

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

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There is a widely shared belief, both within and outside the Muslim world, that Islamic law cannot be reconciled with the modern human rights regime that developed out of the 1948 Universal Declaration of Human Rights (UDHR). Many Muslims perceive that the purportedly individualistic, secular, and Western orientation of human rights is alien to Islamic values. Abdulaziz Sachedina and other scholars of Islam have argued that the underlying tenets of the UDHR and its progeny are simply incompatible with Islamic law. In reality, the problem is not an underlying conflict between human rights and Islam, but the mistaken assumption that the modern nation-state is the proper institution for interpreting and enforcing Islamic law.

In 1889, one of England's most revered and reviled orientalist, Rudyard Kipling, penned "The Ballad of East and West." It begins with the famous line: "Oh, East is East, and West is West, and never the twain shall meet." The ballad describes an encounter near the Khyber Pass between Kamal, an Afghan brigand, and a British soldier. These two opponents symbolize the seemingly unbridgeable rift between East and West, Muslim and Christian, and indigenous peoples and colonial powers. Kipling's expression has been invoked ever since to point to an intractable divide – cultural, psychological, and sociological – between Orient and Occident. Divides such as that suggested by Kipling have been a staple of modern thought, perhaps most notoriously toward the end of the twentieth century with the publication of Samuel Huntington's "clash of civilizations" thesis. Huntington argued that "the paramount axis of world politics will be the relations between 'the West and the Rest.'"¹ Many versions of this divide, including Huntington's, presume, like Kipling, a "Western" superiority.²

Following World War II, and sixty years after Kipling suggested a persistent divide between East and West, many in the international community began to insist that, to the contrary, there are universal values of human rights that transcend cultures, peoples, and civilizations. The first comprehensive articulation of this vision appeared in the 1948 Universal Declaration of Human Rights (UDHR).³ More broadly, the half-decade between 1945 and 1950 saw the adoption of a remarkable collection of human rights treaties, declarations, and activities that expressed a

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 *has* 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. Rather, Westerners selected some of their own peculiar values, renamed them “universal,” and thereafter promoted them as if they were the common sentiments and values of mankind. These scholars argue that the underlying Western bias in human rights constitutes a “false universalism.”¹⁰

Baroody’s complaint in 1948 has indeed been a recurring theme in debates about human rights and the UDHR. In their later history of the UN and human rights, Roger Normand and Sarah Zaidi forthrightly assert that the UDHR is fundamentally Western in its orientation. “There is little room for debating the simple histori-

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 "*sharia*" 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 *inside* its member states.

Similarly, the twenty-two-member League of Arab States (Arab League) – each of whose members also belongs to the OIC and is majority-Muslim – created its own human rights instruments and institutions (based in Cairo) that set it apart from the international human rights regime. While the term "Arab" denotes an ethnicity and "Muslim" references a religion, all majority-Arab countries are also majority-Muslim countries, though the opposite does not hold. Indeed, the preponderance of Muslim-majority countries is not Arab. It has long been recognized that the Muslim-majority Arab world ranks particularly poorly with respect to human rights. According to the 2009 *Arab Human Development Report*, written by Arab experts for the United Nations Development Programme Regional Bureau for Arab States, "Arab states seem content to ratify certain international human rights treaties, but do not go so far as to recognize the role of international mechanisms in making human rights effective."¹⁹ The 2009 report cites Syrian scholar Radwan Ziyadeh in support of its assertion that,

What constitutions legally decree is, in practice, lost under a mass of legal restrictions and exceptional measures, and through a lack of safeguards for these rights. The situa-

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 Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, and the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.²¹ In brief, the religion-related rights on which the Arab and Muslim worlds are perceived as being out-of-step with universal standards include such issues as whether non-Muslims in Muslim-majority countries are able to practice their religion fully without state interference, whether Muslims who dissent from the official state religion are allowed to follow their own practices (including Sunnis in Shia-majority countries or Ahmadiyya in Sunni-majority countries), the right to proselytize, the right to change religion, and the right of women to inherit, marry, divorce, and obtain child custody on the same terms as Muslim men. The term *sharia* is frequently invoked, particularly since the 1980s, to justify a Muslim exception to a universal standard. The alarm initially raised by Baroody in 1948 in defense of the Muslim and Arab worlds in the context of the UDHR has continued to resonate in the Muslim and Arab worlds, even as the responses to the alarm have varied over time.

There are many possible routes one might take to evaluate whether there is a significant values divide between the Muslim and Arab worlds, on the one hand, and the modern human rights regime, on the other. This essay focuses on the origins of the debate in the drafting and adoption of the UDHR in 1948. I approach this by engaging in a dialogue with an important scholar, Abdulaziz Sachedina, who has argued that the UDHR is undermined by its failure to establish space for Islam.²² While insisting that he is a strong advocate of human rights, Sachedina argues that the UDHR, *the* founding document of the modern human rights movement, has serious shortcomings: namely, that it is overly individualistic and expresses an unduly secularist worldview. Regarding these two points, I argue that Sachedina has made significant errors of analysis and that

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 turned into dogma.”²⁴ Abdulaziz Sachedina, who has attempted to articulate the widespread Muslim concerns about human rights, likewise found that its individualism is at the root of the problem.

The overriding emphasis on the autonomy of the individual with an independent moral standard that transcends religious and cultural differences to claim rights without considering the bonds of reciprocity runs contrary to the Islamic tradition’s emphasis on the community and relational aspects of human existence.²⁵

Criticisms of Western individualism arose frequently during the UDHR drafting debates. Emile Saint-Lot, the Haitian representative and fierce advocate at the UN for movements of national liberation, expressed his concern that Article 3 of the Human Rights Commission’s June 7, 1948, draft – “Everyone has the right to life, liberty and security of the person” – was “too greatly influenced by the individualism of Jean-Jacques Rousseau.”²⁶ Ironically, agreeing with the anti-colonialist Saint-Lot was the delegate from the Kingdom of Belgium, the colonial power that then ruled over the Belgian Congo. An aristocrat and former Belgian prime minister, Count Henry Carton de Wiart, also found that Article 3 was overly individualistic, and he later criticized another proposal by Mexico that he similarly found to contain “excessive individualism.”²⁷ The Australian delegate to the UN, Alan Watt, agreed that an article then under consideration (draft Article 15) did focus on rights of individuals but that ultimately it was difficult to avoid an individualistic approach.²⁸ Representative Alexander Bogomolov of the Soviet Union argued that insufficient attention had been paid to the human being as worker, and that the UDHR was “unduly individualistic and thus unrealistic.”²⁹ Guy Pérez Cisneros of pre-Castro Cuba believed that there was an insufficient emphasis on duties and too much emphasis on the individualistic side of man’s character.³⁰ Even though his proposed amendment was not accepted, he later, on behalf of Cuba, was an enthusiastic supporter of the UDHR on the day it was adopted: the declaration “would mark the advent of a world in which man, freed from fear and

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 the human rights regime in general have been broadly acknowledged, even by human rights advocates. Michael Ignatieff, historian and past leader of the Liberal Party of Canada, has argued that the “best way to face the cultural challenges to human rights coming from Asia, Islam, and Western postmodernism is to admit their truth: rights discourse is individualistic.”³³ Elsewhere, Ignatieff confirms that “rights language cannot be parsed or translated into a non-individualistic, communitarian framework. It presumes moral individualism and is nonsensical outside that assumption.”³⁴ Perhaps the most notable champion of the universality of human rights against cultural relativism has been political scientist Jack Donnelly:

Human rights are inherently “individualistic”; they are rights held by individuals in relation to, even against, the state and society. But while traditional cultures, both western and nonwestern, usually view persons primarily as parts of a family or community, rather than autonomous individuals, not all forms of nonindividualistic or antiindividualistic politics are based in traditional culture – even where that culture remains vital.³⁵

With such observations, it might be tempting simply to acknowledge the UDHR as overly emphasizing the individual, and thereby delegitimize the UDHR and even the entire human rights regime for being overly individualistic and insufficiently community oriented. But it may be worth considering the validity of such a criticism both generally and specifically with regard to the right of freedom of religion or belief as stated in Article 18 of the UDHR and the ICCPR.

There are four arguments that seem to undermine the criticism of the human rights regime as being overly Western and individualistic.

First, and most generally, the term “individualistic” and its cognates perhaps unfairly bear the pejorative connotations of selfishness, egotism, narcissism, and self-centeredness. Thus, we should ask what exactly were the delegates’ *specific* criticisms when they attached the pejorative term? Remarkably, little was said to explain exactly what the specific problem was. In fact, “individualistic” and its cognates were used in ways similar to the criticism of labeling a provision as “Western,” as if attaching such labels was sufficient in and of itself to taint the

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.

Second, the text of Article 18, as adopted, explicitly states that the right is one to be exercised “*either 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 *travaux préparatoires*, the official and collected records of the drafting process.³⁶

Third, 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 *against the state*. The text of Article 18 does not per se separate individuals from society but protects individuals and society against state encroachment.

Finally, 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 partner unto Me that of which thou hast no knowledge, then obey them not.

—Luqman, 31:14–15³⁹

Both Luke and the Quran insist that whatever filial obligations we owe to our parents and families, our higher individual obligation is to God. The Patriarch Abraham (Ibrahim in Islam), a revered figure in Judaism, Christianity, and Islam, was prepared to sacrifice his son when told to do so by God. In religion, if there is a conflict between God and family, whether in the East or West, the priority goes to God. Lee did not characterize the West; he caricatured it.

The words “secular” and “secularism,” invoked by Sachedina and others, are widely understood in the Muslim world to be terms of opprobrium. “Islam is believed to be all-encompassing and all-pervasive; ‘secularism’ is therefore considered by many to be a concept not only alien to, but also incompatible with Islam.”⁴⁰ The terms often bear the connotations of being anti-religious, anti-Islamic, atheist, agnostic, modern, Western, and materialistic. Yusuf al-Qaradawi, one of the best-known religious figures in the Sunni Muslim world, sees secularism as distinctly Western. “Since Islam is a comprehensive system of worship and legislation, the acceptance of secularism means abandonment of Islamic law, a denial of divine guidance, and a rejection of God’s injunctions. It is indeed a false claim.”⁴¹ For Sayyid Qutb, arguably the most influential Islamist since 1948, the “essence of that confrontation between the Muslim nation and its opponents remains fundamentally the same today: secularism, international Zionism and modern-day Crusaders.”⁴²

In his *Islam and the Challenge of Human Rights*, Sachedina chose the term “secular,” applied in its pejorative sense, to identify what he saw as a fatal flaw of the UDHR and to explain why Muslims are critical of it. The 1948 Declaration is repudiated not only by those whom he describes as “traditionalists,” but also by “educated Muslims” who are unable to grant “wholehearted acceptance of the culturally dominant secular morality of the West, which they believe undergirds the Declaration.”⁴³ According to Sachedina, the “ongoing Muslim criticisms of the Declaration as being prejudicially antireligious and politically hegemonic are founded upon rejection of a universal claim of secular morality.”⁴⁴ The “aggressive human

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

Sachedina understands the importance of using primary sources when analyzing how texts are written and how they should be interpreted. “I have always emphasized [to my students] to be critical, and to demonstrate their points with evidence from the sources that are primary rather than secondary.”⁵⁷ Given his awareness of the importance of primary sources, and given his assertions about the drafting process of the UDHR, we could reasonably expect that he would base his characterizations of the UDHR and conclusions regarding the values of the diplomats who wrote it on a solid review of the drafting materials (the *travaux préparatoires*) available for the UDHR, as well as a meticulous analysis of the UDHR text itself prior to making such claims. Unfortunately, Sachedina cites no primary source materials from the *travaux préparatoires*, all of which are now available online (and as later collected in the three-thousand-page edited volumes prepared by William Schabas).⁵⁸ With one minor exception, the only source he cites referencing the drafting process is a decidedly secondary source: political philosopher Johannes Morsink’s *Universal Declaration of Human Rights*.⁵⁹

So what primary-source evidence is there to support Sachedina’s bald assertions regarding the “aggressive secularism” in the UDHR drafting process? In short, there is none. Other than a few brief references to state-constitution provisions that included the word “secular,” the term was used only two times of which I am aware in the thousands of available pages of the *travaux préparatoires*: once by the delegate from India who said that her country was a secular state and once by the representative from Byelorussia, who referred to the United Nations as being a secular organization.⁶⁰ Although there were many references throughout the drafting process to the Enlightenment, liberalism, Western values, Christianity, Buddhism, Islam, God, the Creator, capitalism, socialism, communism, Rousseau, and individualism, *not one delegate ever used the term “secularism” with the negative connotations on which Sachedina repeatedly insists that the UDHR is founded.* There are *no* primary sources from the *travaux préparatoires* that support Sachedina’s assertion that his version of secularism was advocated or even mentioned in the three years of debates preceding the adoption of the UDHR.⁶¹ Secularism, simply put, did not figure in the debates. Sachedina’s “aggressive secularism” is a fantasy that sounds more like Sayyid Qutb and Yusuf al-Qaradawi than anyone who actually participated in the debates.

If we set aside the rather serious problem that primary-source evidence does not support Sachedina’s conclusion that “aggressive secularism” was part of the drafting process, and similarly put aside the caricature of the UDHR as embodying aggressive secularism, the vital question remains: *exactly which provisions* of the UDHR as presently constituted infringe on Muslims’ rights of religion or belief?

In order to clarify the question being posed, we can illustrate it using a hypothetical human rights convention that includes an article allowing states to prohibit their people from going on the Hajj or from praying. Such an article would

clearly infringe on the right of Muslims to practice their religion and to fulfill their religious obligations. Or suppose another provision in the hypothetical convention that authorized states to require public officials to profess a belief in the Trinity. With such a provision, it is again easy to see how the rights of Muslims would be infringed by effectively excluding them from holding public office because of their religious beliefs. Going from this hypothetical convention with its offending provisions, we need now ask which provisions, if any, within the UDHR violate the freedom of religion or belief of a practicing Muslim? We are *not* asking whether Muslims should agree with all provisions of the UDHR, but only whether any provision infringes on their conscience or religious practices.

Although Sachedina does not answer this question as posed here, we can identify the typical objections to the UDHR that are invoked by Muslim defenders of Islam and to some extent by Sachedina as well. Whereas the UDHR would seem to require gender neutrality and to prohibit state promotion of Islam, many Muslim states enforce laws that presuppose that Islam treats genders differently and that endorse Islam as the religion of the state. Five of the most frequently invoked examples of Muslim-majority state practices that are inconsistent with the UDHR include:

1. Contrary to principles of gender equality in the UDHR preamble, Article 2, and Article 16, some Muslim-majority states prohibit Muslim women from marrying non-Muslim men;
2. Contrary to principles of gender equality in the UDHR preamble and Article 2, some Muslim-majority states operate laws that provide different distributions of inheritance that favor male over female children;
3. Contrary to principles of the UDHR preamble and Article 18, some Muslim-majority states prohibit non-Muslims from adopting Muslim children while not prohibiting Muslims from adopting non-Muslim children;
4. Contrary to principles of the UDHR preamble and Article 18, some Muslim-majority states prohibit Muslims from converting to another religion (or renouncing Islam) while allowing non-Muslims to convert to Islam; and
5. Contrary to principles of the UDHR preamble and Article 18, some Muslim-majority states require that the head of state be a Muslim.

We should acknowledge that these five examples, at least at first glance, do indeed suggest a sharp incompatibility between standards of the modern human rights regime and the practices of many Muslim-majority states. We also can admit that it is entirely unlikely in the foreseeable future that states wishing to apply Islamic law, as they interpret it, would renounce any of the first three practices, and some states would be unwilling to rethink any of the five. Nevertheless, when we look more carefully at these five examples, we find no incompatibilities be-

tween the values of the UDHR and Islamic law. Sachedina and others who identify an incompatibility are mistaken due to an unwarranted and entirely unexamined assumption that they bring to the table: that the nation-state in majority-Muslim countries is the proper institution to be entrusted with interpreting and enforcing Islamic law.

It is important to recognize in these five examples the unstated but implicit assumption that the modern nation-state is the appropriate authority to interpret and enforce Islamic law, and that international human rights standards should not be allowed to interfere with the practice of Islamic law by compelling states to adhere to human rights norms. When we consider this closely, it becomes clear that the objections to human rights universalism ultimately is not in support of Muslims' right to practice their religion in accordance with Islamic law, but in *support of the power of the modern nation-state to decide what Islamic law is and to compel observance of state interpretations of that law*. The significance and seriousness of this fundamental mistake by Sachedina and others cannot be overstated.

To illustrate the fundamental mistake, let us begin with a case drawn from the first of the examples above: marriage between a Muslim woman and a non-Muslim man. It is widely assumed throughout the Muslim world that a Muslim woman is strictly prohibited from marrying a non-Muslim man (although a Muslim man may marry a non-Muslim woman). Let us suppose the case of a devout Muslim woman living in a non-Muslim state or in any state that does not enforce Islamic law. Is there anything in the UDHR (or other human rights instrument) that interferes in any way with the religious obligation of this woman to marry only a Muslim man? Of course, there is not. Indeed, UDHR Article 16 explicitly protects her right to marry only a Muslim man if she so wishes. Faithful Muslims seeking to practice their religion are entirely free to observe this obligation without any constraint and the state *must not* compel them to marry someone against their wishes. The UDHR, in this first example, does not violate Islamic law or values.

Similarly, with regard to the second case on inheritance, there is nothing in the UDHR that interferes with Muslim families' ability to distribute inheritance to their children as they wish (provided that they make the decision prior to the time that the inheritance is to take effect). The fact that a *state* does not enforce Islamic law does not imply that the UDHR is *in conflict* with Islamic law. Similarly, in the unlikely event that a Muslim-majority state were suddenly to abolish its marriage and inheritance laws, this would in no way infringe on the religious practices of Muslims who wish to follow Islamic law.

Thus, the issue between the UDHR and Islamic law is not the ability of Muslims to practice their religion as they understand it; the issue is whether the state should be empowered, entrusted, or required to enforce its interpretation of Islamic law. Sachedina's implicit argument, though he seems not to recognize it, is not in support of people's ability to practice Islam, but for empowering the mod-

ern nation-state to be an enforcer of Islamic law. Sachedina and others notably offer no Quranic authority showing that the modern nation-state should be entrusted with such authority.

The issue is largely the same with the UDHR proclamation on the “freedom to change religion.” Sachedina and others recognize, correctly, that this is perhaps the most controversial and intractable perceived conflict between human rights and the practices of many Muslim-majority states. However, once again, the issue is not simply whether there is a religious prohibition on Muslims not to convert to another religion. Let us assume, for the sake of discussion, that Islamic law is entirely clear on this point and that conversion outside of Islam is prohibited. This is an entirely different question from whether the modern nation-state should be responsible for prohibiting, criminalizing, and punishing conversions. The UDHR does not force people to change their religion or to violate Islamic law; it provides only that it is not the role of the modern nation-state to enforce and punish such violations. Thus, it appears that the real issue for Muslim critics of the UDHR is not that it interferes with the ability of Muslims to practice their religion, but that *it interferes with their wish* (which has no basis in traditional Islamic law) *to enlist the modern state to compel compliance with religious law.* Indeed, we might be so bold as to argue that there is a Quranic injunction against the state, or any earthly power, from using force to coerce compliance with religion: “there is no compulsion in religion.”⁶²

Although such arguments are unlikely to convince Muslim-majority states to cease enforcing what they perceive to be Islamic law, the arguments reveal that the real issue of contention is not one of an ill-founded UDHR interfering with religious beliefs or practices of Muslims, but one of whether it should be the role of the modern nation-state to be the enforcer of Islamic law. To assume the latter requires deference to the regimes of states under the control of profane officials like Bashir al-Assad, Hosni Mubarak, Saddam Hussein, and their appointees as enforcers of God’s law. Even if these odious regimes were found to be particularly objectionable, we continue to be justified in asking *exactly which majority-Muslim states* are recognizable for the piety and religious knowledge of their leaders? Why, we should ask, do Sachedina and other skeptics of the UDHR defer to these profane rulers rather than the principles of the UDHR, which guarantees Muslims the right to manifest and practice their religion according to their own religious beliefs? Why such deference to the profane nation-state as the interpreter, judge, and enforcer of sacred Islamic values?

In addition to his premise that the UDHR exemplifies “aggressive secularism,” Sachedina argues that Muslims will accept a human rights instrument, such as the UDHR, only if it has a moral foundation compatible with Islam. In making such an assertion, Sachedina – like many others – fundamentally misunderstands the practical origins of human rights texts. The UDHR was not based on any underlying

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 doctrines or moral worldviews, however appealing such ideas might be, but from the very practical if uninspiring fact that the texts were adopted by a majority vote in drafting sessions followed by states' signing or ratification of the instruments. Whereas scholars may subsequently propose philosophical arguments in favor of the human rights instruments (such as a natural rights argument in favor of the UDHR), the instruments themselves are derived by a compromise reached from competing viewpoints rather than a common ideological understanding. Not one delegate asserts anywhere in the *travaux préparatoires* that there was a common understanding of a philosophical root for the rights enumerated therein.

Sachedina, who does favor human rights generally, nevertheless criticizes the drafters of the UDHR for not having drafted a document compatible with Islamic values. For reasons stated above, I find that he is mistaken in this regard. But let us suppose that he is correct in that the UDHR is not compatible with Islamic values and that the UDHR could have been drafted in such a way as to both protect Islamic values (as Sachedina understands them) *and* gather international consensus in favor of human rights. Sachedina fails to explain exactly what that hypothetical text would include. He criticizes them for their failure, but never offers a solution.

When making his argument that an acceptable moral foundation needs to be laid for human rights, Sachedina had significant advantages unavailable to the UDHR drafters who met in New York, Geneva, and Paris between 1946 and 1948. To begin with, he had available for his inspection the entire *travaux préparatoires* before beginning his study as well as sixty years of scholarly commentary on the UDHR, the ICCPR, the International Covenant on Economic, Social and Cultural Rights (ICESCR), and other human rights agreements, including the Cairo Declaration on Human Rights in Islam. He also had the leisure, unlike the delegates in the drafting sessions, to reflect at his own pace and with his own deadlines to develop his thoughts and ideas. Throughout his book, Sachedina repeatedly acknowledges the importance of “practical decisions,” “practical considerations,” and a “practical consensus” in the field of human rights.⁶³ He also understood that the task of the UDHR drafters was to find the “exact universal language” that would provide specific “ways of protecting humans from indiscriminate violence and oppression.”⁶⁴

Sachedina criticizes the UN delegates for their insufficient attention to the moral foundations of human rights, for their insufficient knowledge of Islamic thought, and for having inserted their own secular and Christian biases. Let us now turn Sachedina's own language upon himself and ask what is his own “practical” proposal for the “exact universal language” that would be acceptable both to the international community and to skeptical Muslims? How *specifically* should

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 counter-examples 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 *profane* 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 *profess* 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

Islamic law, they need only look to the *actual political authorities in majority-Muslim states* to see that such people are not the religious models for which one would hope.

Muslims themselves should insist that profane states and profane leaders not be entrusted with interpreting and enforcing Islamic law. The threat to Islam comes not from human rights instruments that protect the rights of Muslims to follow their beliefs, but from states that wish to impose their agenda on religious believers.

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ENDNOTES

- ¹ Samuel Huntington, "The Clash of Civilizations," *Foreign Affairs* 72 (3) (1993): 48. This same phrase was incorporated in the title of Niall Ferguson, *Civilization: The West and the Rest* (London: Allen Lane, 2011). Ferguson describes Huntington as having provided "the most influential recent definition of Western civilization"; *ibid.*, 15. Ferguson repeatedly refers to Huntington's 1993 article, but makes no mention of Stuart Hall's important but less famous chapter "The West and the Rest," which appeared the year before Huntington's article. Stuart Hall, "The West and the Rest: Discourse and Power," in *Formations of Modernity*, ed. Stuart Hall and Bram Gieben (Cambridge: Polity Press, 1992), 275.
- ² Henceforth, the author will not place the terms "East" and "West" in quotation marks. As will be made clear in this essay, the author rejects the usefulness of such terms to explain the very real ideological and values differences among people, and wishes to avoid redundancy of qualifiers such as "so-called East" or the proliferation of ungainly quotation marks around each use of the terms. Readers' indulgence is hereby requested to assume that the author never wishes to reify the terms or to use them as meaningful categories.
- ³ Universal Declaration of Human Rights, G.A. Res. 217A(III), Official Records of the Third Session of the General Assembly, Part I, U.N. Doc. A/810 (1948), 71. It should be noted that the word "universal" was not officially part of the draft Declaration's title until November 30, 1948.
- ⁴ The half-decade between 1945–1950 saw the emergence of human rights as a founding principle of the UN Charter (1945), the Tokyo and Nuremberg trials that held individuals internationally responsible for killing, the adoption of the Genocide Conven-

tion (1948), the Geneva Conventions of 1949, and the Universal Declaration of Human Rights (1948). Two regional human rights instruments similarly were promoted during this remarkable half-decade: the European Convention on Human Rights (1950) and the American Declaration of the Rights and Duties of Man (1948). The American Declaration is widely cited as the “Bogotá declaration,” since it was referenced throughout the Universal Declaration of Human Rights drafting sessions. It was distributed to UN bodies as American Declaration on the Rights and Duties of Man, as Adopted By the 9th International Conference of American States, ECOSOC E/CN.4/122 (June 10, 1948).

- ⁵ Mary Ann Glendon, *A World Made New* (New York: Random House, 2001), xvi–xvii.
- ⁶ Henry Steiner, “Political Participation as a Human Right,” *Harvard Human Rights Yearbook* 1 (1988): 79.
- ⁷ Grace Y. Kao, *Grounding Human Rights in a Pluralist World* (Washington, D.C.: Georgetown University Press, 2011), 173.
- ⁸ This according to the UN’s World Conference on Human Rights as articulated in the Vienna Declaration and Programme of Action, June 25, 1993, <https://www.ohchr.org/Documents/ProfessionalInterest/vienna.pdf>.
- ⁹ Third Committee of the United Nations General Assembly, A/C.3/SR.125 (November 9, 1948), 370, <https://undocs.org/A/C.3/SR.125>. For the role of the Third Committee as well as discussion of Baroody, see the following endnote.
- ¹⁰ See Richard Falk, *Human Rights Horizons* (New York: Routledge, 2000), 148–162. For other critics of undue or biased Western values having been insinuated under the guise of “universality,” see Michael Jacobsen and Ole Bruun, eds., *Human Rights and Asian Values: Contesting National Identities and Cultural Representations in Asia* (London: Curzon Press, 2003), including Edward Friedman: “The ‘Western’ discourse which makes ‘individualism’ the base of democracy misunderstands the history of political freedom and impedes progress in human rights” (26); Maria Serena I. Diokno: “First, the international human rights regime is largely the product of Western thought and tradition that do not apply to Asian peoples and cultures, which have different, home-grown values of their own. Among these Asian values are the greater importance given to the community than the individual and the desire for harmony and order, in contrast to the West’s individualism and ‘exuberant’ freedom that threatens to rip Western social fabric apart” (74); Jon O. Hall-dorsson: Indonesian values “can be summarized for the moment as an organic notion of state and society; the traditional family as a model for society; respect for hierarchies; communitarianism over individualism; consensus in place of contest; and obligations over rights” (111); Hugo Stokke: “More generally, whereas the individualist West puts the individual over society, the communitarian East puts society (being government at the macro-level and the family at the micro-level) over the individual” (139); and Colm Campbell and Avril McDonald: “It is difficult to identify precisely the differentiating core of what are presented as Asian values, but insofar as it is possible to do so, it seems to have to do with notions of connectedness which are to be contrasted with Western individualism” (265). See also Leena Avonius and Damien Kingsbury, eds., *Human Rights in Asia: A Reassessment of the Asian Values Debate* (New York: Palgrave Macmillan, 2008); and Winnifred Fallers Sullivan, Elizabeth Shakman Hurd, Saba Mahmood, and Peter G. Danchin, eds., *Politics of Religious Freedom* (Chicago: University of Chicago Press, 2015).
- ¹¹ Roger Normand and Sarah Zaidi, *Human Rights at the UN: The Political History of Universal Justice* (Bloomington: Indiana University Press, 2008), 195.

- ¹² Ibid., 177.
- ¹³ Tariq Ramadan, *Islam, the West, and the Challenges of Modernity* (Markfield, United Kingdom: The Islamic Foundation, 2001), 130 n.36.
- ¹⁴ Ibid., 99.
- ¹⁵ Fareed Zakaria, "Culture Is Destiny: A Conversation with Lee Kuan Yew," *Foreign Affairs* 73 (2) (1994): 113.
- ¹⁶ Charter of the Organisation of Islamic Cooperation (2008), <http://ww1.oic-oci.org/english/charter/OIC%20Charter-new-en.pdf>. Although the foundations for what was to become the OIC were laid in Rabat, Morocco, in 1969, the organization itself did not emerge until somewhat later. The OIC was originally named the Organization of the Islamic Conference. For a discussion of the mix of religion and politics in the OIC, see T. Jeremy Gunn and Alvaro Lagresa, "The Organisation of Islamic Cooperation: Universal Human Rights, Islamic Values, or *Raisons d'État*?" *Human Rights and International Legal Discourse* 10 (2) (2016): 248–274.
- ¹⁷ The Organization of the Islamic Conference, The Cairo Declaration on Human Rights in Islam, August 5, 1990, https://www.oic-iphrc.org/en/data/docs/legal_instruments/OIC_HRRIT/571230.pdf; and Covenant on the Rights of the Child in Islam, 2004, <http://ww1.oic-oci.org/english/convention/Rights%20of%20the%20Child%20In%20Islam%20E.pdf>.
- ¹⁸ Curiously, *sharia* was not introduced as a basis for a reservation to the International Covenant on Civil and Political Rights. Although the reasons for this go beyond the confines of this essay, some hypothesize that the term began to be invoked largely (though not exclusively) during the 1980s and after as a response to political events in the world.
- ¹⁹ United Nations Development Programme, *Arab Human Development Report 2009: Challenges to Human Security in the Arab Region* (New York: United Nations Development Programme, 2009), 57, https://www.undp.org/content/undp/en/home/librarypage/hdr/arab_human_developmentreport2009.html.
- ²⁰ Ibid., 59.
- ²¹ Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, Proclaimed by General Assembly Resolution 36/55 of November 25, 1981, <https://www.ohchr.org/Documents/ProfessionalInterest/religion.pdf>.
- ²² Abdulaziz Sachedina, *Islam and the Challenge of Human Rights* (Oxford: Oxford University Press, 2009), 11.
- ²³ It should be noted here that perhaps the most controversial and poignant issue related to the relationship between Islam, religion, and the modern human rights movements is the contested right to change one's religion, which was explicitly allowed in the 1948 UDHR but was omitted, under pressure from Muslim and Arab states, from the 1966 ICCPR. This very important issue is omitted here because unpacking its complexity would simply require more space than is possible in this volume. The author is preparing a separate analysis of this issue to be published later. In short, while the issue of the right to change one's religion clearly arose in 1948 through Saudi Arabia's Baroudy and other representatives of Muslim-majority countries, the argument advanced publicly was less the right (or not) to change one's religion and more whether the UDHR could be seen as authorizing or promoting colonial-style missionary activities in lands seeking to remove their colonial legacy.

- ²⁴ Zakaria, “Culture Is Destiny,” 111, 112.
- ²⁵ Sachedina, *Islam and the Challenge of Human Rights*, 7.
- ²⁶ Third Committee of the United Nations General Assembly, A/C.3/SR.105 (October 18, 1948), 172. Saint-Lot’s referencing Rousseau in this regard seems misplaced. The issue here, however, is not whether the diplomat accurately characterized Rousseau’s thought, but that Saint-Lot found the UDHR to be overly individualistic and cited intellectual authority, however misplaced, to underscore his point.
- ²⁷ Third Committee of the United Nations General Assembly, A/C.3/SR.105 (October 18, 1948), 174.
- ²⁸ Third Committee of the United Nations General Assembly, A/C.3/SR.1269 (November 8, 1948), 384.
- ²⁹ Third Committee of the United Nations General Assembly, A/C.3/SR.178 (December 6, 1948), 876.
- ³⁰ Third Committee of the United Nations General Assembly, A/C.3/SR.155 (November 24, 1948), 665.
- ³¹ Plenary of the United Nations General Assembly, A/PV.181 (December 10, 1948), 877.
- ³² Plenary, A/PV.183 (December 10, 1948), 914, <https://undocs.org/A/PV.181>.
- ³³ Michael Ignatieff, “The Attack on Human Rights,” *Foreign Affairs* 80 (6) (2001): 113. See also Michael Ignatieff, “Human Rights as Politics,” in *Tanner Lectures on Human Values*, ed. Grethe Peterson (Salt Lake City: University of Utah Press, 2001), 335.
- ³⁴ Ignatieff, “Human Rights as Politics,” 329.
- ³⁵ Jack Donnelly, “Cultural Relativism and Universal Human Rights,” *Human Rights Quarterly* 6 (4) (1984): 411.
- ³⁶ For a further reference to the *Travaux Préparatoires*, see the text at note 58 below.
- ³⁷ Lk. 2:48-49.
- ³⁸ *The New Oxford Annotated Bible* (New Rev. St. Ed.), ed. Michael D. Coogan, fully rev. 4th ed. (Oxford: Oxford University Press, 1989).
- ³⁹ *The Study Quran*, ed. Seyyed Hossein Nasr (New York: HarperOne, 2015).
- ⁴⁰ Nazih N. Ayubi, *Political Islam Religion and Politics in the Arab World* (London: Routledge, 1991), 39; “In the Islamic memory the concept of secularism can be related only to periods of colonial hegemony, or, alternatively, to national attempts at experimenting with various Western ‘developmental formulas’ (such as capitalism, socialism, etc.) that appear not to have worked.” See also Madawi Al-Rasheed, *A History of Saudi Arabia*, 2nd ed. (Cambridge: Cambridge University Press, 2010), 164, 166; Mansoor Jassem Alshamsi, *Islam and Political Reform in Saudi Arabia: The Quest for Political Change and Reform* (New York: Routledge, 2011), esp. 11, 59, 67–70, 90, 107 (referring to a proposal to “ban the circulation of any publication engaging in propagation of ideas on unbelief, secularism, nudity, moral corruption or pornography”); Alaa Al-Din Arafat, *Egypt in Crisis: The Fall of Islamism and Prospects of Democratization* (Cham, Switzerland: Palgrave Macmillan, 2018), esp. 18, 42, 73, 134, 155; Shaul Bartal, *Jihad in Palestine: Political Islam and the Israeli – Palestinian Conflict* (London: Routledge, 2016), 130, 138, 188, 195; Richard Bonney, *Jihad from Qur’an to Bin Laden* (Houndsmill, United Kingdom: Palgrave, 2004), 365–366; and John L. Esposito, *Rethinking Islam and Secularism* (University Park, Pa.: Association of Re-

- ligion Data Archives, n.d.), 5, <http://www.thearda.com/rrh/papers/guidingpapers/esposito.pdf> (“Many Muslims, in particular Islamists, cast secularism as a completely foreign doctrine imposed on the Islamic world by colonial powers”).
- ⁴¹ Yusuf al-Qaradawi, *Islamic Awakening: Between Rejection and Extremism*, 2nd ed. (London: International Institute of Islamic Thought, 1991), 76. See also 36, 43, 72–76, 81.
- ⁴² Sayyid Qutb, *In the Shade of the Quran*, vol. 2, 7–8 (London: MWH, 1979). “Throughout his career as an Islamist, [Qutb] believed that the Muslims’ adoption of secularism and materialism had sapped the source of their historical strength.” John Calvert, *Sayyid Qutb and the Origins of Radical Islamism* (Oxford: Oxford University Press, 2103), 268.
- ⁴³ Sachedina, *Islam and the Challenge of Human Rights*, 190.
- ⁴⁴ *Ibid.*, 9.
- ⁴⁵ *Ibid.*, 191.
- ⁴⁶ *Ibid.*, 212 n.20.
- ⁴⁷ *Ibid.*, 11.
- ⁴⁸ *Ibid.*, 16.
- ⁴⁹ *Ibid.*, 227 n.36.
- ⁵⁰ *Ibid.*, 191. See also *ibid.*, 29 (“secularist advocates” of the UDHR typically are antireligious and antisacred); 30 (“there is a liberal-secular hold” over human rights instruments); and 34 (“In general, secular human rights activists are biased against religion”); as well as 57, 58, 63, 69, 87, 197–198.
- ⁵¹ Perhaps three of his targets may be Michael Ignatieff (*ibid.*, 11–16), John Rawls (*ibid.*, 51, 149, 157), and Richard Rorty (*ibid.*, 210 n.8), though he quotes none of them to illustrate what he attributes to the secularists.
- ⁵² *Ibid.*, 8–11, 16, 30, 157.
- ⁵³ *Ibid.*, 10–11.
- ⁵⁴ *Ibid.*, 11.
- ⁵⁵ *Ibid.*, 38. See also *ibid.*, 9–10, 16.
- ⁵⁶ *Ibid.*, 12.
- ⁵⁷ Maydan Editors, “An Interview with Abdulaziz Sachedina on His Life and Scholarship,” *Maydan*, September 13, 2017, <https://www.themaydan.com/2017/09/interview-abdulaziz-sachedina-life-scholarship/>.
- ⁵⁸ William A. Schabas, *The Universal Declaration of Human Rights: The Travaux Préparatoires*, vols. 1–2 (Cambridge: Cambridge University Press, 2013). Copies of the original documents from the drafting process are available in PDF format at the UN’s Dag Hammarskjöld Library, <http://research.un.org/en/undhr>.
- ⁵⁹ Johannes Morsink, *Universal Declaration of Human Rights: Origins, Drafting, and Intent* (Philadelphia: University of Pennsylvania Press, 1999). Sachedina makes one footnote reference to the 1947–1948 UNESCO symposium study, which arguably should be considered part of the *travaux préparatoires*, although it was not included in Schabas’s published version. Sachedina dismisses its “contrived assessment of world history.” He does not mention, however, that it directly considers and rejects the idea that human rights charters must have a moral foundation. He also does not mention that it, too,

discussed possible roots of human rights in liberalism, religion, the Enlightenment, and other philosophical beliefs, but that it also says *nothing* about secularism generally, and certainly contains no discussion of “aggressive secularism” lurking behind the UDHR. Sachedina, *Islam and the Challenge of Human Rights*, 223 n.1.

- ⁶⁰ Third Committee of the United Nations General Assembly, A/C.3/SR.165 (November 30, 1948), 764, 765. The only two references coincidentally were made the same day.
- ⁶¹ One of the problems, as suggested above, is that Sachedina provided no nuanced or rigorous definition of secularism, preferring instead to use the term in the highly pejorative sense documented above. Regardless, he offers no primary sources whatsoever supporting his or any other understanding of secularism.
- ⁶² Quran, Al-Baqarah, 2 :256.
- ⁶³ For his recognition of the importance of practicality in the discussion about human rights, see *ibid.* 36, 37, 66, 83 (practical consensus), 108, 109 (practical ethical decisions), 126, 131, 177–178, 193.
- ⁶⁴ *Ibid.*, 8.