

## HUMAN RIGHTS MECHANISM UNDER THE ORGANIZATION OF ISLAMIC COUNTRIES (OIC): MOVING AWAY OR TOWARDS UNIVERSALISM?

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### ABSTRACT

Regional initiatives for human rights emerged simultaneously to the United Nations' initiative to draft the Universal Declaration of Human Rights, 1948. Among several other factors cultural relativism plays a vital role in shaping this 'local' articulations of human rights. There are established regional as well as sub-regional human rights systems in the world, and we can see cultural aspects in each of these systems. While the debate, whether a universal approach is more desirable or a cultural one, goes on, we have observed several regional human rights arrangements evolving in recent decades. Among the most recent ones is the Arab initiative. The Arab human rights mechanism has been evolving under the aegis of League of Arab States as well as the Organization of Islamic Countries (OIC). This paper is an attempt to present the Islamic approach to human rights for the Arab world within the OIC and to discuss its contribution to the growth of the idea of regional human rights protection and also to assess if this effort is eroding the idea of universalism from its half heated approach towards human rights.

**Key Words:** Human Rights, Organization of Islamic Countries

### THE UNIVERSAL ISLAMIC DECLARATION ON HUMAN RIGHTS, (UIDHR) 1981

The Universal Islamic Declaration of Human Rights UIDHR was led by Islamic Republic of Iran in 1981, two years after the Iranian revolution. In the same year, 1981, the Universal Islamic Declaration of Human Rights (UIDHR) was presented to the United Nations Educational, Scientific and Cultural Organization (UNESCO) in Paris. It was prepared under the auspices of the Islamic Council; a London-based organization which was affiliated with the Muslim World League (MWL), an international non-governmental organization (NGO) which has its headquarter in Makkah, the Kingdom of Saudi Arabia.

The declaration asserts that, the concept of human rights was of divine origin and human dignity could not be reduced to a series of secular norms, hinting that the United Nations Universal Declaration of Human Rights (UDHR) was not respecting the Islamic approach to human rights, and thus, certain concepts contained in the Universal Declaration of Human Rights needed to be revised. It was emphasized that the declaration is contrary to Islam and that it had no validity in the Islamic countries. They include that the Universal Declaration of Human Rights, represents a secular understanding of the *Judeo-Christian* tradition, thus, it could not be implemented by the Islamic countries.

### THE CAIRO DECLARATION OF HUMAN RIGHTS IN ISLAM (CDHRI), 1990

The Cairo Declaration on Human Rights in Islam (CDHRI) 1990 was adopted in Cairo on 5 August 1990 by the 19th Islamic Conference of Foreign Ministers (Session of Peace,

Interdependence and Development) of the 45 Member States of the Organization of the Islamic Conference (OIC), subsequent to the Report of the Meeting of the Committee of Legal Experts held in Teheran from 26-28 December 1989. The CDHRI establishes the Shari'ah law as "the only source of reference" for the protection of human rights in Islamic countries. The CDHRI was presented for approval at the OIC Summit Meeting of Heads of State and Government, held in Dakar, Senegal on 9 December 1991. However, this was averted following a press release from their Geneva-based International Commission of Jurists (ICJ). Despite the aversion, the UDHR, the CDHRI was published in December 1997 by the Office of the High Commissioner for Human Rights in Volume II of International Instruments, which give it a certain authority.

### **OIC HUMAN RIGHTS INSTRUMENTS AND MECHANISMS**

The OIC has attempted to base its perception of human rights on several sources like:

- New OIC Charter
- OIC Ten Year Program of Action (TYPA)
- Islamic humanitarianism
- Independent Permanent Human Rights Commission (IPHRC)
- OIC Plan of Action for Advancement of Women
- Covenant on the Rights of the Child in Islam

These are discussed ahead in the paper.

The new Charter presented the institutional reform program was initiated in 2005. Although the legitimacy of human rights is recognized in the first OIC Charter adopted in 1972, the new Charter gives a greater normative and institutional role for human rights in the OIC. This Charter is devoted to "promote human rights and fundamental freedoms, good governance, rule of law, democracy and accountability", and "protection and endorsing the rights of women and their participation in all domains of life" in member States in accordance 'with domestic legislation'; which is also seen to be a drawback in itself. The new Charter is clearer to uphold human rights, as mentions unambiguous obligations on members; for example, the OIC members are "to promote and to safeguard human rights and major freedoms including the rights of women, children, youth, elderly and people with extraordinary needs as well as the conservation of Islamic family values".

### **TEN-YEAR PROGRAM OF ACTION (TYPA)**

This instrument adopted by the OIC heads of State and government in 2005 acts as a corner stone of the institutional reform embarked on in 2005. The TYPA was developed with the awareness of "the potential for the...[Muslim world] to realize renaissance", and "to take practical stages towards consolidation the connections of Islamic unity, achieve union of ranks, and project the correct image and noble values of Islam and its civilizational attitudes". "As part of a larger development of the OIC, the TYPA introduces a clear concentration on universal human rights and the significance of mainstreaming them into all programs and accomplishments, specifically on human rights and democracy.

### **ISLAMIC HUMANITARIAN INTERVENTION**

The Islamic Cooperation Humanitarian Affairs Department (ICHAD), established in 2008 in order to look after the humanitarian issues and what OIC needs to do. Under the ICHAD the OIC has given importance to the matter of disaster risk reduction and the obligation to reduce

the loss of life, livelihood and economic properties through natural disasters, an initiative which search for to accelerate the universal operation of the Hyogo Framework for Action 2005-2015 and the growing role disaster risk reduction efforts and initiatives is playing in the OIC members 'national policies. In this manner, ICHAD which is the OIC principal point closely cooperates with LAS, ISESCO, the Saudi Arabian Presidency of Metrology and Environment and the Islamic Development Bank. At the time that OIC is emerging as a significant humanitarian actor, the OIC has also advanced partnerships with the official humanitarian sector, including the UN Secretariat, the World Food Program (WFP), The UN High Commissioner for Refugees (UNHCR) and the UN Office for the Coordination of Humanitarian Affairs (OCHA). From the perspective of the formal humanitarian sector, these partnerships not only symbolize an acknowledgment of the developing role of the OIC, but also an optimism that the latter's Islamic identity can assist in developing new tactics to humanitarian action in the Muslim world and facilitate access to zones controlled by Islamist movements opposed to the provision of aid by a system that is largely seen as Western.

The Council Foreign Ministers of OIC by its resolutions in 2011 commends the efforts made by the Humanitarian Affairs Department (ICHAD) to alleviate the sufferings of the needy people in different OIC Member States struck by disasters and calamities particularly in Gaza, Libya, Somalia, Niger and Yemen. It also appreciated the work done by the OIC Funds in Afghanistan, Bosnia Herzegovina and Sierra Leone.

#### **OIC INDEPENDENT PERMANENT HUMAN RIGHTS COMMISSION (IPHRC)**

IPHRC's founding Statute was adopted in 2011, as per the Charter of the OIC. Article 15 of the Charter stipulates the broader mandate of the IPHRC as promoting "the civil, political, social and economic rights cherished in the organization's covenants and declarations and in universally agreed human rights instruments, in conformity with Islamic values."

According to the Statute of the IPHRC, its mandate is limited to carrying out consultative responsibilities for the Council of Foreign Ministers and submitting recommendations to it rather than investigating human rights violations in member countries or undertaking protective functions. The IPHRC is composed of 18 specialists of well-known distinction in the issues of human rights; six members from each geographic regional group (African, Arab and Asian) represented in the OIC; nominated by member States and nominated by the Council of Foreign Ministers for a period of three years. It is pertinent to note here that the establishment of IPHRC symbolizes the increasing prominence of human rights and institutional reforms within the OIC and its desire to increase its relevance and legitimacy among the peoples of member States and endorse its credibility at the international level.

According to a report of the Asia Forum, 2014, IPHRC, as an initiative reflects its growing influence of States like Turkey, Morocco, Indonesia and Malaysia whose approach to human rights may differ from that of traditional players in the OIC like Saudi Arabia, Iran and Pakistan.

On 21 March 2021, the OIC IPHRC joined the international community in observing the 'International Day for the Elimination of Racial Discrimination 2021' and reiterated the importance of recognizing, addressing, and eradicating all forms of racism and ethnic oppression across the world. The body emphasized the role of Islam in this context as follows:

"The Commission underscored that Islam categorically prohibits all forms of racism, discrimination, and intolerance. It is among the fundamental principles

of Islam that all people are equal and enjoy equal rights and responsibilities regardless of their caste, creed, color, or faith. Combatting racism entails respect for diversity, multiculturalism, inclusiveness, democracy, and the rule of law, which are core values needed to enjoy human rights and fundamental freedoms by all.”

### **OIC PLAN OF ACTION FOR ADVANCEMENT OF WOMEN**

In order to achieve the goals set in the Ten-Year Program of Action, OIC adopted the Statute of OIC Women Development Organization in May 2009, with the sole purpose of promoting women rights in member countries. The organization, which is based in Cairo, Egypt, is expected to work for the “development and promotion of the role of women in the OIC Member States, with capacity, talents and competence building, through various mechanisms, including training, education and rehabilitation, in line with Islamic principles and values.”

In Article 5(1) of the founding statute of the OIC Women Development Organization announces that it should “highlight the role of Islam in preserving the rights of the Muslim woman especially at the international level.” Organizational objectives and mandate outlined in the Statute do not allow OIC Women Development Organization to engage directly in a women's rights discourse within the OIC member countries. Instead, its objective appears to be facilitating women's participation in development and countering the negative stereotypes of women in Muslim societies. Finally, safeguarding and endorsing the rights of Muslim minorities in non-OIC countries is one of the primary responsibilities and objectives of the OIC. OIC's engagement with situations involving Muslim minorities has been oriented towards mediation, conflict resolution and providing humanitarian support rather than direct intervention on issues related to human rights violations. In Asia, OIC's involvement had in the past been visible in their mediation efforts in the Philippines and Thailand, between the governments and Muslim separatists. Efforts to resolve the communal conflict in Myanmar between Rohingya Muslims and majority Buddhists have been particularly important.

The OIC WDO held its [Seventh Ministerial Conference on the Role of Women in the Development in the OIC Member States Session of "Women Empowerment in Member States: Challenges and Prospects" in Ouagadougou, Burkina Faso from 30 November - 1 December 2018](#). However, questions remain whether OIC is open to hold itself to the same standards it demands from non-Member States when it comes to Muslim and non-Muslim minorities in OIC States, given increasing reports of abuse of the rights of such minorities in many OIC countries. The ambit of OIC Plan of Action for Advancement of Women has increased with passage of time.

### **AN ASSESSMENT: IS OIC MOVING TOWARDS OR AWAY FROM UNIVERSALISM?**

There is no doubt that for better compliance of human rights they must be culturally constructed, which further means they must be articulated keeping in context the historical, political, cultural of the country or region. However, while doing that, the universal values must be upheld. For example, basic rights cannot be denied in the name of religion or religious practices. The problem within the OIC over human rights understanding has been highlighted by Turan Kayaoglu in the following excerpt:

“ . . . most OIC leaders believe that human rights should accommodate Islamic values. There are three groups within the OIC leadership: 1) radical relativists who deny any legitimacy to the UN human rights system; 2) strong relativists

who argue for the compatibility of Islamic and universal human rights to some degree, but ultimately prioritize Islamic-compatible rights while interpreting universal rights and rejecting universal rights in instances of apparent conflict; and 3) moderate universalists who also argue for the compatibility of Islamic and universal human rights, but prioritize universal human rights and are thus more willing to interpret Islamic values in a way to make them conform to universal rights in instances of conflict”.

Such a situation points at a hopeful position of the Islamic human rights system because there is presence of a more holistic approach towards human rights. It might take a little more time to come to fruition though. It is not important to embrace western particularities of human rights narrative in the Islamic narrative of human rights, rather one must look forward to a unique model presented by the Islamic world. That would be actual contribution in making the human rights holistic.

The Cairo Declaration of Human Rights in Islam was presented to the UN in 1992 and it was accepted into the Human Rights Commission's Compilation of International Instruments in 1997. This action is arguably viewed as a consecration of the document by the UN i.e. by the virtue of Resolution No. 49/19-P on the Cairo Declaration on Human Rights in Islam. Since then the Cairo Declaration of Human Rights in Islam (CDHRI) has formed a part of the international instrument on human rights.

#### **CREATION OF INTERNATIONAL LAW OF BLASPHEMY**

Although, the status given to the document is that of a regional instrument, the universality of its application across the globe cannot be disputed. This is so, because its sponsor, which is the OIC, is a universal body comprising 56 states of the world. Moreover, the CDHRI has been observed as the sole legal source behind the modern proclamation of international law of blasphemy by the UN. The UDHR or any other international instrument does not contain provision for international law of blasphemy. This is however one of the effect of its publication by the UN Human Rights Commission.

The “Defamation of Religions” resolution of 2005 was brought to the UNHRC by the Organization of the Islamic Conference (OIC), with the intention of protecting all religions from defamation, thus, making a blasphemous act, a human right violation and a crime. The United Nations Human Rights Council adopted the resolution by a vote of 21 to 10, regardless of several EU countries concern that religious defamation laws would be used to limit freedom of speech.

#### **SITUATION OF WOMEN IN AFGHANISTAN**

There are concerns over the situation of the female population of Kabul and other parts of Afghanistan controlled by the Taliban, and Taliban's claim that Islam supports their policies concerning women. There appears to be a contradiction that the Cairo Declaration on Human Rights in Islam, adopted by the Organization of the Islamic Conference in 1990, guarantees the rights of women in all fields, however, they are not ensured.

The reference is to article 6 (a) of the CDHRI, which states: "*Woman is equal to man in human dignity, and has rights to enjoy as well as duties to perform...*" These "rights to enjoy" are "subject to the Islamic Shari'ah" (*Article 24*), and the "duties" are also prescribed by the Islamic Shari'ah. Such claw back clauses which give hidden power to the interpretation of Shari'ah leave a gap in the theory and practice of human rights of women.

## COVENANT ON THE RIGHTS OF THE CHILD IN ISLAM

The Covenant appears to be a step in the right direction, however, it fails miserably once analysed. The very first article of the Covenant fails to define who is a child and simply mentions 'a child means every human being who, according to law applicable to him/her, has no attained maturity,' thus leaving it to parent State to deal with the question. Further, in Article 3, mentions that the Covenant is to 'Observe non-interference in the internal affairs of any State' which again leaves child victims at the mercy of State. There are concerns which are not addressed in the Covenant, related to children in armed conflicts and their rights vis-à-vis armed forces.

## CONCLUSION

This paper is a small step towards my larger research work on regional human rights systems and their comparative understanding. It is difficult to negate the emergence of any initiative in the direction of human rights. However, we must bear in mind that the Arab world should be very careful while framing its human rights system as it should not sound too stringent in their approach towards the idea of human rights, especially its being anti-secular as it will have far reaching affects. The Islamic interpretation of human rights would not only be followed by the Arab countries but a significant part of Africa and South Asia as well as South East Asia, and everywhere where we have followers of Islam and practitioners of human rights. We must give the OIC more time to come up with an effective mechanism and more embracing human rights approach.

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