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THE UNIVERSAL DECLARATION OF HUMAN RIGHTS IS NO MORE THAN A WISH LIST OF LIBERAL WESTERN VALUES.

Syed Raza Shah Gilani*, Frank J. Cavico**,
Fayyaz Ur Rehman***, Inayat Ullah Khan****

Abstract

The universal Declaration of Human Rights was promulgated on 10 December 1948, in order to safeguard the rights of the Human Beings, which are so fundamental that cannot be derogated at any cost. The right to provide the security to the people and safe them from atrocities were the main objective of this declaration. Since the formation of this charter that was 65 years ago it seems that it is standing on a same place from where it has started.

Key words: UDHR compatibility, Human Rights, concept of universality & Uniformity

Just after the Second World War in 1945 the United Nation Organization (UNO) was formulated with the aim to protect and safeguard the fundamental rights of all the Human beings. The main purpose of this organization was to bring peace and equality in the world. In this regard in 1948 a Universal Declaration of Human Rights¹ (Declaration) was adopted.

In order to achieve and to promote the universal respect and make sure the observance of Human Rights, this Declaration was signed and pledged by most of the member states of United Nations Organization. Preamble of the Declaration clearly revealed the equal and absolute

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1 10 December 1948 Universal Declaration of Human Rights.

apply it with the common standard on the state of India which is comprised of different cultures and many languages (about 26 internationally known languages and about more than 347 local languages, recognized by state and international community) then the concept of uniform rights become vague. Obviously when languages are different their cultures must be different and every culture and every religion has its own standards which are obviously different from each other.

In spite of the fact that there is diversity in this world, we have given an idea of common standard of achievement which means the rights are uniform. In the West the growing consent that Human Rights are universal and uniform has been violently disparate by the people⁴ from various parts of the world. There are many questions behind this idea; the Human Rights declaration has been formulated on the bases to safeguard the rights of an individual and every individual must have an association with some culture and every culture has its own standards, norms and traditions not necessarily resemble to one another.

Many philosophers like Arash Farzaneh⁵ are of the opinion that nothing in this world is universal and definitely not uniform; it varies country to country, and culture to culture, if it is true then the concept of common standard of achievement become indistinct, and the concept of equal rights implementing in a same manner becomes unreal and formulated on presumptions.

No doubt modern technology of mass communication has minimized this world in a global village, but there is a variety in this world that cannot be analyzed with a single eye. The other factor is equality when we agree on the equal rights for everybody; on the other hand, we are ignoring the norms of other traditions and cultures. We cannot say that the values of the consumer society can be applied to societies that have nothing to consume. It is just like when we say that the rich and the poor both have same rights to fly first class and to sleep under bridges. The

4 Keck, Margaret E., and Kathryn Sikkink. "Activists beyond Borders: Advocacy Networks in International Political." Cornell University Press, 1998, p. 1

5 Arash Farzaneh is a writer and a language professor. He has a Master's degree in French literature with a minor in Psychology. Since his youth he has been fascinated with philosophy and literature. He speaks five languages and teaches English, French, German and Philosophy classes. He has been published in international magazines, among them Bewildering Stories, 3 4th Parallel, The Truth Magazine, and Raving Dove.

He is interested in cinema, music, history, politics, and psychology. He enjoys traveling and learning about different cultures and mentalities. He can be reached at foryoubles@hotmail.com and maintains a blog at arashworld.blogspot.com.

Universal Declaration of Human Rights is hard core and gives standard laws for all the Human beings practically which is impractical.

Like in India, Hindu culture is divided into four casts; the most superior is "Brahman", second "Kachary", third "Wehsh" and the last which is least "Shouder", Shouder cannot be Brahman. He is not allowed to use those facilities and privileges, which are available to the upper casts. Even they are not permit to set in a same place and cannot eat on a same table and worse from all when Shouder accidentally touches the Brahman, Brahman consider it as a curse. In this situation how we can impose a right envisaged in the Article 2⁶ of UDHR, which talks about the equality in the society.

The declaration affirms the right of an individual and his liberty but most of the Nations in the world believe in "*Collective Responsibility and Collective Representation*". An African writer⁷ in one of his book has described an African philosophy of survival.

"I am because we are, and because we are therefore I am".

Many African writers⁸ have concluded after making a detailed analysis of African culture that they have in Africa a complex structure "of common rights and common obligations" which comprised of four "r's" in which "rights" are missing they are *Respect, Restraint, Responsibility, and Reciprocity*.

It is pertinent to argue that in some cultures, precedence of group rights are always overwhelmed over individual rights, almost all the political decisions have been made through group consensus, respecting group rights not individual rights. Many under developing countries are facing problems in providing the rights as written in UDHR and they asserted that some Human Rights are hard to implement in their society, for example, the right of paid vacations⁹, equal rights of a women, Like in Iran women cannot contest for the presidential elections, it is in their constitution, how can we implement the women's right to contest the

6 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.

7 Issa G. Shivji (born 1946) is an author and academic, and one of Africa's leading experts on law and development

issues. He has taught and worked in universities all over the world. He is a prolific writer and researcher, producing books, monographs and articles, as well as a weekly column printed in National newspapers.

8 Ayeta Anne Wangusa, born in Kampala, Uganda, on 9 September 1971, is a writer and activist.

9 *La Grain magique* (1966) - reprint *La Découverte* (2000), ISBN 2707125784

election of presidency, it may definitely led us to the violation of their constitution. Same is the case in Arab countries, women cannot be the head of the state, it is in the part of their culture and tradition; in this circumstance these rights of women are difficult to implement.

Few years back when the 50th anniversary of UDHR was celebrated, some thinkers¹⁰ have showed their serious reservations on the implementation of this charter. In their opinion this declaration reflects the wishes of the west; it can't oblige all the people of the world. They also argue that the developing countries often can't afford Human Rights, since the task of Nation building, economic development, and consolidation of the state structure to these ends are still unfinished.

Most of the Asian countries are under developing stages they have to emphasis more on their infrastructure rather than to work on some other things. The rights, which are stated in the declaration, are seemed to be suitable for the western culture, they are designed according to their needs, and hence it can't fulfill the need of other Nations for them right to have a food and a place to live is sufficient.

The concept of same rights for everybody seems not successful therefore; many Nations are still struggling against poverty, hunger and illiteracy. The problem of third world countries are not to provide their people a right to rest or leisure nor to give them incentive of reasonable limitation of working hours as mentioned in (Article 24)¹¹, their problem is how to remove hunger and poverty from their country. They are living below poverty rate, no basic facilities for education has been provided and most of the people are illiterate and cannot even understand the meaning of rights, all they know about their rights are, place to sleep and work to eat and that's it. In these poor countries food and water is more important than right to vote or freedom of expression. Keeping in view the above arguments how we can provide them with the same rights in a same way as there are differences in their needs, in their desires and wants. Obviously poor Nations need some special attention than people living in rich countries.

Articles of Universal Declaration of Human Rights and their feasibility

The article 5¹² of UDHR describes that

¹⁰ <http://en.wikipedia.org/wiki/Syria>.

¹¹ Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

¹² No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

“ no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”

Practically it is not happening as the western declares the war against terrorism, and the way NATO invaded in Afghanistan and then Iraq it brutally violated the Human Rights. The world has witnessed the grave violation of the declaration in IRAQ'S intervention. Human Rights and Fundamental Freedoms were brutally dishonored and the basic right of life was infringed reported in one of the United Nation's report¹³

Article 16 of the Declaration allows and safeguards the right of marriage, as it says that there is no discrimination of race, nationality or religion, everyone has a free right to marry and find family. This article contradicts with norms of many religions and customs of the world, like in Islamic law there are prescribed standards of marriage for a Muslim male and female. Muslim girl is not allowed to marry with a Non-Muslim and male Muslim is only allowed to marry with a female Muslim woman or Kitabiyah¹⁴

In western countries, marriages are social contract between the two partners, but in other religions especially in Islam it is less social contract and more religious obligation. All the duties and rights of the husband and wife has been mentioned in the Holy Book of Quran¹⁵. In most of the African cultures, marriages are not only the unity of a man and a woman, but it is the unity of the two families. In the African culture their elders are responsible for the contract of marriage between man and a woman and that's how they strengthen their families¹⁶

Article 18 of the Human Rights Charter guaranteed for the right to adopt any religion, it describes that

“everyone has a right and freedom of thought, conscience and religion, a right to change the religion or belief”

Most of the religions of the world put a harsh penalty on those who changed their religions like in Hinduism, when anybody diverts from his religion there is a penalty of social boycott while in Islam the penalty is apostasy which means death penalty. According to one of the Britain's *Daily Telegraph*¹⁷ reported the leading efforts of Prince Charles¹⁸ to combat the Islamic Law of apostasy, under which conversion from the Muslim Religion is at the very least illegal and is often punishable by

13 (10th meeting held at the Palais des Nation, Geneva, on Tuesday 13 August 1991, at 10 AM see official record: UN Document E/CN.4/Sub.2/1991/SR.10,20 August 1991)

14 It generally refers to a person who believes in a holly Book like Jews & Christians.

15 In Surah Nisa, Validity of a Marriage

16 Article 18 of African charter of Human and people's Rights 1981

17 <http://www.frontpagemag.com/Articles/ReadArticles.asp?ID=16829>

18 Prince Charles, England

death but no significant result has been achieved so far. Here a question arises that the Declaration, while giving permission to change the faith¹⁹ doesn't mean a violation to intervene in one's religion shattering the norms and abetting him to disobey. In most of the Muslim countries freedom to change the religion doesn't exist, conversion from Islam is illegal in at least fifteen countries²⁰, and the punishment of death is in at least eight countries Pakistan is one of them. In this situation the significance of article 18 seems to be weakened. Religion is most sensitive matter in once life and history witnessed that many wars has been fought in the name of religion. Like war of Crusaders²¹ between Christian and Muslim, Christian had won the war, and they conquered the Jerusalem²². History is the witness of the death of many people died in the name of the religion. Islam doesn't give permission to any Muslim to change the religion; it is the question of belief.

A declaration can be for the people belong to one Nation, one religion or same culture like African Charter on Human and people Right 1981. Universal Islamic Declaration of Human Rights²³, European Convention of Human Right 1951²⁴ etc. It can't be for the whole world. Every religion is based on some principles, and the declaration contradicts some of the principles as mentioned before especially with Islamic Laws. Every culture has a strong impact of the religion, therefore, making one policy for everybody doesn't suit here. Every culture requires some safety from intrusion like African Charter²⁵ clearly reveals that

"While adopting any law the commission shall take into consideration the practice and customs acceptable to our society".

19 Article 18, Universal Declaration of Human Rights

20 Iran, Egypt, Pakistan, United Arab Emirates, Somalia, Afghanistan, Saudi Arabia, Sudan, Qatar Yemen, Malaysia, Mauritania, Morocco, Jordan, Oman.

21 First Crusade was launched in AD 1096

22 The Crusaders conquer Jerusalem, 1099 to 1291, <http://www.eretzyisroel.org/~jkatz/palestine.html>

23 Universal Islamic Declaration of Human Rights. 21 Dhul Qaidah 1401 19 September 1981.

24 The European Convention on Human Rights (ECHR) (formally the Convention for the Protection of Human Rights and Fundamental Freedoms) is an international treaty to protect Human Rights and fundamental freedoms in Europe. Drafted in 1950 by the then newly formed Council of Europe,¹¹ the convention entered into force on 3 September 1953. All Council of Europe member states are party to the Convention and new members are expected to ratify the convention at the earliest opportunity

25 Article 61 of African Charter on Human and People Right 1981

Same in the case with the Universal Islamic Declaration of Human Rights²⁶ its article 4 (e) describes that

“it is the right and the duty of every Muslim to refuse to obey any command which is contrary to the Islamic Law, no matter by whom it may be issued”.

As the culture is different, so are their norms and so are their punishments. One act may be prohibited in one religion, while in other religion it is not, hence when the religions cannot treat an act in same manner, then how it is possible that one can impose standard rights and duties for all the people belongs to different believes.

Article 25 (2) of the declaration explains the rights of motherhood and childhood that they

“are entitled to special care and assistances, all children, whether born in or out of wedlock, shall enjoy the same social protections.”

Every society has its own mechanism of inheritance, adoption and marriage. In Islam a child born out of wedlock is considered to be an illegitimate child and has no right to inherit from the father's legacy²⁷.

IMPORTANCE OF UNIVERSAL DECLARATION OF HUMAN RIGHTS.

On the other hand there is a concept of worldwide Human Rights. Some thinkers²⁸ are of the opinion that it is a universal idea of Human Rights that can in fact help make the world safer from infringement of those rights which are common to all the societies. According to their opinion the concept of justice and law, the legitimacy of government, the dignity of the individual, protection from oppressive or arbitrary rule, and participation in the affairs of the community are found in every society on the face of this earth. Fundamental rights are always universally common, and the needs of these rights are always required in every part of the world. Like right to live, right to express, right to have a property, there are the basic rights, and without them there is no concept of life. They support their arguments by adding that during the past decades the principles of Human Rights have been widely adopted by many civilizations. Culture is constantly evolving in any living

26 21th Dhul Qaida 1401, 19th September 1981.

27 Islamic Law of Shria, Chapter Marriage, Rights of Legitimacy of a child

28 The European Philosophers from Descartes to Nietzsche (Modern Library of the World's Best Books) by Monroe C. Beardsley (Sep 5, 1992)

society, responding to both internal and external motivation, and there is much in every culture that societies quite naturally outgrow and reject. In India the choices are there for a Muslim girl at a time of her marriage if she marries under the provisions of the Indian family law²⁹ ; she will be subject to its provisions and not the Muhammad Law and also exempted from its provisions.

UN secretary General Kofi Annan³⁰ has once said,

“the problem is usually not with the faith, but with the faithful. In any case, freedom is not a value found only in Western faith; it is highly prized in Buddhism and in different aspects of Hinduism and Islam.”

Conclusion:

This declaration is a very important piece of an International document, because it gives us a manifesto. A manifesto for the whole world, it is the guideline for all the other Organizations, who are working for the betterment of Humans. It is pertinent to say that no doubt the Articles of UDHR are difficult to implement uniformly and the yardstick to measure the common standard of achievement is not much effective in front of the diversification of the universe. But no one can deny the existence of UDHR as it is very essential to keep the declaration alive on which all the Nations have made their consensus and declare some rights and freedoms so essential that they cannot be derogated even at the time of emergency. The UDHR is like a mouth of a river and all other conventions, declarations and protocols are emerging from it. The regional and National conventions played a vital role in bringing the awareness of Human Rights but all of them have enshrined this idea from UDHR 1948. We need to understand the concept of Human Rights as universal or uniform. The Declaration of Human Rights 1948 is a fundamental and basic document it has not extend to lowest rungs of the ladder, we have to work more to make it effective and successful.

²⁹ The Muslim Women (Protection of Rights on Divorce) Act, 1986.

³⁰ Kofi Atta Annan (born 8 April 1938) is a Ghanaian diplomat who served as the seventh Secretary-General of the United Nations from 1 January 1997 to 31 December 2006. Annan and the United Nations were the co-recipients of the 2001 Nobel Peace Prize for his founding the Global AIDS and Health Fund to support developing countries in their struggle to care for their people.

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³¹ Amnesty International, usa. action for Human Rights, hope for humanity press release February, 06 2009