

WORKSHOP REPORT

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In this report I have not reproduced a verbatim of all remarks and discussions by the attendants of this lively workshop. Instead I have tried to deal with some of the most pressing conceptual, empirical, analytical and normative issues which were raised both in the presentation by Theo van Boven and in the comments made by Peter Baehr as well as in the subsequent group discussion.

The concept “Islamic” in a heterogeneous world

The concepts of “Islamic States”, of “Muslim Countries”, and of “Islamic countries” were sometimes used interchangeably which seemed to cause some confusion. The discussion focussed mainly on Islamic countries, i.e. on countries with a majority of Islamic inhabitants. Most of those countries will be among the 51 member-states of the Islamic World Conference. In some of those countries, the constitutional system is explicitly Islamic. There, Islam is the state religion and the *shari’a* is, wholly or in part, implemented. In those cases the concept of “Islamic state” does certainly apply.

Furthermore, in some of the workshop’s deliberations, the concept of Islam itself turned out to be a confusing notion. It was argued by several participants that discussing one culture of Islam is not a fruitful approach as there are no single Islamic views, just like there are no single “western” views. Among both muslims and westerners there is still much disagreement on the relationship between human rights and Islam, and the debates are by no means concluded.

In each Islamic country we can find a plurality of views and interpretations, ranging from orthodox and conservative to moderate and modernist. Some views and interpretations have been promoted as official state positions, and they are laid down in national constitutions and laws as well as in international declarations such as the 1990 Cairo Declaration on Human Rights in Islam and the 1994 Arab Charter of Human Rights. Notably, they have been expressed in reservations made by states acceding to international treaties.

It is of course important to determine to which extent human rights are protected or violated by such normative views and interpretations of Islam.

Empirical evidence from Islamic Countries: violations of human rights

In the discussion of actual violation of human rights attention was paid in the first place to the six Islamic countries chosen by Theo van Boven and to those four human rights that had been selected in his paper, i.e. (1) the right to life (2) the right to physical integrity (3) gender equality and the right to non-discrimination, and (4) the freedom of religion, religious expression, especially of religious minorities. Van Boven's observation of an unfavourable over-all picture with many flagrant violations was shared by the workshop's participants.

(1) The right to life is violated by the execution of death penalties, death in custody, extra-judicial killings but also as a result of abortion. In part, such violations take also place in many non-islamic countries in both East and West even though public opinion on death penalty and abortion may be less unanimous. Whereas the right to life is often violated by cruel and repressive regimes, cases of abortion occur in other contexts, legally or illegally, as part of private life.

(2) The right to physical integrity is violated by systematic torture which is again typical for the kind of autocratic regimes that are often

formed in developing and transitional countries, but not specifically in Islamic countries. However, in the case of corporal punishment, Islamic norms do indeed conflict with this human right. With regard to genital mutilations such as clitoridectomy, which also often occur in Islamic countries, there is disagreement whether this is based on Islamic norms.

(3) Gender equality as a principle evidently conflicts with the *shari'a*'s rules concerning family relationships. Many efforts have been made to improve the legal status of women in Islamic countries. Empirical evidence of actual violations however is rather limited and diverse. Even in countries where significant legal progress has been made, it is usually hard to get an accurate picture of local social realities.

(4) Freedom of religion is limited in most Islamic countries as religious intolerance is widespread. (The terrifying) Islamic rules on blasphemy and apostasy have exerted a heavy toll. Cases like those of Rushdie (Iran), Abu Zaid (Egypt) and Taha (Sudan) show how the conservative Islamic establishment has held an iron grip over Middle Eastern societies to the detriment of liberal-minded modernists and often of religious minorities.

Analysis Causes and changes in the respect and disrespect of human rights

The participants learned from Theo van Boven's survey that violations of human rights can be found "in the books" as well as "in action". Concerning the former they can be found both in the laws themselves as well as in non-legal discourse. However, violations are most concrete and serious as they occur in actual practice.

It was argued that the causes for disrespect of human rights in Islamic countries widely differ. Some causes may indeed be of a religious nature, but other causes show no specific connection to

Islamic norms whatsoever.

Concerning the changes and trends in the relationship between Islam and human rights, it should be noted that Islam, and Islamic reform for that matter, is of much older date than the explicit global recognition of human rights. The latter took effect as from 1948 when the Universal Declaration was promulgated, albeit without Saudi Arabia's support. Eversince, in most Islamic countries a general trend can be seen towards incorporation of many rights in national legislations, both in public law as well as in private law. Whenever this conflicts with strong Islamic views, new draft-laws tend to be full of compromises formulated in rather ambiguous terms. The revival of orthodox Islamic movements since the 1980s, such as has taken place in Iran, Sudan or Algeria, has of course exerted influences in the opposite direction. Yet, the Arab and Islamic declarations on Human Rights, both promulgated in the 1990's, bear evidence of a general trend among Islamic countries to officially pay respect to human rights.

Concluding remarks

In this workshop Theo van Boven and Peter Baehr presented the vision of Basic Human Rights which are to be recognized and put into practice by all states and peoples. They represented the universalist view of international standards.

This view has been enhanced since international human rights treaties have been subscribed to by most Islamic countries. There are even special Islamic and Arabic Human Rights treaties. In reality however, most muslim countries, like most other countries in Africa and Asia, face conditions that are conducive to serious violations of human rights as mentioned above. These countries are usually characterized by:

- legal uncertainty concerning the state's legal system;
- discrimination of certain social groups (women, minorities);

- autocratic political systems;
- diversity of norms regarding Islam, as there is no single Islamic view.

Only some types of human rights violations can of course be attributed to Islamic views.

Some participants of the workshop proposed that in addressing these violations, there is need for a cross cultural dialogue. In this respect it was acknowledged that in the west there is also a plurality of views on issues such as morality, death penalty, abortion or the wearing of headscarfs. Such dialogue should take place at two levels. First, in the United Nations and other international fora, and secondly, at local levels where NGO's and local people are confronted with daily realities. It was suggested that the West should listen first in order to get rid of its reputation of colonialism. The West should share the burden of improving economic and social conditions, it was said. It should not attack Islam but be keen to support plurality. Yet, all participants agreed that there must be certain limits to tolerance if one wants to contribute to the realization of human rights in Muslim countries.