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Muslim and Arab Contributions to Universal Declaration of Human Rights

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Summary

- Even before the Universal Declaration of Human Rights (UDHR) was adopted by the General Assembly in 1948, the drafting process was dogged by claims that it was Eurocentric, dominated by European and 'Global North' actors, while disregarding thinkers and cultural voices from elsewhere.
- In reality, jurists from Muslim majority and Arab countries actively participated throughout the drafting process. Most of the iconic articles, the obvious disavowal of the use of gendered pronouns throughout the texts, or the freedoms of conscience, thought and religion were championed, not by French or American jurists, but by Lebanese, Iraqi and Pakistani experts.
- Global South jurists defined and defended human rights, often in the face of opposition from their European and American counterparts, but their contribution have been largely lost or ignored in the literature.
- For example, Charles Malik (Lebanon) and Jamil Baroody (Saudi Arabia) were the most prominent Arab contributors. The former served as the Rapporteur to the eight-person drafting committee, before becoming Chairperson of the Commission for Human Rights. The 18 States on that Commission included Lebanon, Egypt and Iran. They were joined by Turkey, Afghanistan, Pakistan, Syria, Iraq, Morocco, and Jordan for the General Assembly Third Committee discussions which finally approved the UDHR. Arab jurists actively participated in the drafting of all the provisions.
- Another example – of the 48 provisions listed in the first 'draft', Arab and Muslim majority State constitutions protected rights in 32 categories. This is in contrast to both the US and French Constitutions, which informed only 28 and 20 clauses, respectively.
- This Insight focuses on several such examples. It first delves into the philosophical impact on the draft as a whole, as well as the engagement of Arab and Muslim actors. It then looks at the cross-cutting issue of gender pronouns. Moving on, it looks at the provisions on marriage invoking issues of equality and consent.
- The Insight finally discusses the origins of the freedoms of thought, conscience and religion – key provisions which originated from Arab and Muslim actors – thus filling a major gap in existing popular literature on human rights.

The Issue

In 1948 the Universal Declaration of Human Rights (UDHR) was adopted by the General Assembly. The non-binding Declaration would provide the foundation for the 1966 Covenants on Civil and Political Rights (ICCPR) and Economic, Social and Cultural Rights (ICESCR), which we now refer to as the International Bill of Human Rights.

The UDHR was drafted by the Commission on Human Rights between January 1947 and December 1948.¹ Having agreed to continue to draft binding instruments, the Commission then sat annually from 1949 to 1954. The resulting drafts were sent to the General Assembly's Third Committee which formulated the final text for the (now) two Covenants, the ICCPR and the ICESCR. They were opened for signature in 1966 and entered force a decade later.² This Insight follows the debates through the Commission, into the 3rd Committee.

While undoubtedly framing our understanding of human rights, the universality claimed for the human rights framework has been repeatedly challenged. A central claim of critics is that the drafting process was Eurocentric, dominated by European and 'Global North' actors who brought their philosophical traditions to the table, disregarding thinkers and cultural voices from outside the European sphere.³ However, doing so disregards the remarkable history of the people who defined these essential rights and wrote these documents in the 1940s and 1950s. Most of the iconic Articles, the obvious disavowal of the use of gendered pronouns throughout the texts, or the freedoms of conscience thought and religion were championed, not by French or Americans, but by Lebanese, Iraqi, Pakistani and Dominican jurists.

If there is a glaring geographical omission in the UDHR, it is the absence of African States in the drafting process (only Egypt and South Africa were present). The same cannot be said for Arab and Muslim majority States. The 18 States on the Commission for Human Rights which reviewed the drafts in the first instance, included Lebanon, Egypt and Iran. They were joined by Turkey, Afghanistan, Pakistan, Syria, Iraq, Morocco, and Jordan for the General Assembly Third Committee discussions which finally approved the UDHR, and went on to develop the Covenants.⁴

This Insight will firstly engage with the issue of relativist claims for the UDHR, focusing on the drafters themselves and the compilation of the first draft. There are a myriad of debates in the drafting process that could be highlighted. However, there are a number of interactions of particular relevance to Arab and Muslim

scholars. The study addresses the focus of the UDHR on the individual, where this idea came from and the role of Arab delegates in defining the approach taken. It then looks at the campaign to remove masculine pronouns and adding gender neutral phrases. Moving from there into the provisions on marriage invoking issues of equality and consent, the study finally discusses the origins of the freedoms of thought, conscience and religion. The selection of these issues is deliberate, as it was these provisions which were both championed and opposed by Arab and Muslim actors.

A Universal Declaration

Relativist concerns in relation to the universalisation of human rights started before the draft Declaration was complete, with a 1947 statement from American anthropologists posing the question: "How can the proposed Declaration be applicable to all human beings, and not be a statement of rights conceived only in terms of the values prevalent in the countries of Western Europe and America?"⁵ The Global South States, emerging from decades, if not centuries, of colonialism were sensitive to the 'civilising' narrative which justified dominance, a dynamic to which the Middle East was no stranger.

However valid relativist views are, they risk eclipsing the role of Global South advocates across the drafting of both the Declaration and the Covenants, who championed an expansive view of rights, often in opposition to their Western counterparts. The UDHR Belgian delegate, Mr Roland Lebeau, was no friend of women's rights, and he was joined by America's Eleanor Roosevelt; she initially argued that the forum for that discussion lay with the Commission on the Status of Women, but was dissuaded from closing the debates on female equality by the (then) USSR, Indian and Filipino delegates.⁶ The US and the UK actively opposed the adoption of self-determination or any expression of economic rights, with particular opposition to the right of the State to control citizens' wealth.⁷ With the exception of the French delegate Rene Cassin, who was highly attuned to issues of equality and the importance of the expanded understanding of rights, most Western delegates favoured a markedly restricted understanding of a broad range of human rights provisions.⁸

Where Global South actors took dynamic roles, they have been characterised as overly 'Western' and therefore not representative of their cultures, but such blunt assertions do not really bear scrutiny. The two most prominent Arab participants were Charles Malik (Lebanon) and Jamil Baroody (Saudi Arabia). Malik was

the proposer of the freedoms of thought, conscience and religion, and Baroody his ideological opposite who railed against the Western bias in the formulation of the UDHR. Much has been made about the differences between them as they seemingly represent two extremely different visions, both of the Middle East and its societies and tangentially, of Islam. However, the two have much more in common than has previously been acknowledged.

Both Malik and Baroody were Western-educated Lebanese Christians. Both studied at the American University of Beirut, before travelling to the US; Malik to Harvard and Baroody to Princeton.⁹ Malik was related by marriage to Edward Said. Said writes about their exchanges and Malik's philosophical identity, which he argued was more influenced by his horror of National Socialism, which he witnessed while studying with Heidegger, than his subsequent time at Harvard.¹⁰ Despite their similarities, Malik faced consistent criticism that he was overtly Westernised, a charge not levied at Baroody, who was not required to defend his 'Arabness' in the same way.¹¹

Malik was appointed as Rapporteur in the first meeting of the Human Rights Commission, alongside Roosevelt (US) as Chair and Peng Chung Chang (China) as Vice-Chair.¹² These three formed the UDHR's drafting committee.¹³ The broader Commission included Osman Ebeid and Omar Loutfi (Egypt), and Ghassame Ghani (Iran).¹⁴ Once the UDHR draft reached the General Assembly 3rd Committee in September 1948, discussions were joined by a broader range of Arab and Muslim majority States. These included Baroody, whose response to the draft document has in many ways been represented as the stance of the Arab and Muslim majority State actors as a whole. Overtly conservative, he championed a restrictive understanding of Islam.¹⁵ He sat in contrast to Shaïska Ikramullah (Pakistan) and Bedia Afnan (Iraq) who were both vociferous women's rights advocates.¹⁶

The first 'draft' was compiled, as opposed to 'written', by Sir John Humphrey. Erroneously described as 'drafter' of the UDHR. Humphrey compiled the first working document by extracting identifiable human rights provisions from 55 constitutions.¹⁷ Middle Eastern constitutions and those from Muslim majority States heavily informed the first draft with constitutions from Afghanistan,¹⁸ Egypt,¹⁹ Iran,²⁰ Iraq,²¹ Lebanon,²² Saudi Arabia,²³ Syria,²⁴ and Turkey²⁵ providing clauses for the draft.²⁶ Of the 48 provisions listed, Arab and Muslim majority State constitutions protected rights in 32 categories. This is in contrast to both the US and French Constitutions, which informed only 28 and 20 clauses, respectively.

A review of the rights protected in the range of Arab and Muslim majority State constitutions is illuminating. The right to life was sourced in both the Iranian and Turkish Constitutions²⁷ – a provision not present in either the US or France – while prohibitions on torture were present in the Afghan, Iraqi, Syrian, and Turkish Constitutions²⁸. Personal liberty was a right afforded to citizens in Afghanistan, Egypt, Iraq, and Lebanon²⁹; while slavery was prohibited in Afghanistan, Iraq, and Turkey³⁰. Provisions ensuring full equality to all people and forbidding discrimination on the basis of race, sex, language, religion or politics were present in the Constitutions of Afghanistan, Egypt, Iran, Iraq, Lebanon, Syria, and Turkey.³¹ Civil rights were confirmed in Turkey,³² and freedom of conscience and belief protected in Afghanistan,³³ Egypt,³⁴ Iraq,³⁵ Lebanon,³⁶ Syria, and Turkey.³⁷ Freedom of opinion was protected in Egypt,³⁸ and Iraq,³⁹ and freedom of speech protected in Afghanistan, Egypt, Iran, Iraq, Lebanon, Syria, and Turkey.⁴⁰

Freedom of movement was guaranteed in Egypt,⁴¹ Iran,⁴² Syria, and Turkey,⁴³ And freedom from arbitrary interference and protections for privacy in Afghanistan,⁴⁴ Egypt,⁴⁵ Iran,⁴⁶ Syria, and Turkey.⁴⁷ Freedom of assembly was protected in Egypt, Iraq, Lebanon, Syria, and Turkey,⁴⁸ as was freedom of association in Iran, Iraq, Lebanon, Syria, and Turkey, which also did not feature in the US Constitution.⁴⁹ Protections against arbitrary arrest, the right to a hearing and rights in incarceration, protected citizens in Afghanistan, Iran, Syria, Turkey, Egypt, and Lebanon, rights which were also notably absent from the US Constitution.⁵⁰ Arab and Muslim majority States provided text for a further 16 provisions, including protections from discrimination and social and cultural rights. Article 45 of the draft directly referenced gender discrimination and relied on input from the Constitutions of Egypt, Iran, Iraq, Lebanon, Syria, and Turkey, all of which had gender neutral designations for citizens ('subjects' or 'peoples') as equal before the law.⁵¹

On presentation of the draft, Baroody somewhat incongruously, "...briefly called attention to the fact that the declaration was based largely on Western patterns of culture, which were frequently at variance with the patterns of culture of Eastern States."⁵² Less reported, but no less important, were the opening comments from the Pakistan, Lebanese, Syrian, and Turkish delegates welcoming the draft without reservation; none of them defined the draft or the ideas contained therein, as 'Western'.⁵³

The Debates – The Individual

The centrality of the individual within the Western-associated canon of human rights is cited as one of its most problematic and culturally specific aspects of the human rights framework, at odds with, if not anathema to, non-Western philosophies.⁵⁴ While relativist voices raise important questions about the role of culture in the formation of rights and mount a challenge to blanket assertions of universalism, this principle in the UDHR was not as obviously Western as commentators such as Makau Mutua claim.⁵⁵

Firstly, it should be noted that the philosophical approach to the draft was only discussed in brief. What was emphasised was the protection of rights, possessed by each person, against the monolith State. The Nuremberg trials had concluded just five months previously, where it was the acts of individuals against individuals that was the focus of the prosecutions.⁵⁶ It is a statement by Malik that uniquely expresses the urgency and concern that the individual must be placed at the centre of the rights as they are developed.

“Today men have no need for protection against kings or dictators but rather against a new form of tyranny, that exercised by the masses and by the State. Mention must therefore be made in this International Bill of Rights of this tyranny of the State over the individual, whom it was the duty of the commission to protect.”⁵⁷

In a later session Malik returned to his theme:

1. The human person is more important than the racial, national, or other group to which he may belong;
2. The human person’s most sacred and inviolable possessions are his mind and his conscience, enabling him to perceive the truth, to choose freely, and to exist;
3. Any social pressure on the part of the State, religion or race, involving the automatic consent of the human person is reprehensible;
4. The social group to which the individual belongs, may, like the human person himself, be wrong or right: the person alone is the Judge. The Bill of Rights, he concluded, could not without prejudice to itself, disregard these four principles.”⁵⁸

In the subsequent debate, it was the Global North delegates from the UK and Australia who advocated the importance of rights of the community.⁵⁹ Subsequent commentators such as Mutua, while identifying the absence of communitarian understandings of rights, miss the historical context of these debates, and as such misrepresent them.

Women – Gender Pronouns

The fight for gender equality took a number of guises in the drafting process of the UDHR and included provisions on marriage, income and pay, but possibly the most far-reaching discussions centred around the use of gender pronouns in the opening text. The importance of the use of gender pronouns is today, something which has gained sensitivity, but in 1947 there was little awareness of the use of language and its impact on the culture of female exclusion. The common phrase for humanity was ‘mankind’ with laws “importing the masculine gender [to] include the feminine”.⁶¹ The initial drafts of the UDHR followed the same pattern, “all men are born free and equal... and should act towards one another like brothers.”⁶² It was Vladimir Koretsky (USSR) who first raised the issue of pronouns in the first session of the Drafting Committee, July 1947.⁶³ His statement was received with a distinct lack of interest by Roosevelt, “who pointed out that it had become customary to say “mankind” and mean both men and women without differentiation.”⁶⁴

However, four women, Ikramullah (Pakistan), Afnan (Iraq), Hansa Metha (India), and Minerva Bernadino (Dominican Republic), would work tirelessly to change this approach. It took consistent lobbying by these women, to achieve the gender-neutral language ultimately adopted, reflecting the Arab understanding of ‘peoples’. In March 1948 they presented their wording, proposing the phrase “all people”.⁶⁵ The issue was debated in the third session of the Commission, June 1948, and the phrase “all peoples, men and women” was adopted into the text.⁶⁶ In this they were supported by the Egyptian and Lebanese delegations.⁶⁷ In the final drafting process at the General Assembly Third Committee, the wording “all human beings” was ultimately adopted and a series of gendered pronouns were removed from the text.⁶⁸

In the Third Committee, fifth session, Afnan would go on to propose additional language designed to strengthen the commitment to gender equality:

“To make absolutely certain that the struggle for equal rights with men did not have to be waged again anywhere in the world, the Commission on Human Rights should state explicitly, in all its further work, the equal rights of men and women as set forth in the Charter of the United Nations.”⁶⁹

The proposal tabled by her, to explicitly endorse gender equality within a range of economic, social and cultural rights, was adopted 34 votes to none, with 13 abstentions.⁷⁰ Her proposed wording would be incorporated into what would become article 3 of the ICCPR and ICESCR.⁷¹

Rights in Marriage

The discussion on rights within marriage, centred on issues of equality, consent, age/sexual majority and the role of legislation within the deeply private arena of the family. The characterisation of Arab and Muslim actors in these debates has been dominated by the conservative stance of Saudi Arabia, which lobbied for a highly restricted statement of rights. However, in the early discussions at the Commission on Human Rights, both the Lebanese, Iraq and Egyptian delegations were active supporters of the vital importance of consent, and within their agreement and points of disagreement, a much more nuanced understanding of rights in Islam emerges.

The protection of the family and equality in marriage for men and women was inserted into Humphrey's draft at Article 13, which stated that "everyone has the right to contract marriage".⁷² Malik "view[ed] the family as the cradle of all human rights and liberties" and within that institution, rights were manifest.⁷³ He also noted that the family could exist without the "solemn ceremony of marriage" albeit that he believed marriage to have a separate status.⁷⁴ Loutfi (Egypt) reiterated Malik's statement that the concept of family was independent of marriage, taking that point a step further, arguing that family should be the focus of protection, regardless of marital status.⁷⁵ The tabled article read "marriage may not be contracted without the full consent of both intending spouses and before the age of puberty."⁷⁶ The text was adopted unanimously, including Lebanon and Egypt, and incorporated into the draft text presented to the Commission on Human Rights third session.⁷⁷

In contrast to the Arab delegates, the UK and Belgium delegates argued to remove the provision on consent.⁷⁸ Geoffrey Wilson (UK) noted that while personally agreeing that consent should be a requirement for marriage, he would not support the inclusion of the concept in the draft.⁷⁹ Their proposal was ultimately defeated, with the Lebanese delegation proposing the inclusion of "free and" before the words "full consent" in para 2.⁸⁰ Mr Azkool (Lebanon) noted that "Parents could force a girl to give her full consent to a marriage she did not wish, but, logically they could not force her to give her free consent."⁸¹ He was supported by Bernadino (Dominican Rep.) and Cassin (France) who consistently stressed the importance of consent as a primary provision in marriage.⁸² This amendment was incorporated into the final text.

In contrast, the Saudi delegation subsequently proposed a significantly more restricted statement: "Men and women of legal matrimonial age within every country

have the right to marry and to found a family and are entitled to the full rights as defined in the marriage laws of their country."⁸³ Their proposed text focused on two aspects, the age requirement moving from 'full age' which was thought to be ambiguous, to "legal matrimonial age", and the framing of rights within marriage, removing the reference to equality for spouses and replacing it with "full rights as defined in the marriage laws".⁸⁴

The Lebanese and Syrian delegates reiterated the importance of their proposed text, and noted that the reference 'as to marriage' included all phases, including dissolution, in support of an earlier comment by the USSR.⁸⁵ The final text adopted as Article 16 reads as follows:

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.⁸⁶

In the final vote Afghanistan, Egypt, Iran, Iraq, Lebanon, Syria, and Turkey confirmed the text.⁸⁷ Moving into the deliberations for the Covenants, the marriage clause was confirmed by Iran, Iraq, Lebanon, Libya, Saudi Arabia, Turkey, and United Arab Republic, in whole or in part, with only Yemen maintaining a consistent objection.⁸⁸

The Freedoms: Religion, Thought and Conscience

If gender equality and rights in marriage brought to the fore a range of views and opinions within the Arab states, the freedoms of religion, thought and conscience would prove to be particularly divisive. What these debates demonstrate, however, is that neither the Arab states, nor indeed broader Muslim majority States, could claim that a homogeneity of attitudes or views existed and were simply conferred by religion or culture. In fact, the opposite was true.

As previously noted, it was Malik who proposed the freedoms in the first place: "There is no freedom, he said, if one is not free to change his mind."⁸⁹ Malik would go on to provide the substance for the proposed wording for the then Article 14, and sponsored the inclusion in the draft of the freedoms of assembly and the right to participate in government (Articles 25 and 30).⁹⁰

He was particularly concerned that freedom of religion should be contained in the text, berating a French submission which did not include it and he framed these rights as 'above the law' which could not be subject to any limitation.⁹¹

The text proposed by Malik was as follows:

"Everyone has the right (is entitled) to freedom of religion, conscience and belief; this right includes freedom to change religion or belief, and freedom, either alone or in community with other persons of like mind and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."⁹²

At the behest of the USSR delegate he subsequently added reference to thought.⁹³

It is notable that during these discussions, Loutfi (Egypt) did not mount an objection to Malik's proposals, particularly in light of later claims that the UDHR's ideas were inimical to Islam. In fact, they agreed in principle on many points, as seen in the discussions on women's rights. Both Malik and Loutfi put forward progressive 'liberal' views more often claimed to be excluded from Islamic discourse, with the Egyptian delegate discussing the universality of rights and their applicability to all people, including those in trusteeship territories.⁹⁴

When the draft was presented to the Third Committee, the strongest opposition came from Baroody⁹⁵. Debating the article over two sessions, Baroody claimed that allowing the freedom to change religion would legitimise missionary activity in the region, an activity "used for the ends of certain alien political forces".⁹⁶ He was supported by the Iraq and Syrian delegations in his call to delete the words "to change his religion or belief, and freedom".⁹⁷ Both Lebanon and Turkey had no such qualms, instead agreeing with the original text. In the ensuing vote, the Saudi proposal was defeated 27 votes to 5 with 12 abstentions, Lebanon and Turkey both voting against, while Syria abstained.⁹⁸

Syria went on to strongly support the freedoms of opinion and expression. "Those rights should be applied to all peoples, of all races, whatever their situation, whether they were free, under mandate, or in a colonial status."⁹⁹ Following the debate the final agreed text of now Article 18 was as Malik originally proposed, with the inclusion of thought:

"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.

The Egyptian delegation resolved to vote for the clause and the declaration in its entirety, as did Iran, Iraq, Lebanon, Turkey, and Afghanistan.¹⁰⁰

Following the affirmative vote and the adoption of the UDHR, the right to change religion was discussed for inclusion in the Covenants by the Third Committee in 1950.¹⁰¹ Baroody again registered his objection to the freedom to change religion clause, referencing both missionary activity and the crusades.¹⁰² He was supported by the Yemeni delegate, who was of the opinion that the clauses would cause 'great difficulties for Arab countries'.¹⁰³ His views were pointedly not shared by the delegates from Afghanistan, Turkey and Iraq: Mr Pazhwak (Afghanistan) "said that it would be paradoxical not to adopt the covenant after having accepted the Universal Declaration of Human Rights."¹⁰⁴ He went on to note that the rights listed in the UDHR were reflected in the Afghan Constitution, the principles of which were grounded in Islam. In this, he was joined by the Turkish delegate.¹⁰⁵ Amzi Bey (Egypt), also supported the clause, noting the innate logic that people should have the ability to change religion, but did note that the clause could be divisive and could prevent ratification by some States.¹⁰⁶ Indeed, the Islam that all four referenced in their comments was upheld by them as the framework for the human rights and equalities which they were championing.¹⁰⁷

The final debates on the freedom of religion in the Covenants were held in 1960 in the fifteenth session of the Third Committee. The debate took place over five days with Baroody again insisting on the withdrawal of the freedom to change religion.¹⁰⁸ He was opposed by the Pakistan delegate, Begum Aziz Ahmed who refuted the Islamic basis of his objection, and in this she was supported by Pazhwak.¹⁰⁹

"He believed that all delegations representing Moslem countries, including his own, had voted unreservedly in favour of the Universal Declaration of Human Rights, which meant that they also endorsed its article on freedom of thought, conscience and religion. It was therefore inconceivable that any of those delegations could regard the terms of the Universal Declaration as an attack on the Moslem faith."¹¹⁰

A view, further confirmed by Mr El Erian (United Arab Republic).¹¹¹ The consistent rejection of the Saudi position resulted in a softening of the language used by Baroody, who noted that "the right of everyone to change, maintain and even renounce his religion or belief was implicitly recognized in the first sentence of article 18."¹¹² A new wording was proposed, changing the "freedom to change or maintain" to the "freedom to have or adopt."¹¹³

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

The three paragraphs which made up the article were voted on separately. Paragraph 1 was adopted by 70 votes to none, with 2 abstentions. Paragraph 2 was adopted by 72 votes to none, with 2 abstentions and paragraph 3 was adopted unanimously.¹¹⁴

What Happened Next...

Humphries' initial working draft had drawn heavily from the Arab and Islamic constitutions. Their subsequent iterations would absorb many of the provisions which had been debated by their representatives. The 1931 Afghan Constitution used in the draft was superseded by the 1964 Constitution which incorporated 23 of the 30 provisions in the UDHR including the equality of all citizens, and freedom of thought, conscience and expression. Religion is not mentioned.

The 1925 Egyptian Constitution was replaced by a civilian constitution in 1971. All the rights in the UDHR, including full equality for women and freedom of religion, are reflected in the document.¹¹⁵ The 1926 Lebanese Constitution, as amended, is still in effect: equality and liberty is guaranteed for all citizens and genders; freedom of religion, conscience, expression and assembly are guaranteed, the right to hold office and vote is extended to all citizens, including women.¹¹⁶

The 1924 Turkish Constitution was redrafted in 1961. All the rights listed in the UDHR are referenced, including equality, universal franchise and the right to participate in government, the freedoms of thought, conscience and religion, and the freedom to change religion.¹¹⁷ The 1930 Syrian Constitution was superseded by the 1950 Constitution (amended 1953) to extend franchise to women, and incorporated all the rights listed in the UDHR, again including freedoms of thought, religion and opinion.¹¹⁸

Conclusion

For those States that undertook constitutional reform after the adoption of the UDHR, it is clear the Declaration provided a framework of rights which States could adapt to suit their requirements. This was of significant relevance to Arab and Muslim majority States, who actively contributed to the formulation of those rights, but the same pattern can be seen in postcolonial constitutions the world over. It is not an overstatement to suggest that without the contribution of Arab and Muslim jurists, including Malik, Baroodi, Loutfi, Afnan and Ikramullah, who brought with them an understanding of the place of people within society, the role of the state as protector and an urgency for change, a much poorer understanding of rights, would have been articulated.

We owe them a forgotten debt.

(Note: An extended version of this paper will be published in the Oxford Handbook on International Law and the Arab World)

Endnotes

* In the early sessions of the Commission on Human Rights the names of delegates are provided in full. However, at the GA Third Committee only surnames are provided. Throughout this paper where possible, the names of delegates are initially listed in full and thereafter surnames only are used. For those participants who only feature in the latter discussions, the designation Mr or Ms has been used and thereafter just their surnames.

1. A/RES.217 (111)
2. Waltz, Susan. 2004. "Universal Human Rights: The Contribution of Muslim States." *Human Rights Quarterly* 26(4)
3. Ignatieff, Michael. "Human Rights as Politics." *Human Rights as Politics and Idolatry*, (Princeton NJ: Princeton University Press, 2011) pp.3–52. Kennedy, David *The Dark Sides of Virtue: Reassessing International Humanitarianism*. (Princeton: Princeton University Press 2005). Mutua, Makau. "Savages, Victims, and Saviors: The Metaphor of Human Rights." *The Development of International Human Rights Law 1: (2017)* 173–217. Binder, Guyora. "Cultural Relativism and Cultural Imperialism in Human Rights Law." *Buffalo Human Rights Law Review* 5 (1999): 211–22, Mutua, Makau. 2002. *Human Rights: A Political and Cultural Critique*. Philadelphia, Pa.: University of Pennsylvania Press.
4. Le, Nhina. 2016. "Are Human Rights Universal or Culturally Relative?" *Peace Review* 28(2): p.205
5. The Executive Board American Anthropological Association. 1947. "Statement on Human Rights." *American Anthropologist* 49(4): 539-43.
6. E/CN.4/SR.1 First meeting of the Human Rights Commission p.6
7. UN. Doc. A/C.3/SR.676 (1955) General Assembly Tenth Session, Third Committee 676th Meeting, 29 November para 30-33
8. E/CN.4/AC.1/SR.13
9. Mitoma, Glenn. 2010. "Charles H. Malik and Human Rights: Notes on a Biography." *Biography - An Interdisciplinary Quarterly* 33(1): p.232 United Nations Jamil the Irrepressible Time 13 December 1971 <http://content.time.com/time/subscriber/article/0,33009,910160-1,00.html>
10. Mitoma, Glenn. 2010. "Charles H. Malik and Human Rights: Notes on a Biography." *Biography - An Interdisciplinary Quarterly* 33(1): p.232, Said, Edward W. *Out of Place : A Memoir*. London: Granta, 1999.
11. Abdulaziz M. Alwasil (2010) Saudi Arabia's engagement in, and interaction with, the UN human rights system: an analytical review, *The International Journal of Human Rights*, 14:7, 1072-1091
12. E/CN.4/SR.1 Human Rights Commission first Session 28 January 1947
13. E/CN.4/AC.1/SR.1 Human Rights Commission Drafting Committee first Session 10 June 1947
14. E/CN.4/SR.1 Human Rights Commission First Session 28 January 1947
15. A/CN.3/SR.91
16. Waltz, Susan. 2004. "Universal Human Rights: The Contribution of Muslim States." *Human Rights Quarterly* 26(4): p.808
17. Ignatieff, Michael. "Human Rights as Politics." *Human Rights as Politics and Idolatry*, (Princeton NJ: Princeton University Press, 2011) pp.3–52. Glendon, Mary Ann. "The Rule of Law in the Universal Declaration of Human Rights." *North western Journal of International Human Rights* 2 (1) (2004): p.2. E/CN.4/AC.1/3/ADD.1 & E/CN.4/AC.1/SR.1 Commission on Human Rights Drafting Committee first session 10 June 1947
18. 1931
19. 1923
20. 1907 & 1925

21. 1924 ADD. 1943
22. 1926 ADD. 1929
23. 1926
24. 1930
25. 1924
26. pp.17-8
27. pp.20-24
28. p.25-27
29. p.60-63
30. pp.360-376
31. p.98
32. p.101
33. p.105
34. p.108
35. p.108
36. p.115
37. p.118
38. p.119
39. pp.123-134
40. p.69
41. p.70
42. p.71
43. p.79
44. p.83
45. pp.86-7
46. pp.93-4
47. pp.141-145
48. pp.153-157
49. Ibid pp. 26, 36, 43, 54, 56-7 respectively
50. Ibid pp.359-379
51. E/CN.3/SR.91 p49
52. A/CN.3/SR.90 p.37, A/CN.3/SR.91 p.51 p.52- 3, & A/CN.3/SR.93 p.70 respectively
53. Mutua, Makau. 2002. *Human Rights: A Political and Cultural Critique*. Philadelphia, Pa.: University of Pennsylvania Press. p.42.
54. Ibid
55. Crawford, James R. 2010. "Part III The Sources of International Responsibility, Ch . 29." In *The Law of International Responsibility*, eds. James R. Crawford, Alain Pellet, Simon Olleson, and Kate Parlett. Oxford: Oxford University Press.
56. E/CN.4/SR.9 p.3
57. E/CN.4/SR.14 pp.4-5
58. Ibid pp.4-6
59. Mutua, Makau. 2002. *Human Rights: A Political and Cultural Critique*. Philadelphia, Pa.: University of Pennsylvania Press.
60. An example is the UK 'Interpretation Act of 1850' Art 6.
61. E/600 p.15, E/CN.4/95 p.5.
62. E/CN.4/AC.1/SR.13 p.6
63. Ibid p.7
64. E/CN.4/81
65. E/CN.4/SR.50 p.9, 15 & 17.
66. E/CN.4/SR.50 pp. 5 & 11
67. E/CN.4/148/ADD.1., Morsink, Johannes. "Chapter 3. Colonies, Minorities, and Women's Rights." In *The Universal Declaration of Human Rights: Origins, Drafting and Intent*, 92-129. (Philadelphia: University of Pennsylvania Press 1999)
68. A/C.3/SR.313 p257-58
69. (A/C.3/L.106) A/C.3/SR.313 p.261
70. Waltz, Susan. 2004. "Universal Human Rights: The Contribution of Muslim States." *Human Rights Quarterly* 26(4): 799-844. Bossuyt, Marc. 1987. *Guide to the Travaux Préparatoires of the International Covenant on Civil and Political Rights*. Lancaster: Martinus Nijhoff. p.77
71. E/CN.4/AC.1/3/ADD.1 p.98
72. E/CN.4/AC.1/SR.38 p.8
73. E/CN.4/AC.1/SR.38 p.11
74. E/CN.4/SR.58 p.12
75. E/CN.4/SR.62 p.10
76. E/CN.4/AC.1/SR.38 p.13 when the vote was taken, E/CN.4/95 the text drafted in Geneva, E/CN.4/SR.58 CHR debate

77. E/CN.4/99, E/CN.4/SR.58 p.11
78. E/CN.4/SR.58 p.16
79. A/CN.3/287
80. A/CN.3/SR.124 p.364
81. A/C.3/SR.125 p.369, A/CN.3/SR.124 p.363
82. A/CN.3/287
83. A/CN.3/SR.124 p.363
84. A/CN.3/SR.125 p.372, A/CN.3/SR.124 p.366
85. GA/RES/217 (111) article 16.
86. A/PV.183 p.933
87. A/CN.3/SR.1069 & A/5035
88. E/CN.4/AC.1/SR.3 p.3
89. E/CN.4/AC.1/SR.4 pp.7-9
90. E/CN.4/AC.1/SR.26 p.3-4, E/CN.4/SR.60 p.7.
91. E/CN.4/SR.60 p9
92. E/CN.4/SR.60 p10, E/CN.4/SR.62 p12
93. E/CN.4/SR.78 p.6
94. A/C.3/247 REV.1
95. A/CN.3/SR.127 pp.391, 404.
96. A/CN.3/SR.127 pp.396-403
97. A/C.3/SR.128 p.406
98. A/C.3/SR.128 p.412
99. A/PV.183 pp.912 & 933.
100. Waltz, Susan. 2004. "Universal Human Rights: The Contribution of Muslim States." *Human Rights Quarterly* 26(4): p.817
101. A/C.3/SR.289 p.115
102. A/C.3/SR.290 p.122
103. A/C.3/SR.291 p.127
104. A/C.3/SR.291 p.130
105. A/C.3/SR.288 p.109
106. A/C.3/SR.296 p.163
107. A/C.3/SR.1021-26
108. A/C.3/SR.1021, A/C.3/SR.1024
109. A/C.3/SR.1024 p.211-212
110. A/C.3/SR.1026 p.221
111. A/C.3/SR.1026 p.222
112. A/C.3/L.877 see also Bossuyt, Marc. 1987. *Guide to the Travaux Préparatoires of the International Covenant on Civil and Political Rights*. Lancaster: Martinus Nijhoff. p.358
113. A/C.3/SR.1027 p.228
114. Articles, 11, 49 and 46.
115. Chapter 2
116. Articles 12, 55, 19-21, respectively.
117. "Constitution of the Republic of Syria." 1953. *Middle East Journal* 7(4): 521-38. Chapter 2 and specific freedoms in Articles 3, 9, 13 & 15.