their religion, has the right to be protected from physical harm unless they commit a crime that under shari’a law would demand physical punishment or the death penalty. In modern secular democratic states the state has the ‘monopoly on violence’. In Islam God has this monopoly which is manifested through Islamic law.

Rights to justice, equality, safety, security and human dignity are among those rights deemed indispensable in Islam. These are supplemented by further rights such as social solidarity, the right to education and to own property, and freedom from slavery. It is not difficult to see why some would argue that many of the rights acknowledged and guaranteed in the UDHR are rights that had been granted in Islam some 14 centuries earlier.

The fact remains that there are certain aspects of the UDHR that would make it difficult, if not impossible, for countries wishing to adopt a shari’a legal system to adopt the UDHR. This was acknowledged by the Organisation of Islamic Cooperation (OIC), which includes virtually all Islamic states. The OIC responded by producing its own human rights charter which, while inspired by the UDHR and emphasising “the commitment of its member states to the UN Charter and fundamental Human Rights”, is yet compatible with Islamic principles. The Cairo Declaration, as the resulting document is known, unfortunately suffers from a lack of universal appeal. This is perhaps an inevitable consequence of linking what are thought of as universal rights to a specific religion.

Are the UDHR and IHRL then simply incompatible with Islamic law and shari’a? On a very fundamental level, Islam is egalitarian and seven of the eight Islamic countries present at the initial voting in 1948 voted in favour of the UDHR. Iran and Lebanon participated in the drafting while the then Pakistani foreign minister called for its adoption.

The UDHR is not a treaty that countries can sign up to. It is a symbolic document representing a universal approach to the rights of all human beings. The actual commitment of a country to the spirit of the UDHR is through signing up to the individual treaties. The UDHR serves as a source of inspiration for the treaties and not as a legal document. Moreover, most international treaties permit signatory parties to express reservations regarding particular articles or clauses, whether for country-specific or cultural/religious reasons. The majority of Arab and Islamic countries have signed up to most of these treaties while expressing some reservation on some of the details, whether for political reasons (for example, if an article or clause might involve an implicit recognition of the state of Israel) or for religious reasons (such as granting equal rights to men and women when these rights conflict with Islamic shari’a, as in the case of inheritance).

Adopting the international treaties would help fill the gaps in the Islamic protection regime, particularly in light of increasing calls for the adoption of shari’a as a source of national legislation. Protection of vulnerable groups chimes with the spirit of Islam. Establishing a legal framework for protecting refugees and IDPs that is also recognised internationally would be a welcome step and would complement existing mechanisms.

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Child rights and Islam
Christian Salazar Volkmann

A greater engagement with Islamic thinkers is overdue in order to facilitate debate about child rights in Muslim societies and beyond.

Interpreting and applying the Convention on the Rights of the Child (CRC) is complicated. There are international organisations whose mandate is to interpret the meaning of children’s rights and monitor the Convention’s application in individual countries. However, the norms and standards set by international bodies are also debated by national government officials, civil society activists and intellectuals.

Religious leaders often play a pivotal part in this process. They have a strong influence in many societies and guide the thinking and action of millions of believers. They possess the moral authority to influence social opinions and behaviour especially in regard to marriage, family life and education. This is true not only for countries where religion is the political foundation of the state but also in societies where state and religion are separated.

It is important for the worldwide application of child rights to foster deeper understanding about them and Islam. UNICEF has entered into dialogue with Islamic scholars by highlighting congruencies between Islam and international standards. This dialogue started before the adoption of the CRC in 1989. In 1985 a study was undertaken by Al Azhar University in Cairo on child care in Islam. In 2005 a joint report by the Organization of the Islamic Conference (OIC), the Islamic Educational, Scientific and Cultural Organization (ISESCO) and UNICEF underlined common goals in realising children's rights. The focus of these studies was mainly on social rights, leaving aside the more controversial areas of civil and political rights.

In Iran UNICEF collaborated with Mofid University in Qom in a comprehensive research project: the analysis of the different articles of the Convention on the Rights of the Child from an Islamic perspective. The research was based on the Quran, relevant hadiths, fatwas and other religious and scientific sources and aimed at generating and contributing to a comprehensive body of theological guidance and interpretation for Islamic researchers and academics on child rights.

It is not only important that Muslim religious leaders increase their understanding of international child rights standards. The non-Islamic world needs to benefit more
from Islamic thinking on this matter. Therefore we must make the most of opportunities for international dialogue between Islamic and non-Islamic, religious and non-religious thinkers, researchers and practitioners on child rights and on the more difficult issue of women’s right.

A greater engagement of Islamic thinkers and researchers with child rights is overdue as Western legal experts and academics have largely dominated international interpretations of human rights norms. There is also rich Islamic thinking on matters related to child rights and social justice which can help to advance the realisation of social rights of children in many countries of the world. International human rights institutions therefore should maximise opportunities for dialogue on children’s and women’s rights. In my experience there is a space for such a dialogue between child rights advocates and Islamic leaders. The common ground for improving the situation of children is much larger than the areas where differences exist.

Christian Salazar Volkmann was the UNICEF Representative in Iran at the time of writing. UNICEF Iran supported the production of the first edition of this special supplement of FMR on Islam, human rights and displacement as a contribution to international awareness and dialogue about child rights and Islam.

1. Now Organization of Islamic Cooperation.

The rights of refugee women and children in Islam

Saeid Rahaei

Faith and religious beliefs play an undeniable role in defending the rights of refugees and asylum seekers. Respect for refugees and asylum seekers and appreciation of those who provide refuge have a particular place in shari’a, and Islam pays special attention to the suffering of forced migrants.1

Aman (safeguard) is the term which Islamic law uses to refer to the refuge that Muslims offer to non-Muslims. Such refuge remains inviolate even if the person who is being offered protection is in a conflict against Muslims [9: 6]. Islamic scholars of jurisprudence believe that aman creates an indissoluble bond.

Many instances of migration by the faithful and prophets appear in the holy Koran and in history books. After suffering persecution and torture, the Muslims of Mecca migrated to Abyssinia on the orders of Prophet Muhammad (peace be upon him and his descendents) where they were protected by a Christian king. Prophet Muhammad, was himself a refugee, having fled Mecca with his followers in 622 in order to escape persecution, and as a refugee was cared for by host communities. The Prophet Abraham and his family were forced to migrate and were supported by Almighty God [21: 71]. After being harassed by the Egyptians, Moses moved to Midian where he was provided with housing, employment and other amenities [28: 20-28].

These Koranic verses show that migration can become a necessity for anyone in times of trouble or when one’s life and beliefs are in danger. Some verses go as far as requiring the faithful to choose migration in such circumstances (if they are able to do so) [4: 97-99].

The holy Koran requires the faithful to comply with agreements and treaties on the rights of refugees [5: 1]. It provides a set of instructions in dealing with refugees and migrants, praising those who go to the assistance of people in distress and requiring the faithful to protect refugees [9: 100 and 117]. It recognises the rights of refugees and internally displaced persons, entitling them to certain rights and to humane treatment [8: 72-75, 16: 41]. It condemns people whose actions prompt mass migration and views them as lacking faith in God’s words [2: 84-86]. Article 12 of the 1990 Cairo Declaration on Human Rights in Islam says: “Every man shall have the right, within the framework of sharia, to free movement and to select his place of residence whether inside or outside his country and, if persecuted, is entitled to seek asylum in another country. The country of refuge shall ensure his protection until he reaches safety.”

The holy Koran puts forth certain regulations to lend additional support to women and children, who are considered more vulnerable [4: 2, 9, 36, 75, 98, 127, 17: 34]. Besides, under the principle of justice, which is the basis of all Islamic regulations [42: 15, 16: 90], those who are more at risk as a result of migration and asylum should be offered extra support. This remains the case even in the case of non-Muslims or those who oppose the Muslim faith [5: 8].

Required alms – such as khums (one fifth of income or of the spoils of war that Muslims are required to hand out as charity) and zakat (a portion of property that the faithful are required to give away for charitable causes) – as well as optional alms constitute a fund that can be used to meet the basic needs of refugees. That part of khums and zakat which is originally reserved for travellers in distress, orphans and the needy could be spent for migrants and refugees.