

nige islamische Nichtregierungsorganisationen). Viele muslimische Organisationen fordern seit längerem eine verbindliche Überarbeitung der IMR, die somit als völkerrechtliches Instrument fungieren könnte, sowie die Schaffung eines islamischen Menschenrechtsgerichtshofes.

Eine Reihe liberaler, um Reformen bemühter Muslime distanziert sich derweil von den IMR. Viele möchten den Koran als Produkt seiner Zeit betrachtet

wissen, der folglich nur bedingt Rechtswirksamkeit behalten soll. Entsprechend befürworten sie die Anerkennung und Einhaltung der Allgemeinen Erklärung der Menschenrechte in der islamischen Welt. Für viele dieser Muslime würde sich eine an heutigen Bedürfnissen und Werten orientierte islamische Menschenrechtserklärung kaum noch von der AEdM unterscheiden.

Islamic Human Rights under scrutiny

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The frequent human rights abuses which take place in nearly all countries of the Muslim world are often the result of corrupt or dictatorial regimes and not necessarily due to either Islam or these countries' view of human rights. Less widely known, however, is that international associations in Muslim countries have formulated their own human rights declarations in opposition to the Universal Declaration of Human Rights adopted by the Plenary session of the United Nations in 1948.

Prominent among Islamic associations are the Muslim World League (MWL) and the Organisation of Islamic Conferences (OIC). The best known, the MWL², under Saudi leadership was founded in Mecca in 1962 by Islamic academics from 22 countries with the aim of promoting Islam, humanitarian aid and links of solidarity between Islamic organisations and countries. The League regards

itself as the cultural and religious representative of the Islamic world and employs its vast financial resources not only for aid but also in promoting the strict Wahhabite form of Islam.³

57 Islamic countries currently adhere to the Organisation of Islamic Conferences⁴, founded in Morocco in 1969, one of whose aims is the world-wide furtherance of the interests of Islam, which includes economic, political, scientific and cultural cooperation between the member countries and support for the Palestinian people's struggle for an independent state.

These organisations regard the 1948 Universal Declaration of Human Rights as a product of Western, Judeo-Christian values and thus not fully compatible with those of Islam. The best-known and most representative Muslim human rights declarations are the Islamic Council of Europe's⁵ "Universal Declaration Human

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² cf. www.themwl.org.

³ A puritanical form of Islam which is the official religion of Saudi-Arabia.

⁴ cf. www.oic-oci.org.

⁵ A London-based NGO in with close ties to Saudi-Arabia. The text can be found under <http://www.dadalos-d.org/deutsch/Menschen>

Rights in Islam” of 1981, the OIC’s “Cairo Declaration” of 1990⁶ and the Muslim World League Council’s 1994 “Arab Charta on Human Rights.”⁷ On a casual reading the Islamic human rights declarations appear hardly to differ from the Universal Declaration of Human Rights,⁸ but a fuller background knowledge and deeper awareness of certain Islamic concepts reveals divergences particularly in three areas: the rights of males, women and non-Muslims, creating the impression of a three-class society.

The Need for Divine Orientation

Islamic human rights declarations take the view that people are incapable of recognising or defining human freedoms or responsibilities autonomously without Qur’anic guidance. The preamble to the Islamic Council of Europe’s “Universal Declaration Human Rights in Islam” puts it like this: “Recognising unconditionally the fact that human reason, unaided by divine guidance and revelation, is incapable of walking the optimal life path; and in our correct view – in the light of our noble book (the Qur’an) – of the human condition in its present existence and of the purpose and wisdom for which it emerged and was created; we Muslims, as standard-bearers of the call (da’wa) to God at the commencement of the 15th century of the Hijra, promulgate in the

name of Islam the following declaration of human rights derived from the holy Qur’an and from the pure tradition (sunna) of the Prophet.”⁹ This virtually denies to non-Muslims, deprived of the god-given advantages of the Qur’an, the sunna tradition and Islamic law the capacity of behaving responsibly on the basis of conscience and of distinguishing between right and wrong.

A fundamental premise of Islamic human rights declarations which is often underestimated in the West¹⁰ is that human rights are grounded in divine right, in the sharia. This means that divine standards alone furnish authoritative guidelines, as becomes clear in that frequent supplementary references to such standards effectually deprive Islamic human rights statements of absolute validity. Such statements can only be understood correctly against the background of Islamic jurisprudence, the Qur’an and the sharia.

The Influence of the Sharia on Human Rights in Islam

A practical example: in principle Muslim men are guaranteed full human rights but only within the framework of divine standards, which outline not only his social and family duties such as honouring parents, presiding and providing for his family, caring for the poor and opposing the enemies of Islam but also his individual lifestyle, his religious ambitions and liberty. He is expected for example to found a family, abstain from alcohol and

rechte/Grundkurs_MR2/Materialien/dokument_8.htm. (last viewed in December 2005).

⁶ The Cairo Declaration of Human Rights of 1990 can be found in English under <http://www1.umn.edu/humanrts/instree/arabhrcharter.html###1>, in Arabic under <http://www.themwl.org/>. (last viewed in January 2006).

⁷ cf. <http://www1.umn.edu/humanrts/instree/arabhrcharter.html###1>.

⁸ The 1990 and 1994 editions in non-Arabic languages appear to show little differences but this is not the case with the Arabic texts.

⁹ Preamble to the Islamic Council of Europe’s “Universal Declaration Human Rights in Islam” of 1981.

¹⁰ Repeatedly referred to in all translations of both preamble and articles.

pork and maintain religious standards in all aspects of daily life.

Freedom of Religion, Opinion and Expression.

Article 18 of the Universal Declaration of Human Rights guarantees full religious freedom including the untrammelled right to change one's religion. According to Islamic jurisprudence however everybody is regarded as a Muslim by dint of birth, especially when born in a Muslim family. An individual decision to adhere to Islam is not contemplated and the sharia allows no freedom whatever to renounce Islam. Islamic jurisprudence regards apostasy as social treason and as the political act of an enemy. In many Muslim countries it can entail a prison sentence and the loss of employment, family, and possessions. Religious liberty in Islam means in effect one is free to practise Islam or become a Muslim but not to renounce it. This also restricts the rights of the Muslim male, who in other respects enjoys the greatest privileges.

Freedom of opinion and expression is also restricted by the serious consequences which can ensue if Muhammad or the Qur'an are criticised. In the Islamic ideal for society and jurisprudence a man's personal liberties, freedom of movement, opinion and conscience take second place behind Islamic principles and religious duties toward God, society and family.

Muslim Women's Rights

The relative status of rights and liberties compared to divine norms is particularly evident in the instance of Muslim women. They too are guaranteed full human rights, but the term "full" proves to be misleading. Muslims often cite Sura 49.13: "O people! We created you as

male and female beings." This must not be understood as full social, political, religious and legal equality in the Western sense. In orthodox Islam and thus in Islamic human rights, women's duties and rights derive largely from their function as wife and mother. This includes matrimonial duties and bearing and rearing children but also obedience to God and one's husband, as laid down in Sura 4.34: "Man have a higher status than women because Allah marked them out and because of the disbursements made from their assets. An upright woman is humbly submissive and looks after what is hidden from outsiders, because Allah looks on it. Should you fear that women rebel, then admonish them, abstain from conjugal relations and beat them! If they then obey you, take no further steps against them. God is exalted and great."

A woman's freedom of movement and choice of profession is further limited by the father's or husband's religiously sanctioned virtual tutelage.¹¹ The same is true for the care of the children. A wife's religious life is to a degree determined by the husband, since women have to make up for times of prayer and fasting missed through the ritual impurity involved in menstruation and childbirth, for which they require the husband's consent. The same is true for the prescribed pilgrimage to Mecca, which for many women is ruled out by ritual impurity or by lack of means or the husband's permission. The Qur'an also limits women's succession rights and their legal testimony in court.¹² Women are furthermore excluded in theory, and in many countries in practice, from high-

¹¹ In many Muslim countries according to the sharia the husband has tutelage over boys from age two and girls from age seven.

¹² Women inherit at most the half of a man's share. A woman may not be sole witness but two are admitted in a small number of cases.

ranking political, religious, legal or military office in society on grounds of their sex, since they are not permitted to exercise authority over Muslim men.

Human Rights of Adherents of Other Faiths.

A similar situation prevails in the case of non-Muslims and Muslim splinter groups not recognized by orthodox Islam. According to Sura 2.256 there is “no compulsion in religion.” The preamble to the Islamic Council of Europe’s “Universal Declaration Human Rights in Islam” guarantees religious minorities this freedom from compulsion in Paragraph 10 section (a) while section (b) accords them rights and liberties within the framework of the sharia. Under Muslim rule monotheists such as Jews, Christians, Mandaeans and Zoroastrians may practise their religion freely as long as they neither proselytise nor attack Islam but hold to their sacred Scriptures and observe certain social customs and precepts in accordance with their status as Dhimmis (subjects).¹³ In exchange for the toleration and protection of the Muslim society they had to pay, up to the 19th century, a poll tax and accept limits to their rights and traditions.

Relics of such restrictions can still be found in many Islamic societies today: minority faiths encounter difficulties in obtaining permission to build or renovate sacred buildings, they are prohibited from printing or distributing their sacred Scriptures or wearing religious symbols

¹³ Dhimmis are the followers of monotheistic and therefore legitimate religions such as Judaism, Christianity, Mandaeism and Zoroastrianism. Infidels such as polytheists or atheists are not recognised and in earlier Islamic law were given the choice of conversion, exile or execution.

in public.¹⁴ They are not allowed to marry outside their own faith¹⁵ and face legal handicaps such as the diminished validity of their testimony in court or the advantages enjoyed by Muslim relatives in inheritance. Access to positions of power is denied them even more than to Muslim women in the fields of education, politics, religion and the armed forces. Not only is it unusual for them to hold responsible positions, they have no legal right to do so, since under Muslim rule a non-Muslim may not according to Islamic law exercise authority over Muslims. Only representatives of the divine order can be trusted to uphold it.

Freedom of expression is limited for them, since according to the sharia and thus Islamic law criticism or defamation of the Qur’an or Muhammad’s status as Prophet is unacceptable and liable to severe penalties.¹⁶

Conclusion

The declarations of so-called Islamic human rights obviously start from different presuppositions than the Western view of egalitarian, universal human rights. Islamic human rights are characterised by gender and religious inequality

¹⁴ According to the sharia a Muslim member of a non-Muslim family is entitled to the entire estate, even through only distantly related. This law is still valid in some Muslim countries today.

¹⁵ This applies particularly to Muslim women on the pretext that they would be unable freely to practise Islam and bring up their children as Muslims.

¹⁶ In countries such as Pakistan or Saudi Arabia the defamation of Islam includes public affirmations of other faiths or open rejection of Muhammad’s prophetic claim. Beatings, imprisonment and even lynching by an incensed mob, often on the grounds of unsubstantiated rumours, are not uncommon, particularly in Pakistan.

ity. Even the most generous rights of Muslim men are without absolute validity, being restricted by religious law. Gender and religion deny other members of society equal or absolute civil and human rights. In the Islamic view human rights do not derive automatically from the God-given existence of the individual nor from humanitarian considerations. Rights and liberties are warranted only within the framework of the sharia, however this may be interpreted. This leads to a further problem, since there is in fact no unified written normative sharia, but only interpretations, making it impossible to define unambiguous and universally valid Islamic human rights. In other words, the question remains which Islamic human rights are to be regarded as valid and legally binding?

Until now none of the declarations of Islamic human rights are binding in international law but serve merely as

guidelines, for example for Islamic NGOs. Many Muslim organisations have long been calling for a binding revision of the declaration of Islamic human rights which could serve as an instrument in international law and for the creation of an Islamic Court of Human Rights.

On the other hand a number of liberal, reform-minded Muslims have in the meantime distanced themselves from the declaration of Islamic human rights. They prefer to see the Qur'an as a product of its time retaining only a relative legal status and plead for the Universal Declaration of Human Rights to be recognised and upheld in the Muslim world. For many of these Muslims a declaration of Islamic human rights which was oriented to contemporary needs and values would hardly differ from the Universal Declaration of Human Rights.

Meldungen aus dem Internet (Arabische Seiten)

Zusammengestellt und übersetzt von Daniel Hecker

Fatwas (Rechtsgutachten) zur Strafe für die Beleidigung Muhammads

Nach der Veröffentlichung der Karikaturen Muhammads in der dänischen Zeitung „Jyllands Posten“ werden in einigen islamischen Ländern vermehrt Fragen nach einer angemessenen Bestrafung des dänischen Karikaturisten aus islamischer Sicht aufgeworfen. Antworten darauf beinhalten oft Hinweise auf frühere Fatwas einflussreicher muslimischer Geistlicher bezüglich der Beleidigung Muhammads. Der durch seine Schriften weiter einflussreiche, verstorbene saudi-

sche Geistliche und oberste Rechtsgutachter Saudi-Arabiens, Abdul-Aziz Ibn Baz, urteilt aus islamischer Sicht über die ägyptische Zeitung „saut al-masa“, nachdem sie Muhammad, den Propheten des Islam, in einer Karikatur mit einem Hahn verglichen hatte: „Der Koran bestätigt die Gottlosigkeit desjenigen, der sich über den Propheten (Muhammad), den Koran oder Allahs Gesetz lustig macht. (Sure 9,65-66) ... Alle muslimischen Gelehrten waren sich zu allen Zeiten und an allen Orten darüber einig, dass, wer immer Allah, Allahs Propheten, den Koran oder irgendetwas anderes in der Religion (des