

MAN'S RIGHTS IN ISLAM

By

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In the Name of God, the Beneficent, the Merciful

Introduction

A brief message entitled "Human Rights in Islam" and delivered before conferences and seminars, both at home and abroad, had its English translated text, as prepared by the Islamic Centre in Washington and its French translation, as prepared by the People's Assembly Translation Department, not fully compatible, prior to their addressing to some conferences, with the Arabic-published original text.

This is justifiably because the Arabic - written paper appeared in several ways which varied according to the difference in subject and title, a matter impelling occasionally the handling, with more care, of some basics against others.

I hope the message bears good for its Muslim reader to further entrench his faith in Islamic Shari'a and for its non-Muslim reader to become better acquainted with the grandeur, tolerance and mercy of Islam and its tendering of mankind at large. We have only sent you for the good and welfare of humanity.

May God guide us along the right path.

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The Universal Declaration of Human Rights in the Light of Shari'a Law of Islam

A. On December 10, 1948, the General Assembly of the United Nations proclaimed the Universal Declaration of Human Rights, consisting of 30 clauses with a Preamble which stated:

"Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

"Whereas the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.

"Whereas the peoples 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.

"Now, therefore, the General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all people and all nations."

B. No doubt, all these rights so declared simply aim at assuring freedom and dignity of the individual, and achieving justice and equality between all people. Yet the Shari'a of Islam and its wisdom preceded the United Nations not only in proclaiming and insisting on these human rights by fourteen long centuries, but it revealed and asserted the divine origin of these rights in wider and deeper dimensions which laid down the foundation pillars of freedom, justice and equality and honored all human beings with no distinction or discrimination. This can be made clear from the following facts:

First: The object of the Shari'a of Islam is the liberation of man through unshaken belief in pure and uncompromising monotheism, thus honoring man and raising him (above all creatures) and providing him with the factors of dignity, self-esteem and honor all of which is implied in the Quranic words:

"Verily we have honored the children of Adam. We carry them on the land and the sea, and have made provision of good things for them, and have preferred them above many of those whom We created with a marked preferment." Chapter XVII, Verse 70.

"Surely We created man of the best stature." Chapter XCV, Verse 4.

So God has honored man and blown into him of his spirit. He also caused the angels to prostrate to him in respect. In this connection, the Quran reads: "And remember when your Lord said unto the angels: Lo ! I am creating a mortal out of potter's clay of dark mud altered. So, when I have made him and have breathed unto him of my spirit, do fall down prostrating yourselves unto him. So the angels fell prostrate, all of them together, Save Iblis. He refused to be among the prostraters" XV, 28-31.

God honored man and made him His trustee in the earth, to populate it and to make good use of all the bounties God has provided in it in order that man may benefit from these bounties and enjoy prosperity and comfort on earth. God has made all that is in the heavens and all that in the earth subservient to man and bestowed on him all favors clear and concealed. In this connection, God says in the Quran:

"Believe in Allah and His Messenger, and spend of that whereof He has made you trustees ; and such of you as believe and spend (aright), theirs will be a great reward." LVII, 7. And says:

"He is Who has created for you, all that is in the earth." II, 29.

And said: "See you not how Allah has made subservient (or sub-serviceable) to you whatsoever in the sky and whatsoever in the earth and has loaded you with His favors both without and within?" XXXI, 20.

And said: "And if you should seek to count the favors of Allah, you cannot reckon them." XVI, 18.

God sums up the objective of the Islamic mission in achieving mercy for all peoples. The Quran, addressing the Prophet Muhammad, peace and blessings be upon him, reads: "We did not send you save as a mercy for the people." XXI, 107.

This divine mercy so stated in the Shari'a of Islam can only flow forth through the positive response to its teachings and the endeavor to achieve its goals, in a spirit emanating from a true inner feeling derived from man's consciousness of the human brotherhood and awareness of the common ancestral origin—no matter what racial or color or religious or linguistic differences might exist. It is a feeling that makes these human rights a natural reality (rather than merely a legal demand) and a common factor between all the members of the human family based on the unity of origin, the unity of fatherhood (Adam) and the unity of motherhood (Eve) and therefore, their offspring should be regarded equal in all rights and privileges at all times and through all generations. The Holy Quran refers to this fact and draws the hearts and attention to it in frequently addressing mankind by the phrase. "O You children of Adam, (e.g. VII, 26 and 31)" The Quran further explains this universal brotherhood as follows: "O mankind! Be careful of your duty to your Lord Who created you from a single soul, and from it He created its mate and from them twain He has spread (abroad) a multitude of men and women." IV, 1.

The Quran also reads:

"O you mankind ! Lo! We have created you male and female, and have made you nations and tribes that you may know one another. Lo! the noblest among you, in the sight of Allah, is the best in conduct." XLIX, 13.

In this way, God, in His Holy Book, draws attention to this universal ancestral bond, which should foster mutual sympathy, respect, collaboration and solidarity among all members of the large yet single human family. The Prophet, peace be upon him, depicts this universal human bond most eloquently in His saying:

"The likeness of the believers in their mutual sympathy and cordiality is like the human body in that when a part of it complains (of some pain) all the other parts share its misfortune, suffering fever and sleeplessness".

The awareness of this universal ancestral bond should cause each person to crave for his fellow man as much as he craves for himself, whether it is the right to be treated with dignity and justice and equality, or to enjoy liberty and be let to pursue happiness without any hindrance. This attitude is an essential feature of the Islamic religion ; without it, it is imperfect. This is assured by our prophet who stated:

"None of you can be a perfect believer unless he loves for his brother as much as he love for himself".

Secondly: The Shari'a of Islam, as a heavenly declaration of human rights, is certainly of a much higher order than any human declaration or charter. A heavenly proclamation is

naturally respected and awe and must be obeyed and duly applied as part of a divine religion, respect of which derives from the depth of the religious conscience and man's awareness of the divine watchful eye, from which nothing can be hidden or concealed. Furthermore, as divine teaching, it is sanctioned and supported by the belief in reward and punishment in a life to come: God assures rewards for obedience and warns of punishment for negligence. This is apart from the fact that as a heavenly proclamation, it has a legal binding that has to be protected by the institutions of the law including the courts and the rulers whose function includes the protection of religion and the conduct of the affairs of the state in accordance to the religious tenets. The power and authority of these rulers and other legal agencies are to comply with the interest of the social order, as much as any thing else has to agree and conform with its aim and objective. In addition, the divine proclamation is further sanctioned and protected by the force of public opinion, very much acknowledged in Islam, which urges that people should command what is good and forbid what is evil. The Quran reads: "And let there be from amongst you a nation who invite to goodness, and enjoin right conduct and forbid indecency..." III, 104.

Islam and Human Rights

Let's now explain briefly the attitude of Islam toward the basic human rights.

D. First: Right to Freedom, which can be analyzed into:

- (a) Religious Freedom
- (b) Intellectual Freedom
- (c) Civil Liberty, and
- (d) Political Freedom

E. Freedom of Religion:

The religious freedom, which can be defined as the right of the individual to uphold any creed without any external pressure or coercion, is duly assured in the Holy Quran which declares:

"There is no compulsion in religion. The right direction is henceforth distinct from error". II, 256.

And it states that the Divine Will did not by any means compel people to believe or obey, but it further condemns such compulsion. It reads: "And if your Lord willed, all who are in the earth would have believed together. Would you, (Muhammad) compel men until they are believers ?". X, 99.

And God defines to His Messenger, may His peace and blessings be upon him, the goal of his message, limiting it to mere explanation, conveyance and reminding, but no undue pressure of compulsion or domination. He says in His Holy Quran: "And say: (it is) the truth from the Lord of you (all). Then whosoever will, let him believe, and whosoever will let him disbelieve". XVIII, 29.

"And thus, remind them, for you are merely a re-minder.

You are not at all a warder over them". LXXXVIII, 21 - 22.

And He states: "The duty of the Messenger is only to convey (the message)." V, 99.

F. Punishment of the Apostate:

The punishment due on apostasy as established by Hadith is not inconsistent with the religious liberty assured by Islam. It is not intended to compel a person to continue upholding a creed he does no longer believe. The punishment for apostasy is not merely because of the change of religion, which here is abandonment of Islam. Otherwise, non-Muslim population live freely and safely and unmolested in the protection of the Islamic state. Therefore, the punishment of the apostate is because of his treasonable and deceptive conduct. During the early life of Islam, some of its enemies conspired to intrigue against it, urging some of them to pretend embracing it then declare their apostasy to discourage people who might be contemplating conversion to Islam. When they hear of conversion and apostasy they think that the apostates must have discovered something wrong. The Quran refers to this in the following text

"And a party of the People of the Book say: Believe in that which has been revealed unto those who believe, at the opening of the day, and then disbelieve at the end thereof, in order that they may turn on their heel". III, 72.

Imam Muhammad Abduh, in this connection, says in his Tafsir of Chapter LXXVIII, vol. III, P.333: "This kind of conduct related in this Quranic text is based on a natural human concept ; namely, that one of the signs of the truth is that whoever believes in it will never reject it. Hercules knew this rule very well when, in his discussion with Abu Sufyan, about the Prophet Muhammad, having received a message of invitation to Islam from the Prophet, asked Abu Sufyan ; Do those who embrace his religion turn away from it? Abu Sufyan said, no. That deceptive group of people in this respect intended to confuse the people who would think that, had not they discovered a falsehood with it they would not have turned away from it after they have embraced it and discovered its hidden reality, since it is not likely that a person should turn away from a truth he has embraced with persuasion without a reason. And it seems to me, Muhammad Abduh continued, that the Prophet, peace and blessings be upon him, did not order to kill an apostate except that he wanted to frighten those who were conspiring against Islam to drive people away from it and to cause confusion and doubt about it. Although such intrigues cannot detract strong believers who have discovered the truth and adhered to it firmly, they could affect those weaker in faith such as recent converts."

And in our own age, the question of apostasy arises only in connection with one form or another of cunning deception. Sometimes a person declares his or her conversion to Islam to attain a materialistic aim or to marry a Muslim woman or divorce a husband. They, at heart, remain loyal to their own religion and use the Islamic religion as a toy for their selfish purpose after attaining which or failure to achieve it, they turn away from Islam. Punishment stipulated for these apostates is meant to protect the religious liberty from being abused or misused. It will no longer be liberty but anarchy.

G. Freedom of Worship:

A corollary of the freedom of religion is freedom of worship and the religious practices taught by religion. Therefore, Islam, having held that non-Muslims should not be pressurized to embrace Islam, has left them free to practice the tenets of their own religion and did not require them to practice the Islamic tenets or interfere with their practices or their religious places. Therefore, when 'Umar Ibn al-Khattab, the Second Caliph, went with a contingent of his army to Jerusalem to conclude a peace treaty with its inhabitants, they saw the ruins of a building almost burned in the earth. When they inquired about it and were told it was a Jewish temple obliterated by the Romans, 'Umar and his company removed the dust until the temple was cleared and reopened for the Jewish worship.

And in his covenant concluded with the inhabitants of Jerusalem, 'Umar wrote down: "Here is what the servant of God, 'Umar Ibn al-Khattab, Commander of the Faithful, has granted the people of Jerusalem. He guaranteed them peace and security and protection for themselves and their property and their churches and their crosses. Their churches shall not be inhabited (by others), nor shall they be demolished or reduced and the church properties shall not be violated. They shall not be oppressed for their religion, and none of them should be harmed".

And when 'Umar was in the Church of Sepulchre and the time of prayer for Muslims was due, he went to pray outside the Church. When he was asked why he did so, he said, "I fear if I should pray inside a Church that Muslims may claim it later for their own prayers on the pretext of 'Umar's prayer inside it". A mosque built in the spot where 'Umar prayed still survives, standing as an evidence testifying to the tolerance and justice of Islam and its guarantee of the religious liberty - creed and practice

And 'Umar Ibn Abd al-Aziz, (the most righteous Caliph among the Umayyads) wrote to Al-Hassan al-Basri asking him: Why did the (four) Righteous Caliphs left the non-Muslims free remain as they were, practicing their own tenets ? Al-Hassan wrote to him: "Islam obligatorily commands that they should be left free as they are. You yourself are to follow and not to start innovations".

H. Intellectual Freedom:

Intellectual power is a feature peculiar to human beings, a gift from God to man with which God has honored him. It is because of it that man was subjected to moral and religious obligations. Reflective thinking is both man's nature and intellectual function, and therefore, it is an Islamic obligation. The Holy Quran speaks of this obligation as follows: "Say (O Muhammad): Travel in the earth and see how He (God) originated (all) the created things, then Allah bring forth the later growth. Lo! Allah is able to do all things". XXIX, 20.

"Have they not traveled in the land, and have they hearts wherewith to feel and ears wherewith to hear? For indeed it is not the eyes that grow blind, but it is the hearts which are within the bosoms, that grow blind". XXII, 46.

It is on this account that the (leading) scholars of Islam held the view that credulous belief deprived of reflective thinking does not count. They were also of the opinion that Reason (not only religion), calls for seeking to understand the scriptures, both the Quranic and Hadith texts, and also for reflection on their meaning and implications as well as the struggle to derive the religious rules and obligation (from the text) by the use of the tool of analogy in order to provide legal guidance in the interest of society. This is in fact the basis and aim of the Shari'a of Islam. Whoever so struggles will deserve his reward with God for his efforts, even if he should fail to make the right judgement (for it only God Who knows the ultimate truth).

I. Civil Freedom:

Islam has also laid the sound foundation for the civil freedom, asserting that every individual, man or woman, is a free and responsible agent, free to handle and decide his personal affairs, including financial matters, without any undue interference or hindrance. Every person, according to Islam, is master of himself, with an independent personality. Each person has the right to possess (the fruit of his labor) and to buy and to sell, to give away gifts, to make a will and to get married. He is entitled to do anything that (he believes) will realize his personal or common interest.

J. Islam and Slavery:

Islam came when slavery was a widespread institution, and it sought to relieve humanity from its evils and vigorously called for the emancipation of the slaves. 'Umar once said, "How can you enslave people whereas they were born free?"

God has made freedom the natural birthright of all people. Islam, having found slavery a deeply rooted social and economic order, worked for its gradual elimination. Therefore, enslaving some war prisoners was permitted only in exceptional situations of necessity such as when the enemy enslaves Muslim prisoners, and therefore, Muslims had to reciprocate by enslaving the enemy's prisoners in order to exchange them for the liberation of Muslim slaves. Otherwise, war prisoners are to be either freed without any price or penalty or with payment of a price depending on what is best for the community in the situation. The Quran in this question, reads: "Now when you meet in battle those who disbelieve, then it is smiting of the necks until when you have routed them, then making fast of bonds ; and afterwards either grace or ransom until the war lay down its burden". LVII, 4.

Moreover, Islam has opened many avenues for the liberation of slavery. One is that Islam has made emancipation of a slave a mandatory expiation on commitment of certain legal violations. Another avenue is that emancipation is one of the channels of dispensing of the proceedings of the zakat. A wide gate is that God has made freeing a slave one of the most charitable acts that brings a person closer to his Lord and assured him great rewards in Paradise. The Prophet, peace and blessings be upon him, says: "Whosoever frees a slave God will free him from the punishment of Hellfire, each part of his body against its counterpart in the body of the emancipated slave."

Therefore, if we see the world having freed itself from this evil practice we realize that this was in full agreement with the teachings of Islam enlightened by its guidance and taking hints from its tenets.

K. Political Freedom:

Political freedom means that each individual who is of sound mind has a right to participate in determining the policy of his Government and watching over and criticizing its executive departments. Islam has guaranteed this right and made obligatory sharing in running the affairs of the Government through consultation. The Quran reads:".... and consult with them upon the conduct of affairs." III, 159.

"... and those whose affairs are (determined by) consultation among themselves." XLII, 38.

L. Justice and Equality:

Justice, equality and equal opportunity are among the basic rights due to each individual in order to ensure social justice. This will be made very clear from the following explanation.

a) All people, as human beings, are emphatically stated to be equal. Descent, family connections, color and wealth make no difference. Only noble deeds and honorable achievements count. The Almighty God says: "Verily, the best of you in the sight of Allah is the best in conduct.", XLIX, 13.

And the Prophet said:

"O you people! Your Lord is One. Your (original) father is one. All of you are offsprings of Adam, and Adam's origin was dust. The noblest among you is the most God-fearing person. An Arab does not have a right to claim superiority over a non-Arab, nor has a non-Arab a right to claim superiority over an Arab, except through righteous deeds. O Lord ! Please witness that I have conveyed (the message). And (you listeners), let those who are now present convey to those who are absent".

In this powerful style, the Prophet, peace be on him, has destroyed all racial and other discriminatory grounds artificially claimed by selfish and conceited forces. Therefore, a murderer deserves to suffer capital punishment, having encroached upon the life of a human being, no matter how powerful or influential or connected the murderer might be, and whether his victim is male or female, of sound or unsound mind, learned or illiterate, Muslim or non-Muslim. This is so on the basis of the principle of human equality established by the Almighty God Who says: "And We have prescribed for them therein: the life for the life..." V, 45.

b) Islam also asserted equality of all citizens before the law. In this respect the Quran reads: "Verily Allah commands you to restore trusts to their owners ; and that when you judge between people you should judge with justice." IV, 58.

"...and let not hatred of any people provoke you to deal with them unjustly. Deal (always) justly. That is nearer to piety." V.,8.

And the Prophet, peace and blessings be upon him, says:

"Only their injustice, destroyed those who came before you. When a member of nobility committed a theft, he did not suffer the punishment of cutting the hand, but when a commoner committed the same offence, they were quick to sever his hand ! By God! Should Fatimah, my own daughter commit a theft, I myself shall be the one to cut off her hand".

And the First Caliph, in his "inaugural" address, said:

"O you people ! By God, there shall be no stronger person with me than a weak person until I restore him to his right nor shall there be a weaker person with me than a powerful one until I extract the right of others from him."

c) Economic Rights: Equal opportunities are assured to all people in the area of work (jobs), production, seeking one's sustenance and ownership. These economic activities are created to enable the individual to meet his own needs and the needs of his family and the needs of his societies. The Holy Quran calls upon all people to get engaged in work, to travel and seek sustenance. It reads:

"He (God) is Who has made the earth subservient unto you, walk in the path thereof and eat of His bounties." LXVII, 15.

"And We have indeed settled you firmly with power on the earth and provided the rein means of living (livelihood)." VII, 10.

"It is He Who had made the earth a convenient place and threaded therein roads for you; He also sends down abundant water from the sky whereby We have brought forth diverse varieties of vegetation. So, eat and drink (with joy and health), and feed your cattle and beasts. In all this there are indeed crying signs for those of reflective thought." XX, 53-4.

d) Financial Social Solidarity: In Islam, wealth, in the final analysis, belongs to God Who enjoins: "... and bestow upon them from the wealth God has bestowed upon you." XXIV, 33 (thus attributing the whole wealth to Himself.)

Yet, wealth is after all for common good of the community. The Quran states:

"It is He Who had created for you all that which is on earth." II, 28.

"And give not unto those who cannot manage their own affairs your wealth which God has bestowed upon you to maintain." IV, 5.

Nevertheless, wealth belongs to and is the possession of the individual who legitimately earns it. He possesses it and may use it and invest it to provide his needs and promote his own interests and those of his family and community within the prescribed limits, and should pay off the obligation due to the state and to the needy obligations which God has trusted to those with fortune. God the Almighty says: "And in their wealth, there is a defined right due to the beggar and the destitute." L. 9.

"And give the kinsman his due, and the needy and the wayfarer and squander not your wealth in wantonness." XVII, 26.

The Shari'a of Islam has guaranteed to every person living under its auspices to enjoy a satisfactory living, owing to its teachings pertaining to the payment of Zakat (prescribed alms), the institution of religious endowments and the emphasis on general charity, as well as its rules pertaining to the mandatory payment of maintenance due to members of one's family and also those rules governing the administration of the state revenues.

e) Religious Equality: According to the rule established by the Prophetic traditions, non-Muslim inhabitants should enjoy rights and obligations equal to those due to Muslims. A tradition states: "To them, (meaning non-Muslims) is due what is due to us; and from them is due what is due from us". There can be no more eloquent assertion of equality.

f) Sex Equality: Islam also teaches that women are equal to men and calls upon women to play their roles, like men, in the areas of worship, work, production and social services. A woman is entitled to fill public jobs according to her qualifications and ability, as each person is created with some special talents. The Almighty God says: "And the believers, men and women, are protecting friends one of another. They enjoy the right and forbid the wrong, and they establish worship and pay the poor due and obey Allah and His Messenger." IX, 71.

Islam asserts the woman's individual capacity and personal independence, and entitles her to undertake financial business and manage her property on her own, independently from her father and husband, as much as a man can do. She can buy and sell, may grant gifts and bequeath a will. She can work in an agricultural farm, in factory and sign contracts. She has a right to inherit from the estate of a deceased relative or a deceased husband, though her share is often half that of her inheriting brother, a fair adjustment in view of the financial burden incumbent on man alone, (in having to provide for his wife and children whereas a woman as wife or daughter is provided for). (As stated earlier), a woman may occupy a public office within her ability and according to her qualifications. And so, she is man's partner in society each complements the other in a cooperative bond, not in a way of wasteful repetition or unthinkable identical role. This (differentiation) is due to natural differences, both in certain features and endowed gifts, which, in the interest of society have to be rightly, and correctly applied. God the Almighty says: "Let not some of you covet that which God has bestowed upon the other, (i.e. envy not each other). To men there is a right in that which they have earned, and to women there is a right in that which they have earned." IV, 32.

g) If we should review the rest of the human rights stated in the Universal Declaration of Human Rights, they will be found to comply with the principles and rules set out in the detailed analysis of the Shari'a law of Islam. Some of these have been alluded to above ; so let us examine some of the other principles (which the Universal Declaration has in common with Islam.)

1) (The rule) that a defendant is innocent until he is proven guilty, is an Islamic legal principle. The individual is originally innocent (before committing a violation), and violation is accidental and needs evidence (in order to be proved). Therefore, according to Shari'a, doubt or suspicion should not condemn the defendant.

2) Islam endorsed the principle calling for the protection of the private and domestic life from any undue interference, and the protection of the individual's honor from slander. This is clear from the prescribed punishment of slanderers, and from reading the following Quranic texts:"O my bondmen who believe ! My earth is indeed spacious." XXIX, 56.

"Whosoever migrates for the cause of God will find much refuge and abundance in the earth, and whosoever forsakes his home, a fugitive unto Allah and His Messenger, and death over takes him, his reward is then incumbent on Allah". IV, 100.

"Verily those whom the angles take (in death) while they wrong themselves, (the angels) will ask: In what were you engaged? They say: We were oppressed in the land. (The angels) will say: Was not Allah's earth spacious enough for you to migrate therein ? As for such, their habitation will be hell, an evil journey's end!" IV, 97.

3) The right to rest and leisure due to everyone is strongly advocated by Islam. The Prophet, peace and blessings be upon him said, "Verily whosoever continues on his journeying (without interruption to rest and relieve his riding beast) will neither be able to reach his destination nor spare his riding beast !" He also said: "Your body has a right on you".'

4) Again, the right of everyone to education is fully emphasized in Islam, which made seeking knowledge an obligation both on men and women. The Prophet said, "Seeking knowledge is obligatory both on believing men and believing women". Another tradition commands: "Seek knowledge (everywhere) even in China".

h) We mentioned earlier that there are nevertheless between patterns human rights as called for in Islam, and some of the proclaimed in the Universal Declaration. One of these is related to the institution of marriage, which is a strongly recommended and praised practice in Islam as the Quran commands,

"And marry such of you as are solitary and the pious of your slaves and maid servants." XXIV, 32.

I honored to participate. The following recommendations were made by that Seminar:

a) To set up a special committee (consisting of well-qualified experts), with the special task of preparing a well-documented paper on human rights in Islam, based on the Quran and the Prophetic traditions. The paper should also demonstrate how these rights were respected during the early part of the history of Islam, and how that religion from the time of its inception, has not only honored mankind and asserted his rights and liberty but regarded respect of these rights a religious obligation incumbent both on society and the individual himself. The individual must resist encroachment on his freedom and any violation on his right, and society must repair any such violation.

b) To set up another Islamic Committee that would collaborate with the Human Rights Committee of the United Nations, and would help in promoting respect of the human rights due to all people of all creeds wherever they may live.