

## HUMAN RIGHTS IN ISLAMIC STATES

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(summary of presentation)

### A Framework

#### (1) General Premises

- (a) My point of departure is the *universality* of basic human rights as reaffirmed by the World Conference on Human Rights held in Vienna in June 1993. Two footnotes — not of minor importance — should be placed here. First, the Vienna formula<sup>1</sup> was rather the product of a diplomatic *tour de force* than the outcome of a genuine meeting of the minds. Second, the notion of universality stands in an ambivalent limelight when it is interpreted against the background of certain Islamic texts such as the Islamic Declaration of Human Rights and the Cairo Declaration on Human Rights in Islam which make rights and freedoms subject to higher prescriptions of the Islamic *shari'a*.
- (b) A second premise is the *plurality* in Islamic positions and in Islamic countries as regards the promotion and protection of human rights. One should be guarded against the pitfalls of generalizations and against popular *partis pris*.
- (c) At the same time and as a third premise, one should be mindful that there are specific areas of tension and conflict resulting from the application of *shari'a*, in particular

relating to:

- gender equality;
- freedom of religion and expression, including the status of religious minorities;
- criminal justice, notably as regards corporal punishment.

(2) Selection of areas of special attention and selection of countries

In reviewing human rights in Islamic States all efforts must be made to present an objective and balanced picture. Any selection of issues, geographical areas and political, cultural and religious systems entails risks. Nevertheless any analysis cannot avoid giving particular attention to *shari'a* specific areas, referred to under 1c above, on the understanding that many aspects of *shari'a* are consistent with international human rights standards in principle, subject to the limitations and problems which arise in the context of specific areas referred to. Other areas of special attention must be the very basic rights of the human person which can be considered as core rights to be respected at any time and in any place whatsoever. Consequently, the following issues will be given special attention:

- the right to life;
- the prohibition of torture;
- gender equality;
- freedom of religion.

In the selection of countries account must be taken of the wide range of countries with strong Islamic culture and traditions, running from Turkey to Indonesia, as well as those situated in West Asia and North Africa and in parts of Europe. Certain factors have to be given particular attention, notably cultural and

ideological factors, tradition and modernity as well as geographical distribution. Against this background, the following six countries were selected for review: Egypt, Tunisia, Yemen, Iran, Pakistan, Sudan.

(3) Relevant international and regional standards  
Sources for information and findings

The right to life, the prohibition of torture, gender equality and freedom of religion are included, albeit not in identical terms, in the Universal Declaration of Human Rights (1948, Egypt, Iran and Pakistan voted in favour) and in the International Covenant on Civil and Political Rights (1966, ratified by all six countries except Pakistan), in the Arab Charter on Human Rights (1994, no ratifications as yet received by the League of Arab States) and in the Islamic Declaration of Human Rights (1990, proclaimed by the Islamic Conference). As regards sources for information and findings, use was made of the following United Nations materials:

- (a) recent reports of the Human Rights Committee which reviews and monitors on a regular basis the implementation by States Parties of the International Covenant on Civil and Political Rights. The Committee examined situations in Iran, Egypt, Tunisia and Yemen.
- (b) recent reports of thematic Special Rapporteurs of the Commission on Human Rights relating to (i) extrajudicial, summary or arbitrary executions, (ii) torture, (iii) religious intolerance. These reports contain information on all six countries.
- (c) recent reports of visits by thematic Special Rapporteurs, notably to Pakistan (Special Rapporteurs on religious

intolerance and on torture), Sudan (Special Rapporteur on religious intolerance) and Iran (Special Rapporteur on religious intolerance).

- (d) recent reports of country Special Rapporteurs of the Commission on Human Rights relating to Iran and Sudan, as well as a reply by the government of Sudan.

It should be noted that most of these sources also include, as a reaction to allegations on violations and other contested practices, responses on the part of the governments of the respective countries.

## B Some Findings

On the basis of the United Nations materials referred to above, some findings can be reported as regards the selected issues and countries under A2.

### (1) Right to life

- (a) The death penalty is imposed in all six countries and special concerns are expressed about the large number of death sentences (Iran), death sentences imposed on minors (Pakistan), wide powers of military courts in death penalty cases (Egypt), lack of fair trials (Iran).
- (b) Deaths in custody are reported to occur in most of the six countries (Egypt, Iran, Pakistan, Sudan, Tunisia).
- (c) Extrajudicial killings on a large scale and failure to provide adequate protection are reported to take place in most of the six countries (Egypt, Iran, Pakistan, Sudan).

### (2) Integrity of the human person

- (a) Widespread and systematic torture is reported to take place in most of the six countries (Egypt, in particular practised by the State Security Intelligence; Iran, in connection with prolonged incommunicado detention; Sudan as a routine practice; Pakistan and Yemen, many allegations and few investigations).
- (b) Corporal punishments are reported to be meted out in several countries (Iran, floggings, lapidations and amputations; as regards Pakistan the Abolition of the Punishment of Whipping Act 1996 should be noted, except where punishment is provided for as *ḥadd* (an offence laid down in the Quran, for which the penalty is also prescribed in the Quran or the Sunnah); in Sudan *ḥudūd* penalties are also imposed on non-Muslims).

### (3) Gender equality

The sources consulted (see A3) supply hardly any information on this issue. Moreover, it should be noted that the Committee monitoring the Convention on the Elimination of Discrimination against Women (CEDAW) did not examine in recent years the situations in any of the six countries which were selected for this presentation. However, for the sake of indicating some trends it may be useful to refer to two statements as discovered:

- (a) With respect to Iran the UN Commission on Human Rights observed in a resolution of 1997 "lack of full and equal enjoyment by women of human rights, while noting efforts to integrate women more fully into the political, economic and cultural life of the country".

(b) And with regard to Tunisia the Human Rights Committee, monitoring the International Covenant on Civil and Political Rights observed in concluding comments that “despite the significant progress which has been achieved regarding the equal rights of women, there remain a number of outdated legal provisions that are contrary to the Covenant. Those provisions concern the status of married women and their equal rights in matters of child custody, the transmission of nationality and parental consent for the marriage of minor children”.

(4) Freedom of religion, including the status of religious minorities

(a) The right to change religion or belief is largely denied. Thus, Sudan prohibits conversion from Islam to another religion but allows forced conversions to Islam; in Egypt conversion from Islam to another religion meets serious obstacles under threats of arrest; and in Iran the law imposes capital punishment for apostasy.

(b) Blasphemy laws are notorious in Pakistan to the effect that any person guilty of direct or indirect blasphemy against the name of the prophet Mohammed is liable to life imprisonment, or even the death penalty, without any possible form of appeal.

(c) Religious minorities face serious difficulties in certain countries. The sources consulted disclose that Ahmadis are not authorized to propagate and practise their religion as Muslims in Pakistan, that the Baha'is suffer in Iran grave breaches of their human rights and serious forms of discrimination, and that in Egypt undue restrictions are placed on various communities, including Baha'is and Christians, with allegations of killings of the latter with

connivance of officials and support of local security forces.

### C Concluding Reflections

- (1) It should be stressed that the human rights situations and the practices referred to above do not give a complete picture because only a limited number of rights, albeit very essential rights, have been taken into account and because major focus was put on violations and obstacles and not much on any positive aspects and progress made.
- (2) While in some of the selected countries, the human rights situation is strongly influenced by structural violence (armed conflict, religious extremism), the conclusion cannot be avoided that the overall human rights picture in the six countries appears to be unfavourable in spite of acceptance by these countries of international instruments and in spite of a certain degree of willingness on their part to enter into a dialogue with United Nations supervisory bodies.
- (3) The question arises — and needs further analysis — to what extent the findings presented in this paper can be attributed to religious factors, notably religious prescriptions, religious traditions and religious authorities.
- (4) The call for a cross cultural dialogue must be strongly supported. In human rights terms the dialogue should go hand in hand with a critical exchange and monitoring of the human rights situation on all sides, thus for instance paying due attention to racism and anti-Islamic sentiments and practices in European countries.
- (5) Human rights should not necessarily be confused with western

style “market economy” nor with other fashionable notions such as “good governance” or “civil society”.

- (6) In any human rights dialogue and discourse the voices of the victims should be listened to rather than the voices of secular and religious rulers, whose main interest often is the maintenance of the status quo.
- (7) Whenever and wherever a religion (Islam, Judaism, Christianity etc.) or a non-religious belief such as atheism manifests itself as a State doctrine or a State ideology and makes absolute claims on people and society, internationally recognized human rights are bound to be in serious jeopardy.

#### REFERENCES

In addition to United Nations sources which formed the basis of findings presented in this paper, the following literature was consulted for background purposes:

Abdullahi A. An-Na'im, *Islamic Law and Human Rights Today*, 10 *Interrights Bulletin*, 1996, No 1, pp. 3-6.

Mona Rishmawi, *The Arab Charter on Human Rights: A Comment*, 10 *Interrights Bulletin*, 1996, No 1, pp. 8-10.

Heiner Bielefeldt, *Muslim Voices in the Human Rights Debate*, 17 *Human Rights Quarterly*, 1995, pp. 587-617.

#### NOTE

1. The Vienna formula reads: “All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.”