

Muslims and the Universal Declaration of Human Rights (UDHR): A Critical Appraisal of Ideals and Realities

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DOI: <https://dx.doi.org/10.47772/IJRISS.2025.90400073>

Received: 17 March 2025; Accepted: 24 March 2025; Published: 29 April 2025

ABSTRACT

Introduced in 1948 by the United Nations General Assembly Resolution, the Universal Declaration of Human Rights (UDHR) aims at upholding the principle of respect for human rights and affirming the fundamental freedoms for all regardless of race, sex, language, or religion. However, a stark contrasts exist between the ideals conscripted in the Declaration and the realities observed on the ground. Escalating instances related to the violation of human rights were observed, even in the countries that pledged to promote the Declaration and agreed to legally bound themselves with its articles. Available literature, including various media coverage highlight these significant disparities making it crucial to revisit the Declaration and examine its practical implementation. This article employs historical, analytical and comparative method, to critically evaluate the UDHR, focusing on the position of Muslims within its framework. It investigates both the theoretical ideals and the practical challenges they face, questioning whether the Declaration effectively safeguard Muslim rights or if systemic biases and geopolitical factors have led to inconsistencies in its application.

Keywords: UDHR, Human Rights, Ideals, Practicality, Violation, Appraisal

INTRODUCTION

The call for promotion and preservation of human rights in the modern period did not emerged out of cultural vacuum. Its precedents can be traced back since the ancient time. Earlier tradition and documents of many cultures and religions narrated that people's quest for rights and responsibilities took shape upon their interaction with themselves, within a family, indigenous nation, religion, class, community, or state. In this regards, Simon Blackburn mentioned that one of the popular Golden Rule of "do unto others as you would have them do unto you" can be "found in some form in almost every ethical tradition". (Simon, 2001, p. 101). Later the wisdom found its echo in the word of Greg M. Epstein describing that the particular law of reciprocity as a law that "essentially no religion misses entirely". (M.Epstein, 2010, p. 115).

Passion to formalize the aspired ideas of preservation of human rights, in the modern period, involved series of historical precedents. Charting the historical breakthrough of the Universal Declaration of Human Rights (UDHR), revealed many attempts to materialize this noble advocacy in North America and Western Europe in the 20th century, notably after the restoration and consolidation of the Western Europe in the aftermath of the Second World War. Throughout the process, the religious, philosophical, and cultural sources of the Occidental tradition were considered.

The United Nations is believed to be responsible in making the promotion and protection of human rights a key purpose and guiding principle of the Organization. The organization was officially came into existence after the war in 24th October 1945, to replace the role played by the its forerunner known as the League of Nations established in 1919. (un.org, n.d.). As the Second World War reaching its end with the invasion of Germany by Soviet Union-Allies and the destruction of Hiroshima and Nagasaki via atomic bomb in 1945, the life of millions of people including women and children has been sacrificed across the globe.

Hence, with the purpose to restore balance and peace of innocent human beings onto the global stage and into

the global conscience, a declaration to propagate the preservation of human rights was proclaimed by the United Nations in 1948. Branded as the “Universal Declaration of Human Rights,” the declaration is an international document enshrines the fundamental values which are shared by all members of the international community. It was directed towards upholding the principle of freedom, justice and peace in the world. Composed of 30 articles, the Declaration was adopted by the United Nations General Assembly in Paris on 10 December 1948. (Universal Declaration of Human Rights).

The Universality of the Universal Declaration of Human Rights

Historically, the United Nations General Assembly, which by the end of the Second World War, has included most of the independent countries into the United Nations (UN), has made a move to adopt the declaration drafted by representatives from different cultural and religious background. Taking into consideration the participation of different ethnicities in preparing the draft, the UN adopted the humane declaration under the name the Universal Declaration of Human Rights. Nonetheless, despite having acknowledged itself as universal, the universality of Universal Declaration of Human Rights is inevitably questionable.

It is argued that the human right components in the declaration were composed based on the Western worldview and understanding of the human rights. For example, the element of individualism which is pervasive throughout the declaration contrasts with the notion of communalism which was held more widely in the East. This can be seen on the emphasis of personal freedom in every article of the Declaration. Plus, the fact that emphasis is given more to right rather than responsibility also denotes to a certain extent the influence and the role that the Western worldview must play in devising the universal declaration of human rights. It is due to this reason that Pollis and Schwab argue that the human rights as we understand it today are confined to the cultural and philosophical concepts of the Occidental tradition (Adamantia Pollis and Peter Schwab, 1979).

Even the Western political scientists such as Samuel P. Huntington also argues on the universality of the 1948 declaration. The promoter of the idea of “clash of civilizations” in his global political map has asserted that the human rights today – as well as democracy, liberalism, and political secularism – belong exclusively to Western civilization. Huntington is convinced that universalism of human rights is bound to fail. For people from other civilizations, he says, the only way in which to have full access to human rights is to adopt essentially “Western” values and hence to implicitly convert to Western civilization. (Huntington, 1996)

Human Rights in the West: A Reality Check Beyond the Rhetoric

Given the universal title of the declaration, how far does the modern humankind acts according to the preservation of the human rights? More importantly, how far do most of the Western countries act in accordance with the declaration that is constructed based on their ideals? In the following discussion, the issues concerning the violation of human rights will be analysed, particularly pertaining to the denial of the right to live, the right to practice religion, the right to work and the right for a fair trial.

Denial of the Right to Live

United States is a democratic country that constitutes of diverse races and ethnicities. Championing the human rights discourse, it boasts itself to be a country that protects the democratic rights of the citizens. However, the reality on ground might be different than the ideal portrayed to the general public as there are many cases related to the denial of the right to live of the non-White Americans, especially the African-American. Discrimination of rights based on race or ethnicity is, by the name of democracy, irrevocably intolerable.

As of February 2018, that there had been 1624 mass shootings within 1870 days (Sam Morris and Guardian US Interactive Team, 2018). Approximately, 265 millions of guns are owned by Americans. The records revealed a number of 1875 death cases and 6848 injuries due to mass shooting incidents. To cite a case on the basis of racial discrimination as an example, on 8th of April 2018, an African-American teenager was shot dead by a police officer in the garage of a West Valley City house, in Utah. The victim, 20-year-old Elijah James Smith, was shot after a pursuit by the police who suspected him of a phone store robbery. He was shot dead when he rapidly removed hand from pocket after they instructed him to show his hands (Silva, 2018).

On 21st of November 2016, another African-American teen was shot to death in West Virginia. James Means, a 15-year-old boy was shot dead by a white man named William Pulliam. According to the police report, the killer even referred to the dead James Means as “a piece of trash” (Abbey-Lambertz, 2018). This tragedy among numerous others indicated an unhealthy practice of democracy which is based on racial discrimination.

Article 3 of the Universal Declaration of Human Rights states that “everyone has the right to life, liberty, and security of person”. The article, part of the proclaimed declaration by United Nations General Assembly on December 10, 1948 in Paris is a guarantee of protection and the entitlement of one’s right over his own life, liberty and freedom, and his personal rights and integrity. The jurisdiction of this article encompasses every human being regardless of his or her religion, race, ethnicity and gender. It means, every person is entitled to live, safety, freedom and will be protected by the law against inhumane and degrading treatment. A person is also ensured to be able to exercise all of his personal rights.

Article 3 is also connected and intertwined and thus, shall be read together with Article 5, “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”; Article 9, “No one shall be subjected to arbitrary arrest, detention or exile”; and Article 25, “1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control” and “2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection”.

In Islam life is regarded to be sacred and therefore need to be protected. Islam decreed the preservation of life and deem it as the most basic right of every human being. Islam prohibits one to take another’s life without justified reason. Islam has legislated capital punishments and retribution unto those who murder and physically harm others. Allah, the Exalted, states in the Qur’an: And there is (a saving of) life for you in *al-qisas* (the law of equality in punishment), O men of understanding, that you may become pious. (al-Baqarah 2:179). To kill a human being is considered as if to kill entire humankind. Allah states in the Quran, “Because of that, We decreed upon the Children of Israel that whoever kills a soul unless for a soul or for corruption (done) in the land - it is as if he had slain mankind entirely. And whoever saves one - it is as if he had saved mankind entirely. And our messengers had certainly come to them with clear proofs. Then indeed many of them, even after that, throughout the land, were transgressors.” (al-Maidah 5:32)

And in a hadith narrated from Jabir bin Samurah that: a man killed himself with an arrowhead and the Messenger of Allah said: “As for me, I will not pray for him.” (Sunan al-Nasāi, Hadith no: 1966).

Denial of the Right to Practice Religion

According to one study, 69 percent of Muslim women who wear hijabs have reported at least one instance of discrimination. (Rana Elmir, 2018). These incidents include not being hired for a job, tormented by hate speech, as well as physical abuse and attacks.

The Deputy leader of Britain First, Jayda Fransen once stirred controversy upon her dismissive remarks on the hijab wore by a Muslim woman, Sumayyah Sharpe. She said, Muslim men forced women to cover up to avoid being raped. As a result, she was later sued by Sumayyah. On an account of Jayda Fransen, the District judge Carolyn Mellanby said that the words used towards her are offensive, insulting, abusive and intended to cause offence and alarm and distress to Sumayyah’s religion. (Association, 2016).

According to Rachel Roberts, hate crimes targeting mosques across the UK has increased more than doubled between 2016 and 2017. Police forces recorded 110 hate crimes directed at Muslim places of worship between March and July in 2017, an increased figure from 47 hate crimes over the same six-month period in 2016. The journalist of the independent reports that racist abuse, acts of vandalism at mosques and bomb threats feature heavily among the reported hate crimes (Roberts, 2017). In the early of 2017, a mosque in Victoria, Texas was burned to the ground by an alleged anti-Muslim American.

Discrimination at work, as well as discrimination in form of verbal and physical abuses based on one's faith has really made him or her feel discouraged and psychologically disturbed. According to a new Pew Research Centre survey, more Muslim women than men say it has become more difficult to be Muslim in the U.S. in recent years (57% vs. 43%). Eight-in-ten Muslim women (83%) say there is a lot of discrimination against Muslims, compared with a smaller share of men who say this (68%) (Gecewicz, 2017).

This discrimination against Muslims is a clear violation of the right to practice religion highlighted by article 18 of the UDHR, which stated that, "everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."

An individual's choice to wear attire that reflects their faith deserves respect. The hijab, like any other expression of personal belief, should be treated with the same regard. The fact that Muslim women have been subjected to harassment for wearing a symbol of their faith is deeply inconceivable. In Islam, the right to dress is rooted in broader principles of freedom, dignity, and justice. While Islam teachings outline guidelines on modesty for both men and women, they also emphasize that compulsion has no place in religious matters, including attire.

Denial Of the Right to Get a Job

It is clearly seen that Muslims who migrated to the west are having a hard time to be employed. It is not because they are not educationally qualified for the job. The reason is solely because they are Muslim. Due to the catastrophically event happened in the West such as Islamophobia, Muslim's social life is affected severely (Lakhani, 2017). The 2013 Carnegie Mellon study showed that Muslim job applicants face 13 % lower call-back rate compared to the Christians. According to a test conducted by BBC, a job seeker with an English-sounding name was offered three times the number of interviews than an applicant with a Muslim name. CVs from two candidates were sent, "Adam" and "Mohamed," who had identical skills and experience, in response to 100 job opportunities. The result showed Adam was offered 12 interviews, while Mohamed was only 4. Although the results were based on a small sample size, they tally with the findings of previous academic studies (Marocico, 2017) . In Republican country, Muslims face four times harder opportunity to be interviewed compared to the Christians. Religiosity becomes the highlighted point here since the applicants' qualifications are all at the same level. From here, it can be argued that employers are discriminating Muslims in term of job hiring. Instead of giving equal chance to all job applicants, religion becomes the main judgement of employment.

Secondly, other aspect which has violated the working rights is the attire that symbolise the religion itself. This topic focuses more on women since the scarf that they wear clearly state their Muslim identity. Men will not face discrimination in term of their attires because all of them wear the same type of cloth generally. It is hard to say what religion he is just by looking at their attire. In contrast for the women in Islam, their scarf distinguishes them from others. Not to mention, this piece of cloth will be the first thing watched by the interviewers when they walk through the door (Kerry Alexandra, 2016) . In cases such as Ayesha, a Muslim woman who has been turn down by employers for four consecutive interviews, get accepted by her fifth trial when she decided to take off her scarf. From this case, it can be analysed that Muslim women are facing discrimination because of their scarf. Rather than having equal opportunity to be hired, they are suffering by the bad impression given by the West towards Muslim. In fact, the assessment should be in term of their qualifications not by the attire that symbolise the religion.

The third aspect that distorts the nature of this rights is the discrimination against Muslim regarding their social status. Muslims have been labelled with many political ideologies such as extremism, oppression and terrorism. These issues have affected Muslims in the West especially those at the workplace (Kerry Alexandra, 2016). For example, according to BBC News, a Muslim has shared her experience of being discriminated at the workplace. She has been treated like 'invisible' by her co-workers. They did not even talk to her or have any kind of interactions. Later, she was desperate and choses to ignore everyone. Thus, it can be claimed that Muslims are being discriminated by their environments. Despite the rights which clearly stated that all workers are protected from any kind of discrimination in the workplace, some Muslims are suffering and yet any actions to stop this from happening have not been taken.

These discriminations are clearly against the spirit of the right to have a job as outlined in the declaration. According to article 23, the right of working is explained as the right to be employed and to be protected from any kind of discrimination in term of the working environment. The right to be employed here means everyone regardless his or her religion will have the equal chance of getting the job opportunity. Once they get the job, their safety and welfare will be protected. In other words, employee is secured from any type of working violations. Moreover, this legislation will not just observe the worker's right towards employment. But it also ensures the payment is equal and reasonable. Not to mention, the employee's dignity is also well-protected. This right is ideally powerful to the extent that even the employee's family welfare will be observed and taken care of. In contrast to the idealistic nature of the rights mentioned above, the application in the West is totally against its main principle where people are discriminated based on their religions, attire and social status. From an Islamic perspective, justice (*'adl*) and the protection of human dignity (*karāmah*) are fundamental, emphasizing that no individual should be oppressed or treated unfairly due to their beliefs or outward expressions of faith. The Qur'an repeatedly upholds the principle of non-discrimination, , which reminds humanity that honor is determined by piety, not external distinctions (Surah al-Hujurāt 49:13).

Denial of the Right for a Fair Trial

Tariq Ramadan, a Swiss Muslim academic, and a Professor of Contemporary Islamic Studies at Oxford University has been in preventive detention and solitary confinement at Fleury-Mérogis prison in France since the 2nd of February, following rape charges by two women, which he fully denies. However, the French justice system's handling of the pre-trial conditions in the case has been dogged by controversy, allegations of denial of justice, and violation of due process (Gabon, 2018).

Several legal issues have been highlighted in the light of unfair treatment received by the yet-to-be-proven-guilty Tariq Ramadan. The first issue was the refusal to grant bail and the decision to detain Ramadan in custody. Ramadan's bail request was never considered by the French police. In laws, incarceration is usually a measure of last resort when other options such as house arrest, electronic bracelet, or reporting to a police station are not available or realistic.

The second issue concerns about his manner of arrest. Ramadan has not just been kept in custody. He has been kept in solitary confinement. His wife and children have been denied rights to visit him. He has no access to his family, not even communication through the phone. This constituted another measure for which the judges have provided no explanation.

The third issue concerning the unexplained transferring of the case from Public Prosecutor's office in Rouen to the infamous Paris Prosecutor, François Molins, who specialises in cases of Islam-affiliated terrorism. Molins is a familiar figure in France known for giving updates on each of the terrorist cases that have shaken French public life for example the Charlie Hebdo case, the Nice attack, and other less lethal attacks as they were unfolding. For the French, Molins has become the main figure for counter-terrorism, sometimes called as the "Prosecutor of French Jihadists."

Among the dozens of similar cases of rape, many with formal charges, that have emerged in France (and elsewhere) in the wake of the #MeToo movement, Tariq Ramadan is the only one who has been jailed in this manner with a complete denial for his rights for justice. It should be emphasised that he voluntarily went to the police in Paris on 31st January to answer the allegations against him. He has cooperated fully with the investigating authorities, yet he has been treated harshly.

As has been clearly outlined in article 9 which states that "no one shall be subjected to arbitrary arrest, detention or exile." Every single individual is entitled for a bail so long he or she is yet to be proven guilty. The following article 10 states that, "everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him." The nature of a fair trial denies any possible avenues for the travesty of justice by the state or authoritarian regimes.

The principle of innocent until proven guilty becomes the basis for article 11, which states that, "everyone

charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.” Nonetheless, the way Tariq Ramadan was treated in the prison reveals the inconsistency between the practice of French judicial authority and the fair rights guaranteed by the 1948 declaration. Undoubtedly, the unjust incarceration of Tariq Ramadan has demeaned and disgraced the French legal system.

Last but not least, the right to be in physical contact with families are denied in the case of Tariq Ramadan. This is clearly against article 12 which states that, “no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.” From an Islamic perspective, the preservation of family ties (*silat al-rahim*) is a core value, emphasized in numerous Quranic verses and Prophetic traditions. Islam upholds the sanctity of family bonds and warns against severing them where breaking family ties is condemned (Surah Muhammad 47:22-23). Furthermore, justice and due process (*‘adl*) are essential in Islam, ensuring that individuals are not subjected to unfair treatment or arbitrary restrictions on their rights.

Critical Analysis and Evaluation

A- The Violation of Rights Is Not Solely on the Basis of Religion

Although the sentiment of anti-Muslim is directed against both men and women, gender has a role to play in this crisis. In Britain for example, many Muslim women were not hired for job even though they obtained degrees more than men. Not only are they subject to high levels of unemployment and poverty, but discrimination based on their faith, gender and ethnic background hinders their entry into the labour market (Khan, 2016).

However further studies show that they were not only discriminated because of their faith, but also due to their gender and origin. This ‘triple penalty’ has been documented in various studies and reports. For instance, a 2016 report by the UK's Women and Equalities Committee found that Muslim women are three times more likely to be unemployed than women generally, attributing this to factors including gender, ethnic background, and religion. Additionally, the Muslim Women's Network UK has emphasized that Muslim women face penalties for being women, from ethnic minority backgrounds, and for being Muslim, making them one of the most disadvantaged groups in the labor market. These findings underscore the multifaceted challenges that contribute to the disenfranchisement of Muslim women in Western societies. (Jacobs, 2016) (Akthar-Sheikh, 2016)

B- Scapegoating the West Does Not Solve Any Rights Discrimination Against Muslims

While deliberating this issue, the weaknesses from Muslim society must be critically analyzed in term of their distorted identity, selfishness and slow reaction-taker. Firstly, Muslims are facing some serious issues since this world has labelled them with negative terms such as extremist, oppression, and traditionalists. Instead of pointing out fingers to others, Muslim should reflect upon themselves. Islamophobia is a symptom, and besides the Western media, the Muslims also play a role in causing the phenomenon. For instance, performing of act of terrorism among few Muslims has put others in the state of fear towards Islam. The discrimination by the westerners towards Muslim in the workplace might be a justified move since they are probably scared with what might happen if they get involve with the militant Muslims. Not to mention, some Muslims regard this social issue as a trivial matter and choose to remain silent. Rather than taking an action to correct what is wrong, some Muslims especially those who are in comfort zone, covers their eyes and mouth and ignore their suffering brothers to be discriminated by others.

Last but not least, judging from what is happening in the world nowadays, the Muslims also need to admit that they are lacking in various aspects. The human rights are not well-preserved in the Muslim countries as well. Human rights violations have been documented in several Muslim-majority countries, encompassing issues such as restrictions on freedom of expression, discrimination against women and minorities, and suppression of political dissent. To criticize the government in some Muslim majority countries is deemed to be an act of war

or betrayal. As a result, critiques were caught, either to be sentenced to jail or to serve detention, marking a politically-motivated denial of the right of speech. There are various examples from different aspects of human rights were denied in the Muslim countries, but those are not going to be addressed here since this paper is focusing more on the ideal and practicality of the Western countries. Nonetheless, it needs to be taken heed, that while the Muslims are criticizing others, Muslims also should empower people in their countries by upholding the human rights as a kind of good deed following the *sunnah* of the Messenger SAW.

CONCLUSION

Major challenges faced by global communities are not in the ideals enshrined in the UDHR. On paper it is the embodiment of passion of every nation to formalize the aspired ideas of preservation of the right of human beings. The challenge, nevertheless occurs in practical dimension of it. Political interest, different worldview on certain cultures, norms and religions, obsession to be supreme leading powers in a global arena, capitalistic based economy and lack of humane are believed to be the contributory factors to the paradox.

Review cases of violation of human rights, especially in the birthplace of UDHR itself and other countries acclaimed itself as champions of human rights revealed an irony between the text and context, and between ideals and realities. Denial of the right to live, the right to practice religion, the right to work and the right for a fair trial, are obvious in those occurrences. Ununiversality of UDHR and its efficacy has henceforth been questioned.

To actualize peace and harmonious relationship between global communities, it is of paramount important that the spirit enshrined in UDHR is revitalized and mainstreamed. And most importantly the implementation of its items is in tandem with those noble ideals. To mainstream awareness, respect, justice and commitment to universal values and principles requires concerted efforts among all levels of societies. To determine whether UDHR it is blessing or barney depend it's circumstances.

It is blessing if it is based on the values of (a) freedom with responsibility, (b) individualism tempered with social concern and solidarity, (c) competition with cooperation and compassion, (d) efficiency and profit motive with justice and fair play, and (e) power with rule of law and accountability. Indeed, the incorporation of these values warrants a major paradigm shift in the world that we are living today. While UDHR turns to be a barney and major threat to mankind once a parochial or nationalistic mindset and in pursuit of hegemonistic ambitions of a nation, system or civilization are remain dominant.

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