

common respect for rights of individual human beings and for the dignity of the individual.⁴ Yet despite the importance of other instruments issued during this half-decade, the ultimate expression of human rights as a common value for all mankind appeared in the UDHR. In the words of Mary Ann Glendon, former U.S. Ambassador to the Holy See, “the Declaration is the single most important reference point for cross-national discussions of how to order our future together on our increasingly conflict-ridden and interdependent planet.”⁵ Human rights law scholar Henry Steiner famously called the UDHR the “spiritual parent and inspiration” for later human rights documents.⁶ The UDHR “has inspired more than sixty human rights instruments and legally binding treaties, has been enshrined in the national legislation and constitutions of many newly independent states, has arguably obtained the status of customary international law, and remains one of the most cited human rights documents in the world today.”⁷ The promotion of the universality of human rights, as articulated in the UDHR, continued such that by 1993, it had become an article faith of the international community: “the universal nature of these rights and freedoms is beyond question.”⁸

However much the human rights community insists that the universality of human rights is “beyond question,” it nevertheless been questioned from the outset. In the UDHR drafting debates, Saudi Arabia’s representative, Jamil Baroody, challenged the Western bias of the document:

the authors of the draft [UDHR] had, for the most part, taken into consideration only the standards recognized by western civilization and had ignored more ancient civilizations which were past the experimental stage. . . . It was not for the [drafting] Committee to proclaim the superiority of one civilization over all others or to establish uniform standards for all the countries in the world.⁹

Baroody’s assertion that the UDHR incorporates a Western orientation has remained an enduring criticism not only of the UDHR, but also of the entire international human rights regime. From the beginning, the UDHR has been challenged as having its ideological origins not in a common human quest, but as having emerged from the Enlightenment and European and American declarations of rights. The roots of the UDHR, according to Baroody and others, are found not in the traditions and religions of Asia, the Muslim world, or Africa. foclaimecll Ses in the world.n

cal fact that the Universal Declaration was based largely on western philosophical models, legal traditions, and geopolitical imperatives.”¹¹ The standards reflected “a dominant western paradigm of individual rights; practical disputes were resolved quickly and expediently on the basis of U.S. power and, when necessary, the vote.”¹² Tariq Ramadan, who has claimed for himself a position as speaking both for Islamic values in the West and for the values of democracy in the modern world, has argued that the “Declaration of 1948 is indeed the prolongation of rationalist thought which has risen in the West since the Renaissance.”¹³ The philosophy of human rights, Ramadan insists, “is culturally marked and belongs to a vast elaboration of analytic thought where all the postulates are significant in the Western history of mentalities. It carries in itself stigmas of the tensions which marked its history.”¹⁴ It would be better, such analysis suggests, for rights charters such as the UDHR to be identified not as universal, but as Western, culturally specific, and not speaking for Muslims. The supposedly universal values of democracy, modernism, secularism, and individualism, it is argued, are neither universal nor neutral.

One of the most famous retorts to Western or universal values, in keeping with the lead of Baroody in 1948, was delivered by Singapore’s Lee Kuan Yew, who privileged instead “Asian values”:

Asian societies are unlike Western ones. The fundamental difference between Western concepts of society and government and East Asian concepts . . . is that Eastern societies believe that the individual exists in the context of his family. He is not pristine and separate. The family is part of the extended family, and then friends and the wider society.¹⁵

From its inception, the UDHR has thus been challenged as being overly individualistic in orientation (rather than oriented toward the family or group), rights-oriented (rather than emphasizing duties and responsibilities), and secular and thereby disconnected from religious and moral foundations. In the spirit of Baroody and Lee, critics argue that better values do not arise from the West’s individualism, egocentricity, rights of free expression, or the freedom of choice, but from the family as the fundamental unit of society, from adherence to traditional roles for men and women, and from respect for the traditions and values of the larger community.

Nevertheless, when arguing for the differences among Western and non-Western values, Baroody and Lee, like Kipling and Huntington, appear to accept the existence of an enduring and apparently unbridgeable cultural divide between the competing values of the West and the rest, particularly with regard to human rights.

Many governments and religious scholars in the Muslim world have sought to distinguish the values of Islam from those of the international human rights consensus. The Organization of Islamic Cooperation

(OIC), the world's second-largest intergovernmental organization after the UN, asserts its authority to speak on behalf of Islam, to "defend the universality of the Islamic religion," to "promote . . . lofty Islamic values," to teach Islamic values to children, and to "protect and defend the true image of Islam."¹⁶ The universality of which the OIC speaks is not that of human rights, but of Islam. While including as members all majority-Muslim states, most of which have ratified the major international human rights treaties, the OIC does not fully embrace international human rights standards but rather standards that purportedly emerge from the teachings of Islam. The OIC adopted and promulgated the Cairo Declaration on Human Rights in Islam (1990) and the Covenant on the Rights of the Child in Islam (2004), both of which articulate human rights standards based on Islamic law.¹⁷

The OIC has also played a prominent international role in pushing back against human rights norms that would otherwise allow criticism of religions by urging the adoption of international standards to prohibit the defamation of religion. Within OIC member states, the term "Islamic law" has been added (particularly after 1979) to constitutions and laws as the guiding norm for the laws of their countries. Also since 1979 (and largely not before), OIC member states have asserted reservations to human rights conventions based upon the Islamic law of *sharia*, particularly with regard to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child.¹⁸ The OIC is known for vigorously arguing in favor of the rights of Muslim minorities living in Europe, Myanmar, and other non-OIC states, while at the same time issuing no statements regarding the rights of religious minorities living in OIC member states.

Similar to the twenty-two member League of Arab States (Arab League), each of whose members also belongs to the OIC and is a majority-Muslim—created its own human rights instruments and institutions (based in Cairo) that stand apart from the international human rights regime. While the term "Arab" denotes an ethnic identity and "Muslim" denotes a religion, all majority Arab countries are also majority Muslim countries, though the opposite does not hold. Indeed, the

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tion is the same with respect to international charters and conventions. All too often, it appears that Arab states have endorsed these conventions with the aim of improving their international image but without bringing national laws into line and without ratification having any tangible benefit for the Arab citizen.²⁰

The resistance to implementation of international human rights standards in parts of the Muslim and Arab worlds is perhaps most salient with the panoply of rights related to religion. In terms of the UDHR, the core of the resistance is centered on issues of the right to freedom of thought, conscience, and religion (Article 18), prohibition of discrimination on the basis of religion (Article 2), and the prohibition of discrimination against women (preamble, Article 2, Article 16). The same resistance to universal standards, already present in the UDHR, continued in subsequent elaborations of human rights, including the International Cov-

his assertions are not well supported by the facts. This essay, it should be noted, does not discuss at any length one important and controversial issue involving the Muslim world and the human rights regime: whether the modern human rights regime assumes that Muslims have the right to leave Islam by changing their religion or by abandoning religion altogether.²³

Arguably the single most persistent and recurring criticism of international human rights is its rootedness in Western-oriented individualism rather than in the larger community. This was the core of the criticism articulated by Lee Kuan Yew above. Lee went on to say that the “expansion of the right of the individual to behave or misbehave as he pleases has come at the expense of orderly society” and that “the idea of the inviolability of the individual has been

poverty, could enjoy freedom of speech, religion and opinion.”³¹ Unlike Pérez Cisneros, Yugoslavia’s representative, Ljuba Radovanovic, was not able to overlook the individualistic nature of the UDHR and abstained when the vote was taken. Explaining the position of his country, Radovanovic explained that the “text before the Assembly was based on individualistic concepts which considered man as an isolated individual having rights only as an individual, independently of the social conditions in which he was living and of all the forces which acted upon his social status.”³²

Assertions of the individualistic nature of the draft UDHR in particular and

proposed amendments or the UDHR itself. Indeed, it appears to this author that the label “individualistic” served less as an explanation of the underlying problem and more of a rhetorical device to divert attention from the inability to identify with specificity what exactly was the problem.

Moreover, the text of Article 18, as adopted, explicitly states that the right is one to be exercised “alone or in community with others and in public or private.” The UDHR does not contemplate an exclusively individualistic approach, but one that may be fully integrated into an entire religious community. While it certainly is true that the UDHR differs from the “minority rights” approach of the interwar period, the text is not designed to protect solitary individuals separate from society. Rather, society consists of individual human beings who have rights both as individuals and as members of groups with whom they are associated. Moreover, despite the frequent criticisms of rights as being overly individualistic, this was not a criticism that was raised specifically with regard to Article 18 in the official and collected records of the drafting process.³⁶

And relatedly, the right to freedom of religion or belief—like many other rights—should be understood principally as a right that individuals and communities have. The text of Article 18 does not per se separate individuals from society but protects individuals and society against state encroachment.

Thus, we should draw into question the suggestion that “Asian values” and “Islamic values” are opposed to the “Western individualism” of the UDHR, including particularly its Article 18 guarantee of the right to freedom of thought, conscience, and religion. Lee Kuan Yew’s “Asian values” and “family values” supposedly transcend the individualism of the West. But is this a serious argument or a rhetorical ploy? If we consider the cases of the most revered figures of East and West, the stereotypical individualist West versus the family and group-oriented East cannot readily be sustained. The greatest spiritual figure Asia has produced, Siddhartha Gautama (the Buddha), abandoned his parents, wife, and child to seek his own spiritual enlightenment. In Lee’s limited way of thinking, the Buddha should be categorized not as Asian, but as a quintessential Western selfish individualist. Yet in abandoning his family, the Buddha acted in a way entirely consistent with other high religious figures in both East and West. As a twelve-year-old, Jesus of Nazareth abandoned his family to seek learning at the temple in Jerusalem, and reproved his mother for challenging his religious obligation to do so.³⁷ Francis of Assisi stripped himself in the public square and returned his garments to his father, a cloth merchant, and spent the remainder of his life away from his family. The Prophet Muhammad, who became an orphan at age six, repudiated the pressure from his own Quraysh clan, which insisted that he worship the idols of the tribe. Rather than remain with his kin in Mecca, he went into exile with his fellow believers.

Both the Christian Bible and the Quran would seem to agree on the point that whatever obligations one owes to one’s parents, the greater obligation is to God:

From now on five in one household will be divided, three against two and two against three; they will be divided: father against son and son against father, mother against daughter and daughter against mother.

—Luke 12:52–53³⁸

And We have enjoined man concerning his parents— his mother bore him, weakness upon weakness, and his weaning was two years— give thanks unto Me and unto thy parents. Unto Me is the journey's end. But if they strive to make thee ascribe as a part-

rights discourse,” which is pervasive among its advocates, “reduces faith commitments to the private domain and denies faith claims a legitimate voice in the public forum.” This “inevitably backfires with the Declaration’s outright rejection by Muslims as culturally insensitive to Muslim social values.”⁴⁵ Muslims “who read the highly politicized secularism of human rights language” see it as “nothing more than the imposition of Western values on their culture.”⁴⁶ Sachedina in fact repeatedly uses the word “impose” to characterize the actions of the “secular advocates of human rights” who, he alleges, seek to “impose . . . a human rights regime,”⁴⁷ favor the “imposition of a Western conception of individualism,”⁴⁸ applaud a “corrosive individualism . . . imposed from outside,”⁴⁹ and “impose an aggressive human rights discourse that reduces faith commitments to the private domain.”⁵⁰

Although scathing in such denunciations of secular human rights advocates, Sachedina largely does not identify them by name, nor does he offer specific examples to illustrate their bias against religion.⁵¹ By neither naming nor quantifying those whom he accuses, he leaves his readers wondering whether the supposed problem is broad-based and pervasive or if Sachedina is simply exaggerating the importance of a few cranky straw men to make his argument more appealing.

Two of the principal purposes of Sachedina’s book on the UDHR are to condemn its secular foundations and assumptions, and then to suggest the necessity of providing an alternative moral foundation for human rights to be accepted in the Muslim world. Although Sachedina makes an interesting argument about the parameters of an alternative moral order, a discussion of this alternative is beyond the scope of this essay, with one important practical exception. Rather than engaging with his philosophical argument, I would like to challenge several of his specific assertions about the UDHR.

In several portions of his text, Sachedina criticizes the UDHR drafting process and its results.⁵² He argues that there was insufficient and inadequate representation from Muslims who were serious about their religion. He notes that representatives from Lebanon and Saudi Arabia were in fact Orthodox Christians, and other nominally Muslim participants were largely secular.⁵³ “This lack of serious Muslim participation has continued to cast a long shadow of doubt over the cultural and political contours of the Declaration that reveal an indubitable secular-Western bias.”⁵⁴ Due to the fact that many of those involved in the drafting process were Christians and secular, this resulted in a Christian, secular, and enlightenment bias in the text. “The secular liberal thesis that liberty can survive only outside religion and through secularization of a religious tradition was founded upon historical experience of Christianity and, hence, had little resonance in Islam.”⁵⁵ Thus, he would have us believe, understanding the drafting process helps reveal the origins and nature of the secular and Christian biases in the text. “The drafting of the Declaration clearly shows that there were several key sources for the writing of the articles that are now enshrined in the document.”⁵⁶

clearly infringe on the right of Muslims to practice their religion and to fulfill their

ing moral or philosophical position, whether it be secularism, natural law, Christianity, or individualism. For better or worse, the texts of human rights instruments did not emerge from common understandings about underlying philosophical

Article 18 be amended? What change in language does he propose that would receive more votes? What additional article should be added? What text should be deleted to make the UDHR more acceptable? Unfortunately, Sachedina offers no answers to such questions.

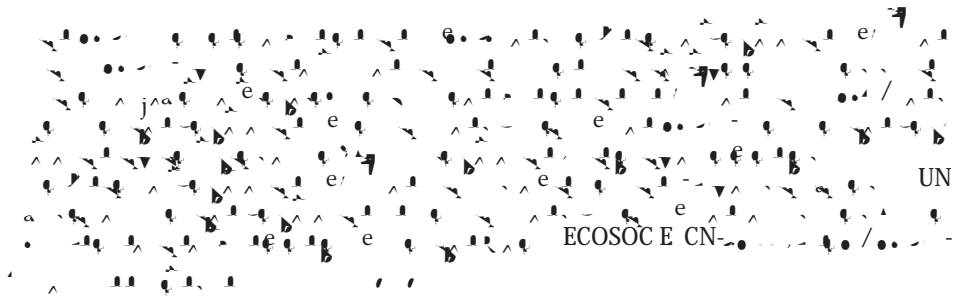
This essay began by quoting the first line of Kipling's famous 1889 ballad and the typical interpretation that it elicits regarding an enduring divide between East and West. Yet such an interpretation, like others related to Kipling, may be short-sighted. The first full quatrain of the ballad points in a somewhat different direction:

Oh, East is East, and West is West, and never the twain shall meet,
Till Earth and Sky stand presently at God's great Judgment seat;
But there is neither East nor West, Border, nor Breed, nor Birth,
When two strong men stand face to face, tho' they come from the ends of the earth!

The lines following the famous opening immediately suggest two counterexamples to Kipling's supposed permanent divide. First, in the presence of an all-knowing God, distinctions between East and West evaporate. The fissure that appears enormous to human beings disappears in the eyes of the all-knowing. It also evaporates when two men face each other, eye to eye. The supposed differences between East and West are neither permanent nor intractable. They are misleading and superficial human constructs that dissolve when confronted by sufficient wisdom or ample courage.

The "individualistic West versus group-oriented East" is a caricature in both directions. Rhetoric stating that human rights are individualistic because they protect the rights of individuals ignores the fact that all human beings are individuals and all collectively are protected by their universal ambitions. Human rights related to religion in the UDHR are explicitly described as applying to human beings both individually and in community with others.

Islam is often identified, both by Muslims and non-Muslims, as being an impediment to the implementation of human rights. Yet as we examine the underlying issues more carefully, it becomes clearer that the real conflict is not Islam versus freedom of religion and human rights, but the role that many Muslims wish to assign to the nation-state: to use its power to enforce Islamic law. The UDHR does not interfere with the ability of faithful Muslims to practice their religion; rather, it challenges the power of the nation-state to act as religious judge and enforcer of religious orthodoxy. Islamic law nowhere requires states to impose religious orthodoxy. Indeed, Muslims living in non-Muslim areas do not want non-Muslim states to enforce religious law. It is only in states that wish to be Islamic where the perceived conflict between human rights and Islam occurs. Although Muslims might imagine that there could be an ideal Muslim state that properly enforces



Do Human Rights Have a Secular, Individualistic & Anti-Islamic Bias?

