

ISLAM AS THE FLASHLIGHT OF UNIVERSAL HUMAN RIGHTS FORMULATION.

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INTRODUCTION

In the circle of lawyers, it is generally and widely believed that the Magna Carta of 1215 was the precursor of the declaration of human rights in written constitutions that came after it. The French revolution of 1776 and the American declaration of independence of 1779 borrowed a lot from the Magna Carta in the avowed declaration of the entrenchment of human rights in written constitutions.

In this paper, we shall endeavour to show that it is a misconception to believe that the Magna Care was the oldest document entrenchment of human rights. There are copious references in the Holy Quran and the practices of prophet Muhammed (SAW) which lay down immutable provisions on the various rights as later enshrined in the Universal Declaration of Human Rights 1948.

It is now a matter of common knowledge that Europeans had early contact with the works of Muslims on various areas of discipline including Law, Medicine, Astronomy, Geometry, and others. Form the works of many of these early scholars of Islam many ideas as espoused by the Quran and the Sunnah were taken to Europe and adapted as

original ideas. The Arabic numerals which are the most popular of the media of counting in today's world is one such example.

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

The League of Nations was formed after the end of the First World War. The occurrence of the Second World War in 1939 opened the eyes of the leaders of the then world to the fact that collection of world leaders without some moral motivating factor may not end world wars. Thus, after the and end of the Second World war in 1948, the United Nations Organization was formed because of the realization that the bare charter of that organization was not enough to ensure world peace and justice, on December 10th, 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights. The preamble of the Declaration is very illuminating and instructive that deserves our quoting it:

“WHEREAS recognition of the inherent dignity and 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 of the 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 in freedom from fear and want has been proclaimed as the highest aspiration of the common people.

WHEREAS it is essential, if man is not 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 people 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 co-operation with the United Nations, the promotion universal respect for an 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.

From the wording of the preamble there is an understanding that the equality of man

and protection of man from oppression from other men of authority is a sine qua non to world peace. If it is remembered that the first and second world wars were essentially triggered by the claims of superiority of some races over the others, the way preamble is couched will be appreciated the more.

To be able to appreciate the fact the provisions of the Declaration drank a lot from the provisions of Islam on human rights, we shall endeavour to take the provisions of the declaration seriatim and refer to appropriate provisions of Islam that had existed for more than a century before the Magna Carta and the Declaration were made.

ISLAM AND THE UNIVERSAL DECLARATION

Before we consider the provision of the Universal Declaration vis-à-vis Islamic prescriptions on the point, we want to call attention to the fact the message and lessons of Islam are for all times and purposes. No wonder then that the subject of human rights in all its ramifications as we shall demonstrate hereunder had been addressed from the inception of Islam. Article one provides for the dignity and equality of man and that he is endowed with reason and conscience. It also enjoins man to act towards each other in the spirit of brotherhood.

Islam preaches the equality of man.
As the vicegerent of Allah on Earth, He

endows and accords him great dignity and that man is a brother to man is emphasized by Islam more than any other belief system. The Holy Quran in Surat-ul- Hujurat Chapter 46 verse 13 states that

O mankind, We created you from a single (pair of a male and a female, and made you nations and tribes, that ye may know each other, (Not that ye may despise each other). Verily he most honoured of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full knowledge and well acquainted (with all things).

The Quran in Surat-ul-Nisaa chapter 4 verse 1 reinforces the above message the more. To teach man that brotherhood is the bedrock of peaceful coexistence. The Quran in Surat-al – Baqrah chapter 2 verse 263 commands us thus:

Kind words and the covering of fault are better than charity followed by injury. Allah is free from all wants. And He is most forbearing.

The Holy prophet (SAW) gave a practical hint to the message when he stated that:

None of you is a Muslim until you desire for others

what you desire for yourself

The accordance of honour based on colour, or other mundane considerations was not provided for in the article. Long before the Declaration was conceived, Allah, (SWT) has, through the noble mouth of the prophet of Islam (SAW) decreed that an Arab is not superior to a non-Arab and that a white man is not superior to a collared person. Greatness before Allah is measured by piety. The prophet (SAW) further stated thus:

You are brothers, one to another, so let no one transgress against another, nor leave another to endure transgression unaided, that he who occupies himself in assisting his brother will find Allah coming to his own assistance, and he who strives to relieve his brother of anxiety will find himself shielded against anxiety by Allah on the day of judgment and he who overlooks his brother's fault will find his own faults overlooked by Allah.

The object of article three was the preservation of rights to life, liberty and security of person. The sacredness of life in Islam is beyond debate. The Quran in surat-

ul-Maidah chapter 5 verse 32 declares solemnly on the point thus:

We ordained for the children of Islam that if any slew a person unless it is murder or for spreading mischief in the land it would be as if he slays the whole people: and if anyone saved a life, it would be as if he saved life of the whole people...

Both suicide and infanticide are prohibited in no uncertain terms. Quran 4 verse 30 and 81 verses 9-10. In pursuance of the above the Holy prophet (SAW) in his farewell sermon declared thus among other things.

Your persons, Properties and honour are declared sacred like the sanctity attaching to this day. This month and this spot. Let them not be violated.

Islam also frowns at denial of the individual liberty without due process or at the whims and caprices of the temporary wielders of power.

Article four prohibits slavery or other form of servitude ever before the western world woke up to the evil of slavery upon which their wealth was built in the 19th Century, Islam. From inception has created avenues for the flogging of slaves. Thus one of the

rules of Islam was that anyone caught as a slave and thereafter that embraced Islam automatically became a free born. The story of Bilal stands out clear. Islam also makes elaborate provisions for the manumission of slaves or ransoming of captives. The Holy Prophet (SAW) was reported to have said:

These are your brethren over whom Allah has granted you authority, then he who has a brother under his authority should feed him of what he eats himself, should clothe him as he clothes himself, should help him in carrying it out.

One story that vividly illustrates, the attitude of Islam to slavery was during the time Umar the Second Khalifah. He bled to go to Jerusalem on state matters that needed his personal attention. He was to go with a slave as his companion. Both the Khalifah and his companion were to go on one camel and Umar arranged that he was to ride the camel in turn with the slave. The last lap of the Journey was to be enjoyed by the slave riding the camel. He, in deference to the Khalifah, offered that Umar should ride into town to enhance his status as the Khalifah. Umar declined this and he trekked behind the mounted slave into Jerusalem. This gesture led to the wholehearted surrender of Jerusalem nobles to Islam.

Article five is directed against torture, cruelty, inhuman or degrading treatment or punishment. Islam in no uncertain terms prohibited torture, in human and degrading treatment or punishment. The Holy Prophet (SAW) said that:

No one should be subjected to chastisement by fire” and that no one should be hit on the face.

We should call attention to the provision of Quran 24 verse 2 that prescribes flogging for fornication and adultery and 24 verse 4 for slanderous accusations of unchastity against a woman. Also, the prescription in Quran chapter 5 verse 38 that a thief’s hands be cut off should be noted. In the eyes of the modern day humanist, it is argued that these punishments are inhuman and cruel.

The short answer to these to these is that what Islam prescribes in these in these instances is the highest punishment for those offences. In many countries where Islamic penal laws are operated, terms of imprisonment are invoked for first time offenders and not hardened breakers of the law. The corollaries of these punishments are found in other systems of law including the popular imprisonment with hard labour.

Articles 6, 7 and 8 make copious provisions for the equality of all before the law the rights to recognition as a person in law and the right for adequate remedies before the courts without discrimination.

The rules of Islam are very extensive and it protects all person of whatever race or religion. Under an Islamic State all forms of discrimination are abolished.

The Holy Quran, addressing the subject of dispensation of justice with sincerity states in Surat-ul-Nisaa chapter 4 verse 58 thus:

Allah doth command you to render back your trusts to those to whom they are due; and when ye judge between man and man that ye judge with justice; very how excellent is the teaching which He giveth you.

Islam also commands us to just and be not swayed by any mundane consideration to be unjust to others in any circumstances surat-ul-Maidah Chapter 5 verse 8 states as follows:-

O ye who believes! Stand out firmly for Allah, as witnesses to fair dealing, and let not the hatred of others to you make you swerve to wrong and depart from justice. Be just; that is next to piety; and fear Allah, for Allah is well acquainted with all that ye do.

The holy prophet SAW when in case of a missing sword between a Muslim and a

non-Muslim was so enamoured with the truthfulness of the prophet WAS that he embraced Islam.⁶

Also when Umar was the Khalifah he appeared before a court as a defendant and when he entered the court the judge in deference to his high office stood up to honour him. Where upon Umar ordered that the case be taken to another judge since the first judge by deferring to him might not be seen to be just by his oppenet.⁷

Article 9 protects the individual from arbitrary arrest or detention, or exile, article 10 guarantee full equally to a fair and public hearing by an independent court or tribunal, while articles 11 provides for presumption of innocence for anyone charged for the infraction of a penal statute. These were practicalised by the following incident that happened to Ali the fourth Khalifah of Islam. Ali had a claim against a Jew in court. The only witness he had was Hassan his son. The judge held that in view of the close affinity between Ali and Hassan he would not rely on the testimony. He eventually dismissed the claim of Ali.

Article 12 guarantees right from arbitrary interference with ones privacy, family, home and correspondence. Further, it protects the person from attacks upon his honour and reputation. In his last farewell address, the Holy Prophet SAW made the same point n the following immortal words:

Your lives, your properties
and your honour are

declared sacred as the sanctity attaching to this day (the day of pilgrimage) and this month and this spot.

To put a cap on this injunction, Allah himself in Surat-ul Nur chapter 24, 27 –28 state thus:

O ye who believe! Enter not houses other than your own, until ye have asked permission and saluted those in them; that is best for you, in order that you may heed (what is seemly) if ye find no one in the house enter not until permission is given to you; if ye are asked to go back; and Allah knows well all that ye do.

We can all see from the foregoing the sanctity with which Islam holds privacy is very high. The object of articles 13-15 is to secure for everyone right to freedom of movement within the borders of each state, right to seek asylum in other countries from persecution and right to a Nationality.

You will all recall that when the early Muslims, faced untold vindictive persecution in the hands of the Meccans, the Holy Prophet SAW sent some of them to Abyssinia for asylum. The history of the Hijra of the Holy Prophet to Medina was a flight from persecution as well.

The right to travel all over the earth has been confirmed in many portions of the Holy Quran, for example Quran 22 verses 26-27 and 34 verses 18-19. The right to migrate from persecution was also provided in Quran 16 verses 41- 42 and 110. Also chapters 9 verses 58-59.

The right to marriage and established families is provided for by article 6 wherein the freedom of the parties to consent was preserved. The Holy Prophet (SAW) had stated that:

Marriages is my tradition;
he who does not marry is
not part of my Ummah.⁸

Muslims are enjoined in many verses of the Holy Quran to enter marriages bond and respect the institution of the family. Islam prohibits celibacy as an unnatural and impracticable institution that is antithesis to the law of procreation.

Since Islam frowns at adultery Quran 17 verses 32, it follows logically that it will support the marriage institution as away of stemming the evil side of adultery and fornication. The Holy Quran in Chapter 24 verses 30-31 laid the code of who not within the prohibited degree of marriage.

Islam also accords a lot of respect and reference to women. The Holy prophet SAW declared unhesitating "Heaven lies at the mother's feet"

The Holy Quran in Chapter 17 verses 23-24 and 46 verses 15 –16 also exhort man to be nice to his parents. All these go to confirm

the pre-eminence that Islam accords to the institution of marriage and the family.

The right to own property by the individual either alone or with others is the object of articles 17. Islam recognizes the sacredness of the right to our property and that no one should unlawfully take such properties. The elaborate provisions made in the Holy Quran to safeguard the properties of orphans are indicative of this trend. For an insight into this issue, reference can be made to Quran Chapters 2 verses 220, 4 verses 2, 610 and 127 among others.

The right to freedom of thought, conscience, religion, opinion and expression are provided for in articles 18 and 19. Surat-ul-Baqara verses 256 made it clear that there should be no compulsion in religion since truth stands out from error. To further buttress the freedom of the individual to profess any religion of his choice, Allah in Quran Chapter 10 verses 108-109, 18 verses 29, 39 verses 41, 35 verses 19-23; 12 verses 108, 38 verses 28-29 and 53 verses 29-31 make it clear in uncertain terms that man needs his guidance and reason to find the path of Allah in Islam. This freedom to chose is an acclamation of right to hold opinion and other rights provided for in the said articles of the Declaration.

The right to freedom of peaceful Assembly and Association are provided for by articles 20, which further prohibits the compelling of

anyone to belong to any Association. Islam puts a caveat in the right to association by insisting that such association should only be for good and transparent purposes. Allah expressly provides in Quran 5 verses 2 that:

Help ye one another in
righteousness and piety,
but help ye not one
another in sin and rancour:
fear Allah; for Allah is strict
in punishment.

Subject to above, Islam gives man the free, undiluted latitude to associate and form bodies that will aid the promotion of the world community. The founding of the United Nations itself is a testimony to the right as espoused by Islam.

In Surat-ul-Nisaa verses 114, Allah sets the limit as to the types of association that should be promoted when He declared.

Those that are charitable
promote welfare and
strengthen peace. Whoso
does that seeking the
pleasure of Allah, We shall
soon bestow on him a
great reward!

The right to participate in the government of his country is the concern of article 21. To Allah belongs the dominion and sovereignty over the Universe. But as vicegerents, He bestows a part of these powers on the leaders of man vide: Quran chapter 3 verses 26. The code of leadership

in Islam is exemplified by the following saying of the Holy Prophet SAW.

Every one of you is a
steward, and is
responsible and
accountable for that which
is committed into his care.
The sovereign is
responsible and
answerable for the
members of his family;
every servant is
responsible and
answerable for the
property of his master that
is in his charge.⁹

The concept of Shurah or consultation is the bedrock of modern day democratic practices of many parts of the world. In the Holy Quran, Surat-u-Nisa, chapter 4 verses 58:

Verily, Allah commands
you to entrust authority
into the hands of those
who are best fitted to
discharge it, and that when
you are called upon to
judge between, or exercise
authority over the excellent
is that with which Allah
admonishes you. Allah is
All-Heading All-seeing.

The above presupposes that the choosing of leaders is the led thus the foundation for democratic practice had long been enshrined in Islam.

The object of article 22 is to provide society; the right to work and free choice of employment are set out in article 23. In Islam, the state has the duty to cater for the needy and the helpless. It is stated that it is a sin for anyone to go hungry in an Islam State when this is due to the failure of the state to provide the wherewithal for the person to be gainfully employed to make a livings. The Holy Prophet SAW emphatically stated “safeguard yourselves against penury, for it might tend to push a person into disbelief.”¹⁰

In Surat UI-Taha chapter 20 verses 118-120 Allah says:

There is therein (enough provision) for thee not to go hungry.

Nor to suffer neither from thirst, nor from the sun’s heat.

The above should be the aspiration of any Muslim who leads a nation that is, none of his subjects should go hungry or naked.

The right rest, to leisure and to standard of living, adequate for health and well-being are provided for in articles 24 and 25. These are rights like the ones provided for in articles 22 and 23.

During the time of Khalifah Umar, he was reported one day to taking at Mecca,

whereupon he came across a woman whose child was crying. He went and seeks to know why the baby was crying. The woman narrated that there was no food. The Khalifah then asked what the woman was narrated that was woman retorted that she was boiling stones and that the thought that it was food would make the baby to fall asleep after his cries. The Khalifah quietly left the woman, he went to seek the man that kept the key to the public food reserve and he carried a bag of food on his own head that he dropped for the woman incognito.¹³ The point being made is that a well-fed person can only achieve the right to rest, leisure and a good standard of living. Therefore, except the state is alive to its responsibilities these rights will be mirages as they are in Nigeria of today.

The right to education, which should be free in elementary stages, is provided for in article 26, while article 27 gives the right to each person to freely participate in the cultural life of the community. It provides further the right to the protection of the moral and material interest that an individual may acquire in any scientific, literary or artistic production of which the person authors.

The premium that Islam places on education makes Allah Himself to enjoin human beings to know Him before he worships Him. Knowledge is very basis of Islam. The Holy prophet directed Muslim to look for knowledge even to the end of the

world. Allah Himself stated that sustains the earth and heavens with His unlimited knowledge. The story of what happened between Adam and the angels bothers on knowledge. As we allude to earlier, Allah created us with different tongues so that we can recognize each other more easily. It goes for the colours of our bodies. Notwithstanding the pigmentation of ones body and the languages, Islam emphasizes the oneness of humanity and the common origin. To make sure that the individual partakes in the lawful socio-cultural activities both religious and mundane.

The provisions of article 28, 29 and 30 are designed to enable the individual fully enjoy the rights preserved in the other articles of declaration. Article 29 for example, enjoins everyone to perform his own duties to the community through which they derive benefits as citizens. Islam places premium on duties to Allah and thereafter to the community where ones lives. The Holy prophet SAW was reported to have said that the love of ones community is an act of *Ibadah*. This does not derogate from the fact that Islam frowns upon ethnicity and tribalism. These last two defeats rather than promote the unity of all creations of Allah.

The types of love one can legitimately have for one's community is types that promotes the end of justice, fair play, equity, the enthronement of laws of Allah in the land and the unification of the creations of Allah it must be appreciated that the difference in

languages, colours and the creation of national boundaries are means towards an end and not end in themselves this universality of Islam is best demonstrated by the annual pilgrimage to Mecca where people of all races intermingle as one corporate Ummah without distinction as to age and social standards.

NIGERIA AND THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

The Nigerian constitution from 1954 to current 1999 constitution contains Chapters on fundamental Human Right, which are entrenched in the constitutions. The subject of the observance of these rights by the state is wide, an area that one will need distinct a paper and forum to treat. Be it noted an area that it is now agreed by all public commentators that the problem is Nigeria not the constitutions but the operators of it. Nigeria sadly has never of national leadership. This sad phenomenon cuts across the different types of governments we have and still has and notwithstanding the nomenclature of those who ruled and are ruling.

CONCLUSION

We have been able to demonstrate that more than one thousand years before 1948 when universal Declaration of Human Right was passed by the General Assembly of the United Nations, Allah has entered in the Holy Quran all these rights that man was to enjoy. We have also seen that more than a century before the event of 1948 on

declaration of Human Rights, the Holy Prophet of Allah (SAW) and the rightly guided Khalifahs had practiced and demonstrated the observance of human rights in their administrations. All these go to confirm the Universal message of Islam and its eternal nature. The Muslim communities of those period progressed on all the indices of human development because they followed and practiced Islam. Nigeria can also make progress if its leaders especially the professed Muslims can imbibe the teachings of Islam and obey the injunctions of Allah on the act of governance. Therein lies a brighter future for this nation and its people.