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Human Rights in the Arab World: Some Arguments in Favor of a Regional Framework

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Introduction

The popular uprisings across the Arab world have only perpetuated questions of the effectiveness of international human rights treaties and bodies in general and have even raised concerns of whether protection of human rights is truly possible among Arab countries. While it would be a mistake to argue that human rights laws can never take root and be effective in the region, it is important to determine why human rights charters and treaties have not been as influential or respected as those in other regions, namely Europe, Latin America and even Africa.

Incorporating human rights is increasingly vital in the Arab world, where leaders are mishandling and hindering effective human rights policies, citizens are fighting to shape and create agreements on various rights, and regional scholars are disagreeing on how to interpret Islamic and cultural laws into the discussion. While many regions of the world have measures in place, almost 10 years after the development of the Arab Charter on Human Rights, the ineffectiveness of human rights bodies and declarations in the Arab world, as well as the recent creation of a Commission on Human Rights for Islamic countries, demonstrate the necessity of discussing and focusing on these issues now.

A study of the region is important for several reasons, namely, that there has been a consistent disregard of the Arab world when contemplating certain international issues, whether democratization, equality, or human rights. Recent political upheaval in the Arab world has placed “unalienable rights” at the center of regional politics, showing that the Arab world is not void of demands for fundamental human rights and that a reevaluation of current human rights measures and practices is necessary.

Additionally, the crisis in Syria has shed light on humanitarian abuses in the Arab world. With over 140,000 killed in the fighting as of this writing, the international community may find it strategic to

promote discussions of human rights in the region, potentially as a bargaining chip for leaders facing internal pressure from their citizens.¹ While the tragic events in Syria will not usher in full compliance of human rights agreements by other leaders in the region, they can provide a starting point for reengagement on wide-ranging human rights issues.

Therefore, the main question becomes how to best incorporate human rights in the Arab world given what has already been done in the past, and further empower charters to best promote these rights in the region. This paper argues that a more regional approach is needed when assessing and incorporating human rights laws so that laws can be responsive to the needs of communities instead of providing a general blanket of vague and ambiguous protections and prescriptions without the enforcement mechanisms needed to prevent the manipulation of laws by leaders in various countries, specifically authoritarian leaders in the Arab world.

In addition to supporting a regional framework and discussing historical precedents and present human rights concerns in the Arab world, this paper seeks to highlight convergences with Catholic human rights and family teachings to determine if there are areas of mutual agreement on defining human rights in a predominantly Islamic region. In so doing, the paper seeks to demonstrate that the Arab world is not necessarily “incompatible” with human rights norms and that principles can respect minority communities – including Christian populations – if a regional framework based on the 2004 Arab Charter on Human Rights is reevaluated and promoted.

Why A Regional Framework?

The ratification of international treaties on human rights has never guaranteed full protection and compliance of these rights “on the ground.” The neglect of U.N. human rights treaties by various countries signifies the ineffectiveness of overarching declarations that lack enforcement. The Arab world in particular has a unique history, cultural traditions, and concerns that must be accounted for when discussing these issues and determining a way forward, given the current ineffectiveness of international declarations on human rights.

This paper views the Arab world through the lens of the Arab League, an organization of 22 states that ratified the Arab Charter on Human Rights in 2004, a document based on the 1994 Charter that did not go into effect regionally. A recent report by human rights expert Turan Kayaoğlu recommends ways for the development of a human rights framework for the Organization of Islamic Cooperation (OIC), a broader group of 57 countries.² The OIC adopted the Statute of the OIC Independent Permanent Commission on Human Rights in 2011, which established a commission to “promote the civil, political, social and economic rights enshrined in the Organization’s covenants and declarations and in universally agreed human

1 “Syria’s death toll now exceeds 140,000: activist group” Reuters, Sat Feb 15, 2014, accessed February 29, 2014, <http://www.reuters.com/article/2014/02/15/us-syria-crisis-toll-idUSBREA1E0HS20140215>

2 Turan Kayaoğlu, *A Right Agenda for the Muslim World?: The Organization of Islamic Cooperation’s Evolving Human Rights Framework* (Washington: Brookings Institution, 2013).

rights instruments, in conformity with Islamic values.”³

While the Commission established by the OIC is a welcome addition to the regional human rights discussion, the OIC has its limits. First, while the Commission has released numerous statements regarding human rights violations in Islamic countries, no enforcement mechanisms have emerged since the Commission was established in 2011, and none are forthcoming. The OIC has too broad a membership across regions and cultural realities to allow for any meaningful enforcement mechanism. For example, the OIC includes Azerbaijan and Indonesia, among several other states that do not share similar cultural histories or regional concerns to those of the 22 Arab League members.

For these reasons, it is more appropriate to initiate human rights discussions on a smaller, strictly regional scale to create a more effective framework. The OIC framework and Kayaoğlu’s research still provide ideas and a foundation that can be adaptable to the present situation in the smaller Arab League framework.

International bodies often lack the enforcement mechanisms needed to protect human rights charters, and country reservations and non-binding commitments hinder the ability for human rights declarations to be observed. There have been problems of resisting compliance and preventing treaties from becoming consistent with national laws, both in the Arab world and in other regions as well. International legal expert Oona Hathaway argues that ratifying human rights treaties does not necessarily determine how a country observes the treaty’s goals and the process of treaty ratification “is not infrequently associated with worse human rights ratings than otherwise expected.”⁴

Countries in the Arab world have not been able to achieve a balance between finding ways to protect human rights *among* nations without violating a sense of human rights sovereignty *within* nations. This tension has allowed authoritarian leaders in the region to interpret human rights on their own terms on the precedent of national sovereignty or even to neglect international treaties on “religious” grounds.

Furthermore, authoritarian leaders’ powers tend to permeate various domestic institutions, creating what some have termed “governmental non-governmental organizations,” that is, organizations that are not meant to be politically motivated or driven but are manipulated by the regime. For example, before his death, Muammar Gaddafi, the tyrannical president of Libya, used to present an annual Gaddafi Human Rights Award—a contradiction that represents the ineffectual human rights missions in the region.⁵

The current crisis in Syria as well as the limited role and activity of the OIC Commission demonstrate these international concerns of self-regulating human rights and the ineffectual outcomes when human rights treaties are ratified but no internal or external enforcement mechanisms are in place, specifically in developing countries. Coupled with the fact that the Arab world consistently perceives the U.N. and other international bodies as agents of the West or as disingenuous in promoting laws and institutions through

3 Statute of the OIC Independent Permanent Commission on Human Rights, Organization of Islamic Cooperation, June 7, 2012, accessed September 26, 2013, <http://www.oicun.org/75/20120607051141117.html>.

4 Oona A. Hathaway, “Do Human Rights Treaties Make a Difference?,” *The Yale Law Journal* 111 (2002): 1940.

5 Abd Allah Ahmad Naim, “Human Rights in the Arab World: A Regional Perspective,” *Human Rights Quarterly* 23 (2001):711, accessed January 27, 2013, doi: 10.1353/hrq.2001.0026.

these avenues, a regional framework would eliminate this mistrust and the “human rights dependency” of developing nations commonly created by international organizations. Unlike in Latin America and most of Africa, the issue of funding may not impact the Arab world, which holds both some of the poorest countries and richest countries in the world.⁶ As countries become pressured to meet human rights standards following the Arab uprisings, it would be strategically opportunistic for these regimes to fund regional initiatives and have a seat at the table of any regional discussions on human rights.

In addition to non-compliance to human rights treaties internationally (specifically those initiated by the U.N.) due to the lack of an enforcement mechanism, the high concentration of authoritarian governments and monarchies in the Arab world as well as the unique consideration of Islamic principles in determining laws are two reasons why a regional framework can better ensure human rights practices are followed. Discussions of human rights at a very broad international scale tend to discourage a very necessary regional dialogue on the role of Islam in human rights agreements, preventing a fully functioning framework for the region.

Regional treaties have taken root in America, Africa, Europe and Latin America.⁷ In these cases, religion was absent from many of the formulation of these treaties and charters. Human rights frameworks developed in Europe had to respond to communism and fascism, and Africa and Latin America created their charters in the context of colonialism, which previously limited collective rights.

In the Arab world, a unique context applies. Religion is an integral factor to almost all of the countries in the Arab League and human rights treaties therefore must acknowledge and address the role of Islam, various interpretations of Islamic law – including extreme views – as well as the historical limitation of collective rights in the region. Based on previous attempts, there is clear potential for Arab states to reform their laws so that they reflect both human rights norms and Islamic principles.

In order to address all of these unique regional concerns, regional answers become necessary. A renewed charter and human rights initiative by the Arab League can determine the role of Islam and provide more effective regional enforcement mechanisms. Current events in the Arab League for the emergence of a Human Rights Court can further such goal.

Historical Precedent

Addressing human rights violations in the Arab world is not a novel concept, and there are already historical precedents that can begin a new conversation on human rights laws in the region. The 2004 Arab Charter on Human Rights went into force in 2008 but has not been ratified by all member states and fell short by international human rights standards.⁸ The history of human rights treaties internationally and

⁶ Ibid, 702-707.

⁷ These include the Charter of Fundamental Rights of the European Union, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, the African (Banjul) Charter on Human and Peoples’ Rights and the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa

⁸ By October 2009, 10 Arab League members ratified the treaty: Algeria, Bahrain, Jordan, Libya, Palestine, Qatar, Saudi

in various regions has demonstrated three concerns going forward.

First is the ability for countries to use self-determination as a way to contest any forms of intervention that infringe upon sovereignty. As the human rights expert Nisrine Abiad argues, the state has historically served as both the primary promoter of human rights, but also the primary threat to those rights.⁹ In this context, the Arab world is no exception. Time and time again, we have seen recurring problems of resisting compliance, specifically by authoritarian leaders who prevent treaties from becoming consistent with national laws and legislation, only perpetuating human rights violations. Regional bodies not only need to be involved with the promotion of human rights, but also the protection of those rights. In the Arab world, it is likely that this promotion will need to occur before any measures of protection and monitoring mechanisms can be fully implemented. Presently, independent authority in a regional form will not be trusted or even respected by most Arab countries.

This lack of respect is not unwarranted. The U.N. has sometimes failed to protect human rights tragedies in the past and international bodies too often remain silent or become ineffective in these types of crises. The OIC's Commission, while it "expressed serious and grave concern" at the human rights violations occurring in Syria, is unable to effectively act or enforce these concerns.¹⁰ A regional body could prove more productive if the scope remains manageable and treaties enforceable through a court or commission, similar to the frameworks in Africa and Latin America, and specifically in Europe, where the regional bodies are well respected and the majority of countries participate seriously in the proceedings.

Despite the human rights charters already in place by the Arab League and the broader OIC, the Arab world continues to have a bleak track record of protecting rights. But regional bodies typically start out weak and then gradually acquire more authority once cases are brought forth and legitimacy is established. Therefore, there remains an opportunity to determine the scope of a regional treaty and commission on human rights that can carry some autonomy and legitimacy.

Since politicization has been one reason why international bodies are not respected and enforcement is not possible, OIC staff has argued that producing issue-specific thematic reports on human rights instead of country-focused assessments would depoliticize the human rights problems of the Arab world, allowing countries to mobilize on specific human rights deficiencies without the naming and shaming that occurs with country specific reports.¹¹

Arabia, Syria, the United Arab Emirates and Yemen. For more on the shortcomings of the 2004 treaty, see Mervat Rishmawi, "The Arab Charter on Human Rights and the League of Arab States: An Update," *Human Rights Law Review* 10 (2010): 169-178, accessed February 20, 2013.

9 Nisrine Abiad, *Sharia, Muslim States and International Human Rights Treaty Obligations: A Comparative Study* (London: British Institute of International and Comparative Law, 2008), 32-33.

10 OIC Secretariat, "OIC Human Rights Commission finalizes its Rules of Procedure: The Commission focused on Human Rights in Palestine, Syria, Mali and of Rohingya Muslims in Myanmar," OIC Human Rights, September 10, 2012. <http://oichumanrights.wordpress.com/2012/09/10/oic-human-rights-commission-finalizes-its-rules-of-procedure-the-commission-focused-on-human-rights-in-palestine-syria-mali-and-of-rohingya-muslims-in-myanmar/>

11 Turan Kayaoğlu, *A Right Agenda for the Muslim World?: The Organization of Islamic Cooperation's Evolving Human Rights Framework*, 4, 15.

The second concern is the role of religion in human rights treaties in general. In most regional treaties, religion played little to no role in the incorporation of human rights laws, although some argue that human rights systems are a “Western” phenomenon. Europe, Latin America, and Africa have largely secular treaties. The Arab world, however, is opposite. The 2004 Arab League Charter does not explicitly endorse a specific religion or creed, but Islam will continue to play a significant role in the interpretation of laws and enforcement of treaties. As an example, the OIC’s Statute of the OIC Independent Permanent Commission on Human Rights explicitly states that rights will be promoted “in conformity with Islamic values.” Because Islam is simultaneously a political and religious authority, divisions within Islam resulting from the absence of a “supreme juridical-religious authority and of official teaching” will continue to give significant value to opinions by scholars, lawmakers, and jurists when discussing human rights.¹²

Therefore, even though many institutions within these countries are now at least somewhat inspired by “Western” systems, Islamic law is presented as a major source or main source of law for a state and will undoubtedly be a key factor in human rights law, specifically when charters defer to participating state laws on certain measures (discussed further in the next section).

The region’s history has shown that it has not been easy to reconcile diverse influences on laws within these countries—whether in fear of “appeasing” Western standards or because of the manipulation of Islam to fit authoritarian regime standards or the diverse Islamic interpretations that lead to inconsistencies and diverging opinions.

But as Turan Kayaoğlu notes, the development of human rights initiatives in Muslim countries has shown an “increasing willingness to discuss these issues in the context of international human rights rather than exclusively within that of Islamic law and tradition.”¹³ There are undoubtedly concepts of Islamic law that are wholly compatible with some international standards of human rights. A regional framework can become an intermediary where emphasis on national sovereignty can be transferred somewhat to regional human rights mechanisms without a substantial loss of authority by domestic institutions.

The third concern, which can be found in the implementation of other regional bodies, is the financial dependence on external powers, including Europe and the United States, to fund human rights initiatives. If financial limitations contribute to the ineffectiveness of regional bodies in general, it is likely any attempt to develop a human rights framework in the Arab world will be futile without appropriate financial support. However, the region is unique in its abundance of oil wealthy countries—specifically, those in the Gulf. These monarchies can bolster credibility on domestic human rights given the unpredictable political situation in the Arab world by funding regional initiatives, benefiting both the monarchies themselves as well as the entire region.

Of course, monarchies may find it difficult to reconcile the lack of an effective human rights framework within their country with the desire to discuss human rights principles on a regional scale. However, the

12 Dariusch Atighetchi, *Islamic Bioethics: Problems and Perspectives* (Dordrecht: Springer, 2009), 9.

13 Turan Kayaoğlu, *A Right Agenda for the Muslim World?: The Organization of Islamic Cooperation’s Evolving Human Rights Framework*, 22.

regional dynamics provide a strategic opening for pressure from the international community to discuss these rights in the Arab world. It would only be beneficial for these governments to participate.

Several documents already exist as a basis for regional laws. The U.N. Universal Declaration of Human Rights, the Arab Charter on Human Rights of 2004 (based on the 1994 version), the Islamic Human Rights Treaty and Declaration of Rights to a Child in Islam are all starting points. The Arab Charter on Human Rights is the most suitable starting point for an updated document since it was negotiated by current Arab League countries, and will be the focus of the next section.

The broader OIC has developed a Commission on Human Rights but has yet to devise a binding human rights instrument, a divisive task put on hold since adopting the Cairo Declaration in 1990. This only validates the difficulty of reaching consensus among a broad grouping like the OIC. This may not reconcile differences between Sharia law and other international human rights standards but could serve as a catalyst for elaborating on the Cairo Declaration's principles by specifying points of agreement and disagreement with the Declaration and determining the exact role of sharia in the human rights discussions.¹⁴ Translating this to the case of an Arab League human rights framework, the results should be similar.

The OIC example provides other important takeaways. Steps have been taken to determine how to reconcile the varying opinions and interpretations of Islam, specifically false claims to Islam such as the promotion of female genital mutilation. The Covenant on the Rights of Child in Islam stipulates that member states should seek to “end action based on customs, traditions, or practices that are in conflict with the rights and duties stipulated in this Covenant.” Further, women have been historically represented among elected experts in the OIC and there is no requirement to understand Islam to serve, a model the Arab League should follow.¹⁵

In regard to reconciling religion with traditional human rights norms, Turan Kayaoğlu argues that the OIC could follow the “margin of appreciation” doctrine, used in the European Court of Human Rights, which allows the consideration of cultural and historical differences in court deliberations. Other bodies could be consulted to offer context-dependent interpretations of the regional human rights documents. This would “provide flexibility in dealing with politically sensitive issues while maintaining a strong moral standing on human rights” and “allow the Commission to offer divergent advice and interpretations to accommodate historical, cultural, and sectarian differences.”¹⁶ All of these critiques and recommendations can be applied to a human rights framework for the Arab League.

From 1994 to 2004 to 2014: The Arab Charter on Human Rights

Even if the region could agree to relinquish some sovereignty to a regional body on human rights, the discussions on what to include would cause serious contention, specifically given the role of Islam in society.

14 Turan Kayaoğlu, *A Right Agenda for the Muslim World?: The Organization of Islamic Cooperation's Evolving Human Rights Framework*, 21.

15 Ibid, 11-13.

16 Ibid, 20.

Ann Elizabeth Mayer claims, “One of the most striking and consistent features in all Islamic human rights schemes is the use of Islamic criteria to restrict human rights.”¹⁷ As the region passes a 10-year milestone of the Arab Charter on Human Rights (20 years after the original 1994 document) it is necessary to assess what current violations are still present in the region and how to readdress these concerns.

In this context, the discussion can become tricky. What exactly are human rights? What is the scope of these rights? When do fundamental human rights become social rights? These normative problems are present in all domestic, regional and international discussions on human rights – language in these documents tends to be inherently indeterminate, producing room for disagreement, confusion and debate.

In the Arab world, diverging opinions on human rights do not only occur between secular and religious ideologies like in other regions, but also within the prominent regional ideology, Islam. Nisrine Abiad argues in her comprehensive work “the tension between Islam and human rights is derived from a State’s illegitimate interference with individual freedoms, which is then justified through Islam and a misguided application of Sharia law.”¹⁸ This unique dynamic is a fundamental issue that needs to be discussed in a new human rights framework to ensure consistency between countries.¹⁹ The use of regional bodies elsewhere has been semi-successful in deferring some power to organizations in order to protect human rights. Confronting present human rights violations in the region will have to occur in this context and discussing shortcomings of the 2004 Arab Charter on Human Rights can provide a starting point.

The most fundamental human right is the right to life. Whether today in Syria or historically in places like Iraq, no leader should have the right to kill its citizens, and no ethnic groups, religions or other minority populations should face persecution. This right is presented in all human rights declarations in some form, and is the primary focus of the first part of the 2004 Arab Charter on Human Rights, which protects the right to life, security of the person, and freedom from slavery. The Charter also establishes equality regardless of gender, race, religion or opinion, going further than the 1994 version and moving in a positive direction to ensuring twisted practices like female genital mutilation and discrimination against women in regard to education are stopped.

The second category of the Charter addresses rights before the law, including equality before the law, due process and the right to fair trials (articles 2, 13, 15, 16, 17 and 19). The third category concerns civil and political rights, namely the right to freedom of movement (articles 24, 26 and 27), respect for private and family life (article 21), minority rights (article 25), liberty of thought, belief and religion (article 30), private property rights (article 31), the right of information and liberty of opinion, expression and research (article 32) and the right to full consent to marriage (article 33). The fourth category focuses on economic, social and cultural rights, including the right to education and the right to work.²⁰

17 Ann Elizabeth Mayer, *Islam and Human Rights* (Boulder: Westview Press, 2007), 77.

18 Abiad, *Sharia, Muslim States and International Human Rights Treaty Obligations: A Comparative Study*, 33.

19 Ibid, 59.

20 Mohammed Amin Al-Midani and Mathilde Cabanettes, “Arab Charter on Human Rights 2004,” *Boston University International Law Journal* 24 (2006): 147-164, accessed February 20, 2013.

When assessing these categories, it is obvious that the protections in the text are not effectively practiced in some Arab League countries today. The Arab world has faced problems of due process and the right to education and work (specifically against women). Minority rights and freedom of expression have not always been observed, and the Arab uprisings draw new attention to these protections. Additionally, some Islamic jurists would take issue with the right to “full consent to marriage” using Islamic tradition and laws to fit their argument. Enforcing these rights, which are adequate on paper, will be necessary. Finally, in other parts of the world, a respect for private life has been used to defend various social rights.²¹ Clarifying a right to private life would be helpful in a reassessment of a regional human rights framework.

Freedom of expression and association are an important factor in the treaty, but concerns remain. It is obvious the 2004 discussions incorporated anti-“Zionist” sentiments by controversially declaring “all forms of racism, Zionism, occupation and foreign domination pose a challenge to human dignity and constitute a fundamental obstacle to the realization of the basic rights of peoples” and stating “a need to condemn and endeavor to eliminate all such practices.” Most of the Arab governments and authoritarian leaders themselves would not be able to truthfully say they are also not acting as “obstacles” to the realization of the basic rights of peoples. Going forward, regional discussions on human rights should refrain from being politicized by current tensions between Israelis and Palestinians or between Sunnis and Shiites and other sects.

The Charter also protects minority populations and other religious groups, but some protections are “subject only to such limitations as are prescribed by law” within states, granting a sovereignty and deferring a substantial amount of power to member states, limiting the authority of the treaty and any enforcement mechanisms put in place. The 2004 Charter stands as a well-established framework on paper, but the facts on the ground—whether slaughtering in Syria, discrimination against women driving or working in Saudi Arabia, or persecution of Christians, Kurds or minority Muslim populations, the enforcement is not present. Despite the introduction of a 7-member Committee on Human Rights through the 2004 charter, states have not been forced to submit reports and violations to the treaty have been left untouched, so a reassessment of state sovereignty must be made.

As Nisrine Abiad argues, if states focus on the individual through the promotion of personal conviction and autonomy instead of imposing rights from the top down, it may be possible to open up a discussion on human rights that involve “a voluntary, personal, and independent decision to limit one’s own personal freedom” if one chooses to do so – for example, wearing hijab or respecting other traditions.²² The Arab world contains citizens who, like many across the world, want to practice their faith freely and not at the expense of their human rights. Faith can remain a vital source for human rights in the region, if handled accordingly. A regional body, in light of the present crisis in Syria and the 10-year anniversary of the 2004 charter, can allow these discussions to take place.

21 One example is the Inter-American Court of Human Rights case of *Atala Riffo and Daughters v. Chile*, Judgment of February 24, 2012

22 Nisrine Abiad, *Sharia, Muslim States and International Human Rights Treaty Obligations: A Comparative Study*, 33.

Catholic Human Rights Convergences

It is increasingly important to stress that human rights concerns internationally, specifically in developed countries, are moving to social rights, and that this framework may not be appropriate in discussing essential human rights in the Arab world, where fundamental, internationally recognized rights discussed above are still not observed.

If the above rights become well-respected in the Arab world and Islamic community, it will open doors for the presence of diversified views on human rights, from women, ethnic groups, and religious traditions. Oppressive governments in the region currently stifle good faith engagement on these issues and instead increase resistance to reform, a precedent which must be reversed for true dialogue.

Most importantly is the freedom to educate, express views, and practice various beliefs. Without these freedoms, no serious discussion is possible. Catholic teachings therefore have a significant stake in human rights discussions in the Arab world. While Islam may claim a substantive proportion of the population in the region, Coptic Christians, Maronite Catholics and other religious groups are present. Human rights cannot become a majority-minority conflict, or it will become contrary to the fundamental role of human rights, which is to protect universal values inherent to all.

There has been some progress regionally that fits within a Catholic theoretical framework for the family and human rights. According to Turan Kayaoğlu, the broader OIC has carried out two main objectives: caring for and strengthening families and establishing conditions for Muslim children to be proud of their nation, country, and religion. This includes promoting the role of the traditional family, protecting rights of the child, and privileging collective bodies like the family. The document emphasizes children's rights to education, health care, and a safe environment.²³

Islamic human rights precedents therefore, do not run contrary to human rights norms or even to those human rights values promoted by the Holy See. In fact, historically the Islamic community and the Holy See have found common ground during discussions on international policy and negotiations of international human rights treaties. During the Cairo conference proceedings on population and development in 1994, there was cooperation between the Holy See and Islamic countries on language regarding rights of person and family life in the Cairo Declaration on Population and Development.²⁴

When discussing and integrating Islam principles, family life is seen as an important foundation to building a strong Islamic society. The 2004 Charter says “the family is the natural and fundamental unit of society, founded by the marriage of a man and a woman” and goes on to provide a clear basis for family life in the Arab countries, explicitly saying “all forms of violence and abusive treatment in the relations between family members, especially towards women and children, shall be prohibited.”²⁵ Catholic principles are

23 Turan Kayaoğlu, *A Right Agenda for the Muslim World?: The Organization of Islamic Cooperation's Evolving Human Rights Framework*, 11.

24 Mohammed Alsam Cheema and Archbishop William H. Keeler, “Joint Statement on the Cairo Conference on Population and Development,” August 31, 1994, accessed February 20, 2013, <http://old.usccb.org/seia/is2.pdf>.

25 Arab Charter on Human Rights, Article 33. <http://www1.umn.edu/humanrts/instreet/arabcharter2.html>

very much aligned to this view and the charter's specific language demonstrates a unique concern missing in other international treaties and other regional bodies.

While social rights including contraception and abortion may have to be debated further in relation to the Arab Charter and may not receive pressing attention, Islamic law treats these issues through various interpretations of the Quran, the hadith and Sunnah, sometimes in conflicting ways. Currently, Article 5 of the Charter reads: "Every human being has an inherent right to life." Questions arise whether Sharia law will apply when discussing the beginning of life at "ensoulment" or if ambiguity will result in future confusion of this stipulation.²⁶ Additionally, Article 7 protects the life of a woman in a case that she is pregnant by outlawing the death penalty prior to delivery, stating, "the interests of the infant shall prevail." In this case, it could be argued that an infant is considered a human while in the womb.

Article 42 continues "The State Parties shall respect freedom of scientific research and creativity, and shall ensure the protection of moral and material principles linked to scientific, literary or artistic production" deferring to the states on moral principles, but signifying that scientific research will more than likely be limited by Islamic ethical principles. Catholic teachings on ethics also promote scientific research that aligns with moral principles, making cooperation on future scientific research at an international level a possibility.

Recently, in discussions for the U.N. Disabilities Treaty of 2012, numerous Arab countries united to remove the phrase "sexual and reproductive health" from the document, though they were unsuccessful. Some will argue that countries that oppose this phrase are in effect backtracking on women's human rights, when the reality for the Holy See and Arab countries is the constraint ambiguous phrasing will place on cultures and societies with religious dimensions. The Holy See, as well as many Arab countries that abide by Islamic principles, agree that ambiguity on issues like abortion cannot be tolerated since the discussion is focused on ending the life of a human being.

This only adds to the idea that international bodies are not always the best form of promoting human rights in places that have different cultural or historic traditions, and that Catholic teachings can be aligned with Islamic principles to promote a common framework – first for the region, and then for potentially increasing cooperation and enhancing mutual understanding and respect between communities on an international scale. Ultimately, it is more likely that decisions on abortion and contraception would fall under an umbrella of "social rights," especially in this region and in opinions of the Islamic community, making discussions unlikely to take place during a reevaluation on an Arab Charter for Human Rights.

Conclusion

The regional framework discussed in this paper can only be promoted if countries in the Arab League mobilize to address human rights violations in member states. At the time of this writing, Bahrain has said it

26 For more on this, see Nicholas Dunn, "Abortion, *Ijtihad*, and the Rise of Progressive Islam," *The Human Life Review* Winter/Spring (2011): 53-62, accessed January 31, 2013 and Atighetchi, *Islamic Bioethics: Problems and Perspectives* (Dordrecht: Springer, 2009).

will serve as the headquarters for the Arab Human Rights Court, following its approval at an Arab League meeting in Cairo.

While Bahrain has been severely criticized regionally for human rights violations itself and the Court is being called a “PR stunt,” it is an important step that marks the beginning of discussions presented above.²⁷ A regional framework can address the issues confronting the Arab world throughout history—the abuse of sovereignty by authoritarian rulers, lack of enforcement mechanisms in the region, the questions of Islam in society, and the lack of trust in and ineffectiveness of international bodies on human rights. While the Arab uprisings may not result in an immediate flourishing of perfect democracies throughout the region, they can provide the necessary spark for serious discussions on human rights by leaders and populations in the region.

²⁷ Graeme Baker, “Bahrain to host pan-Arab human rights court,” Al Jazeera, September 2, 2013, accessed September 26, 2013.

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