

The Cairo Declaration on Human Rights in Islam, 5 August 1990.

Layout marks in color and annotations by Rudi Dierick

in red, statements that are contradictory to universal human rights
underlined; statements that are noteworthy
in blue some comments

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.

RD: "' Cairo Declaration on Human Rights in Islam' is abbreviated in my comments to 'CDHRI'

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;

RD: The authors explicitly chose, by saying 'according to Islam' to discuss an Islamic point of view on human rights, and not a universal point of view. As a result, everything laid down in this declaration should be seen only as valid for Muslims only. This means that it should not bind non-Muslims, nor states with non-Muslim groups. However, that is what happens in most signatory states (as Turkey and Egypt, just to name a few). Therefore, it is contradictory that these states, except for two, who also accepted the Universal Declaration of Human Rights in Islam, signed this declaration.

One might argue that this document is only intention is to lay down non-binding 'guidance' for the organization of life within the Ummah, the community of the Muslims, but it remains a fact that nearly all signatory states never had a coherent policy for the cohabitation of Muslims with non-Muslims. By a 'coherent policy', I mean a minimum coherency between the rules that are formally laid down (as in a constitution) and the actual policy. For the formal rules, there is most often some major confusion and certain contradictions between adherence to both truly universal human rights and to Islamic rules, and

for the actual government, there is nearly always discrimination of non-Muslims.

Therefore, I will explore this contradiction between the fact that states with large non-Muslim minorities signed a document that clearly aspires a validity for the entire state (see also above "general guidance for Member States in the Field of human rights") and their incompatible international obligations (that follow the fact they also signed the Universal Declaration of Human Rights (UDHR)).

Our fundamental objection against the place of the Shari'ah in any declaration on human rights is NOT that some Muslims decide to establish their own religious standards, rights and obligations, but that the declaration doesn't respect the opinions of non-Muslims and of dissenting Muslims.

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.

RD:

1. The UDHR specifies explicitly that all **'human beings'** "are born free and equal in dignity and rights", whereas here, there is a double fundamental difference: the CDHRI only speaks about equal 'basic rights' which is much more restricted than 'rights', and, as explained more in detail later, there is a major issue about whom is to enjoy those equal basic rights: all human beings are only men?
2. The least one can say is that the phrase 'subordination to Allah' is a symbol of gross ignorance and disrespect for all non-Muslims.
3. As this declaration clearly defines all rights as subordinate to the Shari'ah, which is explicitly seen as the only source of reference for the explanation or clarification of all articles, one should also take into account that the Shari'ah, according to all schools of Islamic law, makes significant distinctions in the actual rights of men and women. Therefore, there is a certain contradiction and hypocrisy in stating here that "All men are equal in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the basis of (...) sex, (...).
4. The fact that Shari'ah is implemented partially only in the legislation of many Islamic states can not deny that the law and even more the jurisprudence of all those states make distinctions between the rights of men and women.

(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 shari'ah 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 Shari'ah**.

RD: this 'prescribed by Shari'ah' is totally irrelevant for all non-Muslim citizens of the signatory states!

(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 **Shari'ah-prescribed** reason.

ARTICLE 3:

(a) In the event of the use of force and in case of armed conflict, it is not permissible to kill non-

belligerents such as old men, women and children. The wounded and the sick shall have the right to medical treatment; and prisoners of war shall have the right to be fed, sheltered and clothed. It is prohibited to mutilate 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.

RD: This statement 6 (a) is squarely contradictory with the UDHR where men and women has exactly the same rights and obligations. Article 6 is therefore incompatible with universal human rights as laid down in the UDHR. Statement 6 (b) introduces again an explicit difference in the obligations of men and women which is just as well contradictory with the UDHR.

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.**

RD: this 'in accordance with (...) the Shari'ah' is totally irrelevant for all non-Muslim citizens of the signatory states!

(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.**

RD: This sounds very good. An explicit statement against forcing people in their beliefs and opinions. However, this is generally interpreted in most Islamic countries and also by religious leaders as Y. Al Qaradawi and leading intellectuals as T. Ramadan as a general prohibition for Muslims to leave their faith and convert to another religion, or to become atheist. The clause 'by force' suggests compatibility with the UDHR, but the common interpretation goes way beyond only forced changes! The reports from international human rights organizations on the persecution and even murders of Muslims who leave their faith for something else are sufficiently clear on this.

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 most evil forms of enslavement is totally prohibited. Peoples suffering from colonialism have the full right to freedom and self-determination. It is the duty of all States 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 Shari'ah**, to free movement and to select his place of residence whether within or outside his country and if persecuted, is entitled to seek asylum in another country. The country of refuge shall be obliged to provide protection to the asylum-seeker until his safety has been attained, unless asylum is motivated by committing an act **regarded by the Shari'ah** as a crime.

RD:

1. Earlier articles make an explicit distinction between 'human beings' on the one hand, 'man / men' and 'woman /women'. The term 'human beings' covers both men and women, but women have their own, distinctive rights. Therefore, this article appears clearly intended ONLY for men, and not for women. Nearly all interpretations of Shari'ah indeed exclude women from this right to free movement.
2. As in many other paragraphs, the Shari'ah is clearly considered as a higher source of authority, but there is no single authoritative text that says what that Shari'ah means. As such, this declaration is subject to continuous interpretation. As a result, it can not be a pillar of a modern state of law as there is no clarity at all about what this higher authority (the Shari'ah) means.

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.**

RD: This prohibition of usury is contradictory to the universal human rights (UCHR).

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.

RD:

1. Note that in many interpretations (most?) of the Shari'ah, property rights are only partially valid for non-Muslims. Muslims who become Christians lose inheritance rights in some Islamic states.
2. Even in Turkey, which is seen by many as a democratic state, the state recently decided (under AKP government) expropriations of Christian places of worship without any compensation.

ARTICLE 16:

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

ARTICLE 17:

(a) Everyone shall have the right to live in 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.

RD: This provision on the limits of available public resources might be an example where this declaration is more realistic, honest and modern than the secular laws of some democratic states. Many of these are quite generous in the provision of 'rights', even where it is impossible for them to guarantee that every citizen can effectively enjoy certain of those 'guaranteed' rights.

(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.

RD: as said earlier, property rights are not always equally guaranteed for non-Muslims.

(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.

RD: The UDHR goes far beyond the level of protection of due process as established here!

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 Shari'ah**.

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 Shari'ah**.

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

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

ARTICLE 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 Shari'ah**.

RD: many Muslim states justify exclusion of non-Muslims from certain high public functions as a religious affair, being something done "in accordance with the provisions of Shari'ah".

ARTICLE 24:

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

ARTICLE 25:

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

RD: These last paragraphs make it impossible to remain in doubt: the Shari'ah is explicitly declared as and sole and highest authority that is to govern the public life of all human beings.

Conclusions:

The differences between the CDHRI and the UDHR are huge! They have been voiced on various statements as that by Adama Dieng, a Muslim and a prominent Senegalese jurist, who alerted the international community to the implications that would result from the CDHRI. Speaking for the ICJ and the Paris-based International Federation of Human Rights at the Commission on Human Rights in February 1992 (10), he declared, inter alia, that:

1. The CDHRI introduces, in the name of the defence of human rights, a severe and intolerable discrimination against both non-Muslims and women;
2. It is deliberately restrictive in regard to certain fundamental rights and freedoms, to the point that certain essential provisions are below the legal standards (relative to minimum standards as established by the UDHR) in many Muslim countries;
3. It confirms, under cover of the "Islamic Shari'a (Law)", the legitimacy of practices, such as corporal punishment, which attack the integrity and dignity of the human being.

The CDHRI is not universal, because it is conditional on religious, Muslim law which non-Muslims do not accept. The UDHR places social and political norms in a secular framework, separating the political from the religious. In contrast, the CDHRI introduces into the political sphere a religious criterion, which imposes an absolute decisive and divine primacy over the political and legal spheres. Therefore, it cannot be considered universal, since it endorses all the differentiations between individuals as spelled out in the Islamic Shari'ah law.

Because of these major contradictions and incompatibilities between CDHRI and the UDHR, the fact of a state having signed the CDHRI raises the most fundamental doubts on its sincerity towards the UDHR. This is especially the case for Turkey that, in addition to having signed the UDHR, also pretends, in the context of negotiations with the EU, that it will respect all universal rights as established in the European Convention for Human Rights.