights. The 1990 version affirms Islamic sharia as its sole source, whereas the 2020 version does not specifically invoke sharia. The focus of this article is the 1990 version of the CDHRI.

The CDHRI declares its purpose to be "general guidance for Member States in the field of human rights". This declaration is widely acknowledged as an Islamic response to the United Nations' Universal Declaration of Human Rights (UDHR), adopted in 1948. It guarantees some, but not all, of the UDHR and serves as a living document of human rights guidelines prescribed for all members of the OIC to follow, but restricts them explicitly to the limits set by the sharia. Because of this limit, the CDHRI has been criticized as an attempt to shield OIC member states from international criticism for human rights violations, as well as for failing to guarantee freedom of religion, justifying corporal punishment and allowing discrimination against non-Muslims and women.

History

Various Muslim countries had criticized the 1948 Universal Declaration of Human Rights for its failure to take into account the cultural and religious context of non-Western countries. In 1981, Said Rajaie-Khorassani—the post-revolutionary Iranian representative to the UN—articulated the position of his country regarding the UDHR, by saying that it was a relativistic "secular understanding of the Judeo-Christian tradition", which could not be implemented by Muslims without trespassing Islamic law.

The CDHRI was adopted in 1990 by members of the Organisation of the Islamic Conference. As of 2012, it had been signed by 45 states. In 1992, the CDHRI was presented to the United Nations Commission on Human Rights, where it was strongly condemned by the International Commission of Jurists.

Contents

The Declaration starts by saying "All human beings form one family whose members are united by their subordination to Allah and descent from Adam", and it forbids "discrimination on the

basis of race, colour, language, belief, sex, religion, political affiliation, social status or other considerations". It goes on to proclaim the sanctity of life, and declares the "preservation of human life" to be "a duty prescribed by the Shariah". The CDHRI also guarantees non-belligerents—such as old men, women and children, the wounded and sick, and prisoners of war—the right to food, shelter, and access to safety and medical treatment in times of war.

The CDHRI affords women "equal human dignity", "own rights to enjoy", "duties to perform", "own civil entity", "financial independence", and the "right to retain her name and lineage". Both men and women are given the "right to marriage" regardless of their race, colour, or nationality. The Declaration makes it incumbent upon both parents to protect the child, both before and after birth, while stressing that the husband is responsible for the social and financial protection of his family, including any children and wives.

The Declaration recognises the rights to property and privacy for the individuals. The Article 18 (b) says that "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". It forbids the demolition and confiscation of any family's residence and the eviction of the family. Furthermore, should the family be separated in times of war, it is the responsibility of the state to "arrange visits or reunions of families".

Article 10 of the Declaration 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 in Islamic society all reasons for conversion away from Islam are considered to be essentially either compulsion or ignorance, this effectively forbids conversion away from Islam.

The Declaration protects each individual from arbitrary arrest, torture, maltreatment, or indignity. Furthermore, no individual is to be used for medical or scientific experiments without his consent or at the risk of his health or of his life. It also prohibits the taking of hostages of any individual "for any purpose whatsoever". Moreover, the CDHRI guarantees the presumption of innocence; guilt is only to be proven through a trial in "which he [the defendant] shall be given all the guarantees of defence". The Declaration also forbids the promulgation of "emergency laws that would provide executive authority for such actions". Article 19 stipulates that there are no other crimes or punishments than those mentioned in the sharia. Sharia allows corporal punishment (whipping, amputation) and capital punishment by stoning or decapitation. The right to hold public office can only be exercised in accordance with the sharia.

The Declaration also emphasizes the "full right to freedom and self-determination", and its opposition to enslavement, oppression, exploitation, and colonialism. The CDHRI declares the rule of law, establishing "equality and justice for all", with the limitations provided under Islamic law. The CDHRI also guarantees all individuals the "right to participate, directly or indirectly in the administration of his country's public affairs". The CDHRI also forbids any abuse of authority "subject to the Islamic Shariah."

Article 22(a) of the Declaration states that "Everyone shall have the right to express his opinion freely in such manner as would not be contrary to the principles of the Shariah." Article 22(b) states that "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 Shariah." Article 22(c) states: "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." This is an explicit restriction on the freedom to make any statement which might be considered blasphemous, the penalty for the making of which might be death and as such the wording of this clause allows the death penalty for blasphemy in clear contravention of the UDHR. Article 22(d) states that "It is not permitted to arouse nationalistic or doctrinal hatred or to do anything that may be an incitement to any form of racial discrimination."

Cairo Declaration on Human Rights in Islam, Aug. 5, 1990, U.N. GAOR, World Conf. on Hum. Rts., 4th Sess., Agenda Item 5, U.N. Doc. A/CONF.157/PC/62/Add.18 (1993) [English translation].

The Nineteenth Islamic Conference of Foreign Ministers (Session of Peace, Interdependence and Development), held in Cairo, Arab Republic of Egypt, from 9-14 Muharram 1411H (31 July to 5 August 1990),

Keenly aware of the place of mankind in Islam as vicegerent of Allah on Earth;

Recognizing the importance of issuing a Document on Human Rights in Islam that will serve as a guide for Member states in all aspects of life;

Having examined the stages through which the preparation of this draft Document has so far, passed and the relevant report of the Secretary General;

Having examined the Report of the Meeting of the Committee of Legal Experts held in Tehran from 26 to 28 December, 1989;

Agrees to issue the Cairo Declaration on Human Rights in Islam that will serve as a general guidance for Member States in the Field of human rights.

Reaffirming the civilizing and historical role of the Islamic Ummah which Allah made as the best community and which gave humanity a universal and well-balanced civilization, in which harmony is established between hereunder and the hereafter, knowledge is combined with faith, and to fulfill the expectations from this community to guide all humanity which is confused because of different and conflicting beliefs and ideologies and to provide solutions for all chronic problems of this materialistic civilization.

In contribution to the efforts of mankind to assert human rights, to protect man from exploitation and persecution, and to affirm his freedom and right to a dignified life in accordance with the Islamic Shari'ah.

Convinced that mankind which has reached an advanced stage in materialistic science is still, and shall remain, in dire need of faith to support its civilization as well as a self motivating force to guard its rights;

Believing that fundamental rights and freedoms according to Islam are an integral part of the Islamic religion and that no one shall have the right as a matter of principle to abolish them either in whole or in part or to violate or ignore them in as much as they are binding divine

commands, which are contained in the Revealed Books of Allah and which were sent through the last of His Prophets to complete the preceding divine messages and that safeguarding those fundamental rights and freedoms is an act of worship whereas the neglect or violation thereof is an abominable sin, and that the safeguarding of those fundamental rights and freedom is an individual responsibility of every person and a collective responsibility of the entire Ummah;

Do hereby and on the basis of the above-mentioned principles declare as follows:

ARTICLE 1:

(a) All human beings form one family whose members are united by their subordination to Allah and descent from Adam. All men are equal in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the basis of race, colour, language, belief, sex, religion, political affiliation, social status or other considerations. The true religion is the guarantee for enhancing such dignity along the path to human integrity.

(b) All human beings are Allah's subjects, and the most loved by Him are those who are most beneficial to His subjects, and no one has superiority over another except on the basis of piety and good deeds.

ARTICLE 2:

(a) Life is a God-given gift and the right to life is guaranteed to every human being. It is the duty of individuals, societies and states to safeguard this right against any violation, and it is prohibited to take away life except for a sharia prescribed reason.

(b) It is forbidden to resort to any means which could result in the genocidal annihilation of mankind.

(c) The preservation of human life throughout the term of time willed by Allah is a duty prescribed by Sharia.

(d) 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 sharia-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 or dismember dead bodies. It is required to exchange prisoners of war and to arrange visits or reunions of families separated by circumstances of war.

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

ARTICLE 4:

Every human being is entitled to human sanctity and the protection of one's good name and honour during one's life and after one's death. The state and the society shall protect one's body and burial place from desecration.

ARTICLE 5:

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

(b) The society and the State shall remove all obstacles to marriage and facilitate it, and shall protect the family and safeguard its welfare.

ARTICLE 6:

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

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

ARTICLE 7:

(a) As of the moment of birth, every child has rights due from the parents, the society and the state to be accorded proper nursing, education and material, hygienic and moral care. Both the fetus and the mother must be safeguarded 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 a legitimate eligibility with all its prerogatives and obligations in case such eligibility is lost or impaired, the person shall have the right to be represented by his/her guardian.

ARTICLE 9:

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

(b) Every human being has a right to receive both religious and worldly education from the various institutions of teaching, education and guidance, including the family, the school, the

university, the media, etc., and in such an integrated and balanced manner that would develop human personality, strengthen man's faith in Allah and promote man's respect to and defence of both rights and obligations.

ARTICLE 10:

Islam is the religion of true unspoiled nature. It is prohibited to exercise any form of pressure on man or to exploit his poverty or ignorance in order to force him to change his religion 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 the Almighty.

(b) Colonialism of all types being one of the evillest 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 peoples to support the struggle of colonized peoples for the liquidation of all forms of and occupation, and all States and peoples have the right to preserve their independent identity and control over their wealth and natural resources.

ARTICLE 12:

Every man shall have the right, within the framework of the sharia, 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 sharia 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 holidays 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 Shariah.

ARTICLE 17:

(a) Everyone shall have the right to live in a clean environment, away from vice and moral corruption, that would favour a healthy ethical development of his person and it is incumbent upon the State and society in general to afford that right.

(b) Everyone shall have the right to medical and social care, and to all public amenities provided by society and the State within the limits of their available resources.

(c) The States shall ensure the right of the individual to a decent living that may enable him to meet his requirements and those of his dependents, including food, clothing, housing, education, medical care and all other basic needs.

ARTICLE 18:

(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 19:

(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 20:

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 21:

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

ARTICLE 22:

(a) Everyone shall have the right to express his opinion freely in such manner as would not be contrary to the principles of the Shariah.

1.. 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 sharia.

(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 23:

(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 sharia.

ARTICLE 24:

All the rights and freedoms stipulated in this Declaration are subject to the Islamic sharia.

ARTICLE 25:

The Islamic sharia is the only source of reference for the explanation or clarification of any of the articles of this Declaration.