

Islam, human rights and displacement

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December 10th 2008 marked the 60th Anniversary of the Universal Declaration of Human Rights. The UDHR and subsequent instruments of international human rights law and international humanitarian law now play a vital role in providing protection for refugees and IDPs. Yet the claim to universality has been disputed and not all states have acceded to these legal instruments. It seems that a particular point of controversy or dispute in the Islamic world is their compatibility with sharia.

The Forced Migration Review Editors decided to produce this short supplement in English and Arabic (online at <http://www.fmreview.org/human-rights.htm>) to enhance debate and understanding of the concepts and instruments of international human rights in the Islamic world.

We have included the full text of the UDHR and the 'Cairo Declaration' in the hope that they will both inform and enable those concerned with assisting and protecting displaced people to advocate more strongly on their behalf. We have also included three articles that take up aspects of the debate over the applicability of international laws and conventions in Islam. It is impossible to do justice to a debate of such richness and about which strong feelings are held. We have chosen articles which make the case that the needs and rights of displaced people are of prime concern and that both Islamic and international precepts in theory recognise this. This then allows us to call on the strength of both traditions in support of displaced people.

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January 2009

FORCED
MIGRATION
review

Forced Migration Review

Forced Migration Review (FMR) provides a forum for the regular exchange of practical experience, information and ideas between researchers, refugees and internally displaced people, and those who work with them. It is published in English, Arabic, Spanish and French by the Refugee Studies Centre, University of Oxford, and is available free of charge. Email us or visit our website to request FMR.

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Designed by

Art24 www.art-24.co.uk

Printed by

Image Production
www.imageproduction.co.uk
ISO 14001 certified
ISSN 1460-9819

**We are grateful to UNICEF
Iran for their financial
support for this supplement.**

Islam, international law and the protection of refugees and IDPs

Musab Hayatli

Nearly half of the world's 16 million refugees come from Muslim countries while 15 million of the total of 26 million IDPs worldwide are displaced in the Muslim world.¹

Under international law the protection of refugees and IDPs is guaranteed under International Humanitarian Law (IHL) – mainly the Geneva Convention of 1949 and two additional Protocols of 1977, and the Refugee Convention of 1951 and the Protocol of 1967. In addition there is the broader framework of International Human Rights Law (IHRL), the main inspiration for which is the Universal Declaration of Human Rights (UDHR) of 1948. UDHR was a step towards the later adoption of human rights treaties – such as, in 1966, of the two Covenants on Civil and Political Rights, and Economic, Social and Cultural Rights. There are also subsequent regional and topical instruments and many specific Conventions and international agreements that are relevant to the protection and assistance of displaced people.²

Islam requires believers to assist and protect vulnerable people and offers a number of mechanisms for their care and support. However, Islam and Islamic sharia³ do not offer a comprehensive legal system for the protection of refugees and IDPs, at least not according to current understanding of protection. For example, while there is a right to seek asylum, exemplified most notably by the Prophet's migration to Medina to avoid persecution, there is no overtly stated obligation on the part of Islamic states, in sharia at least, to provide asylum.

There has recently been some debate about the UDHR⁴ in the Islamic world, mainly on the issue of whether it is compatible with sharia. Some human rights advocates, both Muslim and non-Muslim, fear that Islam, or at least sharia as practised, might be incompatible with human rights, or with the UDHR, and therefore with IHRL. Some Muslims, on the other hand, argue that the UDHR is in direct conflict with some principles of sharia law and thus unsuitable for the Islamic world.

Perhaps the most fundamental difference between an Islamic and an internationalist point of view of human rights lies in the concept itself. While UDHR stresses the universality of human rights, Islam recognises two types of rights: rights that humans are obliged, by virtue of being the creations of God, to fulfil and obey; and rights that they are entitled to expect from their fellow human beings. It is the latter that correspond to what are elsewhere termed 'human rights'. The former are rights that stem from, and are obtained through, belief in God and religion.⁵ In this concept only God truly has rights and the rights of humans are understood as their obligation to abide by God's commands. They are, first and foremost, the rights of individuals to abide by and adhere to the laws that God decreed and are only possible through this belief system, thus excluding non-Muslims.

Another potentially difficult point to reconcile is the principle of equality between men and women. The UDHR affirms unconditionally the complete equality between the two sexes. Under *sharia* law a woman can expect to be provided for, while men expect to inherit twice as much as the woman. In the situation of the rights of restitution of property to refugees, for example, this would raise questions. What are the implications, for example, for the many female-headed households trying to survive or rebuild lives and livelihoods after conflict and displacement?

Islam does offer an array of rights that humans, by virtue of being human, are entitled to and which, from a modern perspective, seem no different from many of the rights listed in the UDHR. For example, the right to life is a fundamental right in Islam for Muslims and non-Muslims alike. Similarly, a person, irrespective of their religion, has the right to be protected from physical harm unless they commit a crime that under *sharia* law would demand physical punishment or the

death penalty. Equally, some countries which have voted in favour of the UDHR still carry out death sentences. In modern democratic states the state has the 'monopoly on violence'.⁶ In Islam God has this monopoly which is manifested through Islamic law.⁷

Rights to justice, equality, safety, security and human dignity are among those rights deemed indispensable in Islam. These are supplemented by further rights such as social solidarity, the right to education and to own property, and freedom from slavery. It is not difficult to see why some would argue that many of the rights acknowledged and guaranteed in the UDHR are rights that had been granted in Islam some 14 centuries earlier.

The fact remains that there are certain aspects of the UDHR that would make it difficult, if not impossible, for countries wishing to adopt a *sharia* legal system to adopt the UDHR. This was acknowledged by the Organisation of the Islamic Conference (OIC), which includes virtually all Islamic states. The OIC responded by producing its own human rights charter which, while inspired by the UDHR and emphasising "the commitment of its member states to the UN Charter and fundamental Human Rights", is yet compatible with Islamic principles.

The Cairo Declaration,⁸ as the resulting document is known, unfortunately suffers from a lack of universal appeal. This is perhaps an inevitable consequence of linking

what are thought of as universal rights to a specific religion.

Are the UDHR and IHRL then simply incompatible with Islamic law and *sharia*? On a very fundamental level, Islam is egalitarian and seven of the eight Islamic countries present at the initial voting in 1948 voted in favour of the UDHR.⁹ Iran and Lebanon participated in the drafting while the then Pakistani foreign minister called for its adoption.

The UDHR is not a treaty that countries can sign up to. It is a symbolic document representing a universal approach to the rights of all human beings. The actual commitment of a country to various international human rights treaties is through signing up to the individual treaties. The UDHR serves as a source of inspiration for the treaties and not as a legal document. Moreover, most international treaties permit signatory parties to express reservations regarding particular articles or clauses, whether for country-specific or cultural/religious reasons. The majority of Arabic and Islam countries have signed up to most of these treaties while expressing some reservation on some of the details, whether for political reasons (for example, if an article or clause might involve an implicit recognition of the state of Israel) or for religious reasons (such as granting equal rights to men and women when these rights conflict with Islamic *sharia*, as in the case of inheritance).

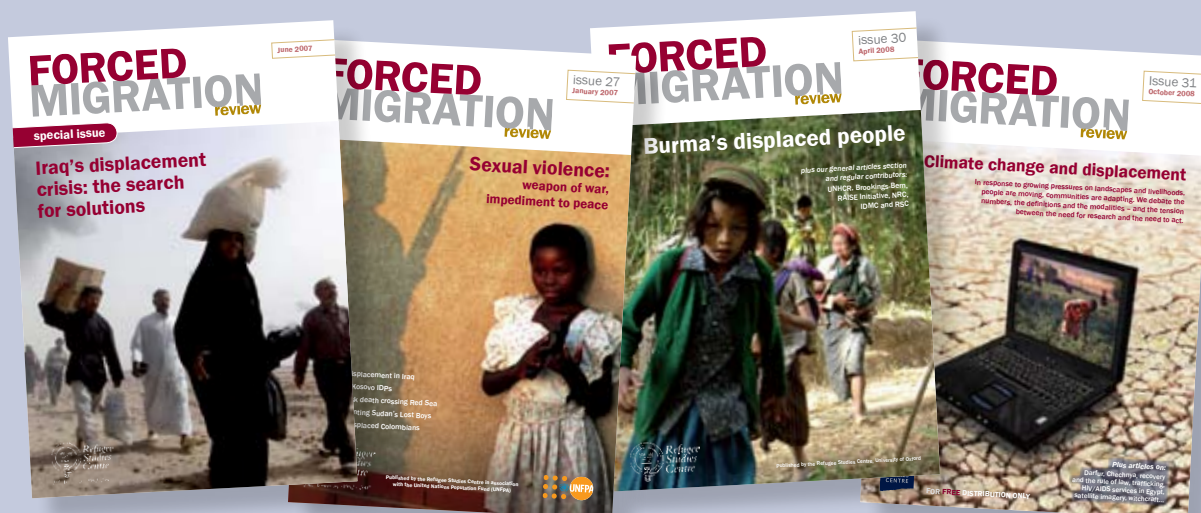
Adopting the international treaties would help fill the gaps in the Islamic protection

regime, particularly in light of increasing calls for the adoption of *sharia* as a source of national legislation. Protection of vulnerable groups chimes with the spirit of Islam. Establishing a legal framework for protecting refugees and IDPs that is also recognised internationally would be a welcome step and would complement existing support mechanisms.

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1. Zaat, Kirsten 'The protection of forced migrants in Islamic law' Research Paper 146, New Issues in Refugee Research, UNHCR, Geneva 2007: <http://www.unhcr.org/research/RESEARCH/476652cb2.pdf>
2. A list of some of these and the countries that have acceded to or signed up to them is on page 10.
3. *Sharia* (meaning 'way') is the legal framework within which the public and private aspects of life are regulated for those living in a legal system based on Islamic principles.
4. The text of the UDHR is on pages 6-7.
5. For a more thorough look at this issue see: 'Proceedings of the Scientific Forum: Human Rights between Islamic Sharia and human law', 2001. Naif Arab University for Security Science, available in Arabic: <http://www.nauss.edu.sa/NAUSS/Arabic/Menu/ELibrary/EBooks/booksnew9/>. See also: Weeramantry, CG (1998) *Islamic jurisprudence: an international perspective*. Houndmills, Macmillan. Also see Ann Elizabeth Mayer 'The Islamic Declaration of Human Rights' and Dalacoura, Katerina, 'Islam and Human Rights' in Rhona Smith and Christien van den Anker *The Essentials of Human Rights* (Hodder Arnold, 2005).
6. See http://en.wikipedia.org/wiki/Monopoly_on_the_legitimate_use_of_physical_force
7. As in modern states, legislation, interpretation and application of these laws will vary from one Islamic state or Islamic authority to another.
8. The text of the Cairo Declaration is on pages 8-9.
9. Afghanistan, Egypt, Iran, Iraq, Pakistan, Syria and Turkey voted in favour while Saudi Arabia abstained.

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The rights of refugee women and children in Islam

Saeid Rahaei

Faith and religious beliefs play an undeniable role in defending the rights of refugees and asylum seekers. Respect for refugees and asylum seekers and appreciation of those who provide refuge have a particular place in *sharia*, and Islam pays special attention to the sufferings of forced migrants.¹

Aman (safeguard) is the term which Islamic law uses to refer to the refuge that Muslims offer to non-Muslims. Such refuge remains inviolate even if the person who is being offered protection is in a conflict against Muslims [9: 6]. Islamic scholars of jurisprudence believe that aman creates an irrevocable bond.

Many instances of migration by the faithful and prophets appear in the holy Koran and in history books. After suffering persecution and torture, the Muslims of Mecca migrated to Abyssinia on the orders of Prophet Muhammad (peace be upon him and his descendents) where they were protected by a Christian king. Prophet Muhammad, was himself a refugee, having fled Mecca with his followers in 622 in order to escape persecution, and as a refugee was cared for by host communities. The Prophet Abraham and his family were forced to migrate and were supported by Almighty God [21: 71]. Moses moved to Midian after being harassed by the Egyptians, where he was provided with housing, employment and other amenities [28: 20-28].

These Koranic verses show that migration can become a necessity for anyone in times of trouble or when one's life and beliefs are in danger. Some verses go as far as requiring the faithful to choose migration in such circumstances (if they are able to do so) [4: 97-99].

The holy Koran requires the faithful to comply with agreements and treaties on the rights of refugees [5: 1]. It provides a set of instructions in dealing with refugees and migrants, praising those who go to the assistance of people in distress and requiring the faithful to protect refugees [9: 100 and 117]. It recognises the rights of refugees and internally displaced persons, entitling them to certain rights and to humane treatment [8: 72-75, 16: 41]. It condemns people whose actions prompt mass migration and views them as lacking faith in God's words [2: 84-86]. Article 12 of the 1990 Cairo Declaration on Human Rights in Islam says: "Every man shall have the right, within the framework of sharia, to free movement and to select his place of residence whether inside or outside his country and, if persecuted, is entitled to seek asylum in another country. The country of refuge shall ensure his protection until he reaches safety."

The holy Koran puts forth certain regulations to lend additional support to women and children, who are considered more vulnerable [4: 2, 9, 36, 75, 98, 127, 17: 34]. Besides, under the principle of justice, which is the basis of all Islamic regulations [42: 15, 16: 90], those who are more at risk as a result of migration and asylum should be offered extra support. This remains the case even in the case of non-Muslims or those who oppose the Muslim faith [5: 8].

Required alms such as khums (one fifth of income or of the spoils of war that Muslims are required to hand out as charity) and zakat (a portion of property that the faithful are required to give away for charitable causes) as well as optional alms constitute a fund that can be used to meet the basic needs of refugees. That part of khums and zakat which is originally reserved for travellers in distress, orphans and the needy could be spent for migrants and refugees.

Some rights in Islam of refugees and asylum seekers, especially women and children

- All people fleeing persecution are entitled to asylum and the rights associated with that status.
- Measures to meet the needs of these individuals are a public duty.
- Refugees should not be left vulnerable to persecution and injustice.
- The rights of the women and children of the host country are the same as the rights of women and children who are taking refuge there [8: 75]. That was why the Prophet declared brotherhood among the Muhajirun and Ansar and stated that "The rights of migrants are the same as those of their hosts." In other words, such women and children, whether accompanied by their families or not, should be offered the same protection as women and children of the host country, in keeping with local or international law.
- Any decision with regard to refugee children should take account of their basic interests [2: 220]. They are entitled to a healthy upbringing and education. From

Some relevant practical concepts in Islam

Ihsan (compassion): All those who are in dire straits, particularly children, should be treated compassionately both in word and deed [2: 83, 4: 36, 37, 17: 26].

Ikram (respect): The needs of children and the needy should be met

respectfully, in a way conforming to human dignity. Respect for children and efforts to meet their needs are a divine requirement [89: 17, 18].

Eiwa (full support): Children, especially migrant children and those who have no caregivers, should

be offered shelter and protection without expecting anything in return [93: 6, 10, 75: 8, 90, 24: 22]. Not paying attention to these children constitutes a failure in practice to comply with Islamic regulations [107: 1-7, 2: 177].

an Islamic perspective, children are innocent, their talents should be fostered [4: 2-4] and they should not be discriminated against.

- Children and women, according to some interpretation of sharia, and being more vulnerable, should be treated with affirmative action (positive discrimination). The Muslim prophet reiterated the rights of women and children more than any other groups. Refugee children and women are among the most deprived people in the world and Muslims should allocate part of their charitable efforts to their support. From a religious perspective, what is offered to these individuals is theirs by right [70: 24, 25].
- If the guardian of a child is granted asylum, the child has to

be offered the same status, thus preserving the right of children to remain with their family.

- The right of these individuals to be reunited with their families should be respected. If parents of these children are not found, the children's relatives should provide protection.
- The stage should be set for these refugees to return to their place of origin when such movement is deemed safe [9: 6].
- They should be treated well at all times.

Conclusion

Islamic rules and regulations constitute a valuable source for protection of the rights of refugees, migrants and asylum seekers. In addition to contractual

responsibilities, they could serve as a faith-based guarantor of the rights of refugees, particularly women and children. Further exploration of respected Islamic sources could result in new mechanisms in this regard.

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1. Suras of the Koran 7: 128 and 137, 2: 49 and 246 on the Israelites, 3:195 on people of the book, 22:40, and 60: 9 on Muslims.

All further references to Suras are in square brackets in the text.

Child rights and Islam

Christian Salazar Volkmann

A greater engagement with Islamic thinkers is overdue in order to facilitate debate about child rights in Muslim societies and beyond.

Interpreting, and applying, the Convention on the Rights of the Child (CRC) is complicated. There are international organisations whose mandate is to interpret the meaning of children's rights and monitor the Convention's application in individual countries. However, the norms and standards set by international bodies are also debated by national government officials, civil society activists and intellectuals.

Religious leaders often play a pivotal part in this process. They have a strong influence in many societies and guide the thinking and action of millions of believers. They possess the moral authority to influence social opinions and behaviour especially in regard to marriage, family life and education. This is true not only for a country like the Islamic Republic of Iran, where since 1979 religion has become the political foundation of the state, but also in societies where state and religion have been separated.

It is important for the worldwide application of child rights to foster deeper understanding about them and Islam. UNICEF has entered into dialogue with Islamic scholars by highlighting congruencies between Islam and

international standards. This dialogue started before the adoption of the CRC in 1989. In 1985 a study was undertaken by Al Azhar University in Cairo on child care in Islam. In 2005 a joint report by the Organization of the Islamic Conference (OIC), the Islamic Educational, Scientific and Cultural Organization (ISESCO) and UNICEF underlined common goals in realising children's rights. The focus of these studies was mainly on social rights, leaving aside the more controversial areas of civil and political rights.

In Iran now, UNICEF is collaborating with Mofid University in Qom in a comprehensive research project: the analysis of the different articles of the Convention on the Rights of the Child from an Islamic perspective. The research is based on the Koran, relevant hadiths, fatwas and other religious and scientific sources and aims at generating and contributing to a comprehensive body of theological guidance and interpretation for Islamic researchers and academics on child rights.

It is not only important that Muslim religious leaders increase their understanding of international child rights standards. The non-Islamic world needs to benefit more from Islamic thinking on this matter. Therefore we

must make the most of opportunities for international dialogue between Islamic and non-Islamic, religious and non-religious thinkers, researchers and practitioners on child rights and on the more difficult issue of women's rights.

A greater engagement of Islamic thinkers and researchers with child rights is overdue as Western legal experts and academics have largely dominated international interpretations of human rights norms. There is also rich Islamic thinking on matters related to child rights and social justice which can help to advance the realisation of social rights of children in many countries of the world. International human rights institutions therefore should maximise opportunities for dialogue on children's and women's rights. In my experience there is a space for such a dialogue between child rights advocates and Islamic leaders. The common ground for improving the situation of children is much larger than the areas where differences exist.

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UNICEF Iran is supporting the production of this special supplement of FMR on Islam and Human Rights as a contribution to international awareness and dialogue about child rights and Islam.

The Universal Declaration

Adopted and proclaimed by General Assembly

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore, the General Assembly, proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by

an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

Declaration of Human Rights

General Assembly resolution 217 A (III) of 10 December 1948

2. Marriage shall be entered into only with the free and full consent of the intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.

2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

2. Everyone has the right to equal access to public service in his country.

3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the

economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance

and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Text online at:
<http://www.unhcr.ch/udhr/>

Cairo Declaration on H

Adopted and Issued at the Nineteenth Islamic Confer

The Member States of the Organization of the Islamic Conference,

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 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.

(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.

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.

Human Rights in Islam

Declaration of Foreign Ministers in Cairo on 5 August 1990

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.

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 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.

(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 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.

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.

Who signed what

Treaty or Convention	Signatory countries
International Covenant on Economic, Social and Cultural Rights 1966	Jordan, Bahrain, Djibouti, Egypt, Iraq, Kuwait, Lebanon, Libya, Mauritania, Morocco, Somalia, Sudan, Syria, Tunisia, Yemen, Iran, Indonesia, Pakistan, Turkey, Bangladesh
International Covenant on Civil and Political Rights 1966	Jordan, Bahrain, Djibouti, Egypt, Iraq, Kuwait, Lebanon, Libya, Mauritania, Morocco, Somalia, Sudan, Syria, Tunisia, Yemen, Iran, Indonesia, Pakistan, Turkey, Bangladesh
Optional Protocol to the International Covenant on Civil and Political Rights 1966	Algeria, Djibouti, Libya, Somalia, Turkey
Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty 1989	Djibouti, Turkey
International Convention on the Elimination of All Forms of Racial Discrimination 1965	Bahrain, Algeria, Comoros, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, Yemen, Bangladesh, Iran, Indonesia, Pakistan, Turkey
Convention on the Elimination of All Forms of Discrimination against Women 1979	Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Saudi Arabia, Syria, Tunisia, United Arab Emirates, Yemen, Bangladesh, Indonesia, Pakistan, Turkey
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984	Algeria, Bahrain, Comoros, Djibouti, Egypt, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, Yemen, Bangladesh, Indonesia, Pakistan, Turkey
Convention on the Rights of the Child 1989	Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, Yemen, Bangladesh, Iran, Indonesia, Pakistan, Turkey
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990	Algeria, Comoros, Egypt, Libya, Morocco, Mauritania, Syria, Bangladesh, Indonesia, Turkey
Convention relating to the Status of Refugees 1951	Algeria, Egypt, Morocco, Somalia, Sudan, Tunisia, Yemen, Iran, Turkey
Geneva conventions 1949	Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, Yemen, Bangladesh, Indonesia, Iran, Pakistan, Turkey
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts 2000	Bahrain, Djibouti, Egypt, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Qatar, Somalia, Sudan, Syria, Tunisia, Yemen, Bangladesh, Indonesia, Pakistan, Turkey
Convention relating to the Status of Stateless Persons 1961	Libya, Tunisia (of only 34 countries that signed the Convention)

Notes:

1. The list focuses on the Arab world as the main focus for our Arabic readership. It also includes five major non-Arabic Islamic countries, namely Bangladesh, Indonesia, Iran, Pakistan and Turkey.

2. All countries listed above, with the exception of Turkey, expressed some reservations regarding any potential implicit recognition of the state of Israel, the equal rights of women or

any contradiction with sharia, as well as the rights of children if, again, they conflict with sharia.

3. The Palestinian National Authority is not entitled to accede to United Nations conventions on human rights or to the International Labour Organization-related conventions. This is why it is the only country in the League of Arab States not to sign any of the treaties and conventions listed above.

Legal instruments, international treaties, conventions and principles

This list below is by no means a comprehensive list. Rather, this is a selection of these treaties, conventions and principles that, in our opinion, have direct or indirect impact on the rights and protection of refugees and IDPs.

You can view the full list of all such documents, and access them, on the website of the University of Minnesota's Human Rights Library at <http://www1.umn.edu/humanrts/>

UN Charter 1945	Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 1985
Rome Statute of the International Criminal Court 1998	Basic Principles on the Independence of the Judiciary 1985
Convention on the Prevention and Punishment of the Crime of Genocide 1948	Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions 1989
Guiding Principles on Internal Displacement 1998	National institutions for the promotion and protection of human rights 1994
Convention against Discrimination in Education 1960	Slavery, Servitude, Forced Labour and Similar Institutions and Practices Convention of 1926
Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief 1981	Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery 1956
Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities 1992	Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others 1949
Declaration on the Elimination of Violence Against Women 1993	Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime 2000
Convention on the Political Rights of Women 1952	United Nations Convention Against Transnational Organized Crime 2000
Convention on the Nationality of Married Women 1957	Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms 1998
Declaration on the Protection of Women and Children in Emergency and Armed Conflict 1974	Convention concerning Indigenous and Tribal Peoples in Independent Countries 1989
Standard Minimum Rules for the Treatment of Prisoners 1953	Declaration of Commitment on HIV/AIDS 2001
Basic Principles for the Treatment of Prisoners 1990	Declaration on the Rights of Disabled Persons 1957
Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment 1988	Declaration on the Rights of Mentally Retarded Persons 1971
Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1988	Declaration on the Human Rights of Individuals who are not Nationals of the Country in which They Live 1985
Declaration on the Protection of All Persons from Enforced Disappearances 1992	
Basic Principles on the Role of Lawyers 1990	
Guidelines on the Role of Prosecutors 1990	

Human rights resources and links

The list below offers only a limited number of the many resources which are available online. They are starting points for anyone wishing to know more about human rights or who would like to keep abreast of developments in this area.

www.pogar.org	POGAR is dedicated to the promotion and development of good governance practices and related reforms in the Arab states; it works in partnership with key governance institutions including human rights institutions, legislatures, judiciaries and civil society organisations to identify needs and solutions.
www.arabhumanrights.org/countries/humanrights.asp#sub1	The Human Rights Index for the Arab Countries, sponsored by the United Nations Development Programme on Governance in the Arab Region (UNDP-POGAR), is a repository for the entire set of UN documents pertaining to human rights and the responses, including formal reservations, by the Arab member states to the committees that monitor the core international human rights treaties.
www.arabhumanrights.org/dalil/index.htm	Arab Human Rights Guides is a publication available online focusing on human rights and development in the Arab world.
www.hrw.org	Human Rights Watch is a global independent organisation dedicated to defending and protecting human rights.
www.ohchr.org	The Office of the UN High Commissioner for Human Rights (OHCHR) represents the world's commitment to universal ideals of human dignity. It has a unique mandate from the international community to promote and protect all human rights.
www.ihr.org.uk/index.php	The Islamic Human Rights Commission is an independent, not-for-profit campaign, research and advocacy organisation based in London, UK. It fosters links and works in partnership with different organisations from Muslim and non-Muslim backgrounds to campaign for justice for all people regardless of their racial, confessional or political background.
www.law.emory.edu/ihr/	The Islam and Human Rights Fellowship Program at Emory University (USA) explores the relationship between human rights and Islam and is designed to put scholarship at the service of practical efforts to promote human rights in Islamic societies.
www.humanrightslebanon.org	The Institute for Human Rights is a specialised body within the Beirut Bar Association which aims at promoting universal values stated in the Lebanese constitution and in UN human rights conventions.
www1.umn.edu/humanrts	The University of Minnesota Human Rights Library houses one of the largest collections of core human rights documents, including several hundred human rights treaties and other primary international human rights instruments. Documents are available in nine languages - Arabic, Chinese, English, French, Japanese, Korean, Russian, Spanish and Swedish.
http://www.cihrs.org/english/default.aspx	The Cairo Institute for Human Rights Studies (CIHRS) is an independent regional non-governmental organisation which aims at promoting respect for the principles of human rights and democracy, analysing the difficulties facing the application of International Human Rights Law and disseminating a culture of human rights in the Arab Region as well as engaging in dialogue between cultures in respect to the various international human rights treaties and declarations.
http://www.un.org/rights/index.shtml	The UN website's human rights page.
www.unhcr.org	United Nations High Commissioner for Refugees
www.unicef.org	United Nations Children Fund
www.forcedmigration.org	Forced Migration Online (FMO) is a website that provides access to a diverse range of information resources on forced migration and displacement.