

Human Rights and Cultural Diversity: the Iranian Discourse

Pouria Askary^{1*}, Amir Saed Vakil²

1. Assistant Professor of International Law, Allameh Tabataba'i University, Tehran, Iran
2. Assistant Professor of International Law, University of Tehran, Tehran, Iran

Received: 2019/07/01

Accepted: 2019/12/19

Abstract:

Universal Declaration of Human Rights (UDHR) was adopted by the UN General Assembly on 10 December 1948 and Iran was among the 48 UN Member States who voted in favor of this historic resolution. Since then, Iran has acceded to many other international instruments of human rights. At the same time and especially after the victory of the Islamic Revolution in 1979, Iran has repeatedly referred to its different interpretation of some international norms of human rights, relying on the notion of cultural diversity.

Keywords: Iran, Human Rights, Cultural Diversity, UN Human Rights Council.

* Corresponding author's e-mail: p.askari@atu.ac.ir

1. Background

“When I entered Babylon as a friend and (when) I established the seat of the government in the palace of the ruler under jubilation and rejoicing, Marduk, the great lord, [induced] the magnanimous inhabitants of Babylon [to love me], and I was daily endeavouring to worship him. My numerous troops walked around in Babylon in peace, I did not allow anybody to terrorise (any place) of [the country of Sumer] and Akkad. I strove for peace in Babylon (Ká.dingir.ra) and in all his (other) sacred cities. As to the inhabitants of Babylon, [they saw their] hearts con[tent] (because) [I abolished] the corvée which was against their (social) standing. I brought relief to their dilapidated housing, putting (thus) an end to their (main) complaints.”¹

The above quotation from the Cyrus Cylinder (539 BC) is known not just by Iranians but all the people around the world who are interested in history and ancient times. As a matter of fact, Iranians believe that throughout history, they have lived as a peace-loving and pro-human rights nation. This is also reflected in contemporary practice of this nation

¹ The British Museum, The Cyrus Cylinder, available at: http://www.britishmuseum.org/research/collection_online/collection_object_details.aspx?objectId=327188&partId=1 [visited on 10 October 2017].

The Iranian Review for UN Studies (IRUNS)—Vol.2, Issue 1, Winter & Spring 2019

who is now among the close allies of the post Saddam-Hosseini Iraq and also the host of millions of Afghan refugees and migrants. In 1998, the UN General Assembly, following the invitation from the Iranian Government, decided to proclaim the year 2001 as the United Nations Year of Dialogue Among Civilizations,² noting that civilizations are not confined to individual nation-States, but rather encompass different cultures within the same civilization, and reaffirming that civilizational achievements constitute the collective heritage of humankind, providing a source of inspiration and progress for humanity at large.³ In 2013, pursuant to a proposal by the Iranian President, the UN General Assembly approved a resolution on “A World against Violence and Violent Extremism”⁴, reaffirming the commitment made by all States under the UN Charter to promote and encourage universal observance of all human rights and fundamental freedoms without distinction, and reaffirming also that States are under the obligation to protect and respect all human rights and fundamental freedoms of all persons.

Iran is a founding Member State of the UN and was among the 48 UN Member States who voted in favor of the Universal Declaration of Human Rights (UDHR).⁵ Since then and even after the 1979 Islamic revolution, Iran has ratified a number of the core UN human rights

2 United Nations Year of Dialogue among Civilizations, UN Doc. A/RES/53/22, 4 November 1998, para. 2.

3 United Nations Year of Dialogue among Civilizations, UN Doc. A/RES/55/23, 13 November 2000, p. 1.

4 A world against violence and violent extremism, UN Doc. A/RES/68/127, 18 December 2013.

5 UN Doc. A/PV. 183, 10 December 1948, p. 933.

international instruments including the 1966 International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention against Racial Discrimination (CERD), the Convention on the Rights of Persons with Disability (CRPD), the Convention on the Rights of the Child (CRC) and its optional protocol on the sale of children, child prostitution and child pornography.⁶

Fundamental human rights principles are also enshrined in the Iranian Constitution and numerous provisions adopted by the Iranian Parliament and Government.⁷ Most recently, in December 2016, the Charter on Citizenship Rights⁸ was launched by the Iranian President “with the objective of realizing and promoting citizens’ rights as the “Plan and Policy” of the Government, the subject matter of Article 134 of the Constitution. It encompasses a set of citizens’ rights that are either already recognized in the Iranian legal system or that the Government will exert stringent and pervasive efforts for their creation, recognition, realization, and enforcement by amending and developing the legal system and by preparing and pursuing enactment by the legislature of

6 See: Ratification Status for Iran (Islamic Republic of), available at: <http://tbinternet.ohchr.org/layouts/TreatyBodyExternal/Treaty.aspx?CountryID=81&Lang=EN> (visited on 10 October 2017).

7 See: Seyed Mohammad HASHEMI, Human Rights and Fundamental Freedoms [Persian], (Tehran: Mizan Publication, 2006).

8 See: epub.citizensrights.ir/CitizensRightsEN.pdf

The Iranian Review for UN Studies (IRUNS)—Vol.2, Issue 1, Winter & Spring 2019

bills to be submitted by the Government in this respect, or by taking any other measure or legal action required.”⁹

To implement the Charter, the President has appointed a special assistant to the President in citizens’ rights affairs. Besides that, the High Council for Human Rights under the Iranian judiciary¹⁰ and some other organs of the government and the Parliament are in charge of human rights and citizens’ rights affairs; human rights as a major is taught in both Iranian universities and Islamic schools (*Howze*); Iranian judges refer to international and domestic human rights provisions in their judgments, and a number of civil society NGOs and activists are engaged in human rights issues, acting as defenders.¹¹ Each year in Iran, many books and articles are published in the field of human rights and dozens of national and international conferences and workshops are hosted by Iranian universities and governmental and private institutions to deal with different aspects of human rights and its contemporary challenges.

Despite these developments, Iran is still under a rigid monitoring mechanism by the UN Human Rights Council.¹² The UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, in a recent report to the UN Human Rights Council “regrets that the information she received did not reveal any notable improvement in the

9 From the Preamble of the Charter on Citizenship Rights.

10 See: <http://en.humanrights-iran.ir/default.aspx> [visited 10 October 2017].

11 See e.g.: Islamic Human Rights Commission: <http://www.ihrc.ir/> [visited 10 October 2017].

12 See: <http://www.ohchr.org/EN/HRBodies/SP/CountriesMandates/IR/Pages/SRIran.aspx> [visited 10 October 2017].

situation of human rights in the country... . She notes that some measures are under way, but their implementation and effectiveness is yet to be assessed.”¹³ At the same time “the Special Rapporteur observes that profound legal and structural changes are required for any significant improvement of the human rights situation to take place in the Islamic Republic of Iran. The adoption of the Citizen Rights Charter is a positive step in this direction. The Special Rapporteur hopes that the implementation of the Charter will give impetus to a genuine participatory process by all components of Iranian civil society.”¹⁴

In this report, the Special Rapporteur, similar to her predecessors,¹⁵ accused Iran of some human rights violations with respect to women’s rights, minority rights, fair trial standards, and so on. In response, Iran said that the report prepared by the Special Rapporteur is totally rejected and unacceptable, and the Islamic Republic of Iran does not recognize it. The Iranian Foreign Ministry spokesman said “it seems that the UN’s Special Rapporteur has unfortunately closed her eyes to several cases of improvement in the situation of human rights in Iran and is still trying to portray a gloomy and one-sided image of the Islamic Republic by using

13 Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, UN Doc. A/HRC/34/65, 17 March 2017, para 4.

14 Ibid., para 82.

15 See: http://ap.ohchr.org/documents/dpage_e.aspx?c=86&su=92 [visited 10 October 2017].

The Iranian Review for UN Studies (IRUNS)——Vol.2, Issue 1, Winter & Spring 2019

ambiguous terms and expressing unjustifiable concerns based on unreliable information.”¹⁶

This ongoing controversy between Iran and special mandate holders of the UN on human rights situation in Iran has prevailed for a long time and, of course, it is beyond the limited scope of this article to discuss all the issues relevant to this controversy. Certainly, apart from the improvements that Iran is referring to, there are still some points of weakness in both Iranian laws and practices that have to be covered or strengthened. From the other side, it is very true that the UN human rights mechanisms are to some extent contaminated by politics and that is why allegations of double standard treatment with respect to their practice remain valid. It is clear for the authors of this article that the practice of the UN Human Rights Council, as an inter-governmental body within the UN system, cannot be studied without reviewing the foreign diplomacy and political views of forty-seven UN Member States which are currently members of the Council. It is also obvious that the decisions of the Council are, to some extent, a reflection of the political views of its Members. But, apart from this observations, it seems that when it comes to the interpretation of a number of core notions of the contemporary human rights, a number of countries who have inherited a rich culture from their history, and in Iran’s case, also from their religion, have fundamental disagreements with the so called “universal human rights values”. As a matter of fact, these countries do not believe in the

¹⁶ <http://en.mfa.ir/index.aspx?fkeyid=&siteid=3&pageid=22945&newsview=472869> [visited 10 October 2017].

universality of these norms and state that the drafters of the UDHR and other UN core human rights instruments did not equally include the values of all cultures in their considerations and, therefore, these documents do not necessarily reflect their religious, ethnic, cultural or historic observations. In other words, they prefer a universal human rights system which respects the cultural diversity and promotes tolerance and cooperation instead of allegations and accusations.¹⁷

The next part of this paper will try to shed some light on the roots of this controversy with focusing first on the conceptual development of cultural diversity debate in contemporary human rights literature and analyzing its interactions among cultural heritage and globalization. Furthermore, the manner in which cultural diversity may affect the international human rights system and Iranian approach to current human rights standards are discussed. Hence, the roots of the misunderstanding between Islamic countries' reading of international human rights norms in comparison with what the Human Rights Council implements will be clearly discovered.

2. Human Rights and Cultural Diversity

While both unity and diversity represent fundamental values of the international community, one should distinguish between imposed unity by a dominating culture and a kind of unity based on universal values. On the other hand, diversity as a factual reality should not be considered as

¹⁷ See e.g. an interview with Laya Joneidi the Vice President for Legal Affairs, available at: <http://www.ima.ir/fa/News/82749205> (visited 12 March 2018).

The Iranian Review for UN Studies (IRUNS)—Vol.2, Issue 1, Winter & Spring 2019

an impediment for international values to be applied universally. This is why collective initiatives entail discovering common aspects of all members of the community. The similarities or conformities can be considered as the main cornerstone for cooperation in the international arena. In fact, unity is esteemed because differences, both in the appearance or culture of different nations, are absolute realities as simple as biodiversity. In other words, the existence of different cultures is an indispensable factor of human life. Thus, if we could properly use these differences, from many aspects the diversity should be appreciated and preserved. A cultural diversity which represents manifest dimensions of differences might serve as a global vehicle for collective human activities. On the one hand, the definition of culture is not commonly agreed upon.¹⁸ The term expresses networks of ethics, customs, beliefs, laws, arts, and knowledge.¹⁹ On the other hand, diversity means recognizing that individuals embody more than one national origin, color, religion, ideologies, socioeconomic status, sexual orientation, and so forth. Therefore, cultural diversity is a concept which refers to a variety of societies or cultures in the world which dictates mutual respect among different cultures and traditions.. Although the American Anthropological Association (AAA) warned the UN Human Rights Commission about the problem of ethnocentrism, which holds values of one's own culture superior to those of other cultures, it was supposed that

18 UNESCO, Cultural Diversity, available at: <http://www.unesco.org/new/en/social-and-human-sciences/themes/international-migration/glossary/cultural-diversity/> (visited 10 October 2017).

19 Charlotte SEYMOUR-SMITH, *Macmillan Dictionary of Anthropology* (London: The Macmillan Press LTD, 1986).

the drafters of the International Bill of Rights, immune from danger of ethnocentric judgments, will propose a declaration applicable to all human beings. That is why the AAA says there is no good solution to address the problem of diversity to reach unity. Hence, the dominant values of Western Europe and America will inevitably govern the international human rights law system.²⁰

In view of anthropologists, three propositions constitute the roots of cultural diversity in the context of international human rights law, which give rise to relativism against universalism of human rights issues: (1) “the individual realizes his personality through his culture and, hence, respect for individual differences entails respect for cultural differences”; (2) “respect for differences between cultures is validated by the scientific fact that no technique of qualitative evaluation of cultures has been discovered”; and (3) “standards and values are relative to the culture from which they derive, and so, any attempt to formulate postulates that grow out of the beliefs or moral codes of one culture must to that extent detract from the applicability of any declaration of human rights to mankind as a whole”. Thus, what is deemed as a human right in one community may be held to be anti-social by another society, or even by the same people in a different period of time.²¹ The acceptance of cultural diversity has its

20 American Anthropological Association, Statement on Human Rights, in *American Anthropologist* 49, no. 4 (1947), pp. 539-543.

21 Morton E. WINSTON, *The Philosophy of Human Rights*, (London: Wadsworth, 1989), at. 119.

The Iranian Review for UN Studies (IRUNS)—Vol.2, Issue 1, Winter & Spring 2019

implications in the world of politics as well. In other words, cultural diversity is a pretty well-known discussion framework for State actors in the international community which aim to justify their diversions from so-called universality of human rights standards. The debate about whether human rights are universal or culturally relative seems a pretty classic topic of international human rights law. The Vienna Declaration and Programme of Action formally integrated culture into universal human rights in 1993. Paragraph 5 of the final Declaration at the World Conference on Human Rights stipulates that:

“All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.”

Consequently, some scholars suggest that cultural components should be employed towards universality of human rights. One Islamic scholar, as an example, states that all normative principles are necessarily based on specific cultural and philosophical assumptions. Given the historical context within which the present standards have been formulated, it was unavoidable that articles of the UDHR were merely based on Western cultural and philosophical assumptions.²² Consequently, the UDHR could

22 Ahmed An-Na'im ABDULLAHI, *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*, (Pennsylvania: University of Pennsylvania Press, 1992), at 427-428.

not avoid producing an ethnocentric version of human rights standards. Similarly, an African human rights lawyer believes that Western liberal democracies dictated most of their values into the UDHR and thereafter, the human rights movement became an instrument of cultural imperialism.²³ Antonio Cassese asks “how did the West succeed in imposing its philosophy of human rights upon the Universal Declaration”.²⁴ In this respect, international implementation of recognized human rights norms may be reformed under the influence of cultural, religious, social, political, and economic items. In words of Polis and Schwab, due to interdependence of social, cultural, and economic rights, and civil and political ones, “there is a growing recognition of cultural diversity and, hence, of varying concepts of rights”.²⁵

Cultural diversity fights with the idea of global monoculture. Apart from the fact that no military, political, as well as economic superpower may induce others for taking any designated cultural version, the alleged phenomenon of cultural uniformity is not truly applicable at the present time. Diversity-oriented approaches endeavor to survive in the contemporary world of differences. Supporters of cultural uniformity

23 James SILK, Traditional Culture and the Prospect for Human Rights in Africa: Cross-Cultural Perspectives, in ABDULLAHI, Ahmed An-Na'im and DENG, Francis M., eds., Human Rights in Cross-Cultural Perspectives: A Quest for Consensus, (New York: Brookings Institution, 1990), at 309.

24 Antonio CASSESE, the General Assembly: Historical Perspective, 1945-1989, in ALSTON, Philip, eds., the United Nations and Human Rights: A Critical Appraisal, (New York: Clarendon Press, 1992), at 31.

25 Adamantia POLIS and Peter SCHWAB, Human Rights: New Perspectives, New Realities, (London: Lynne Rienner Publishers, 2000), at 1-2.

The Iranian Review for UN Studies (IRUNS)—Vol.2, Issue 1, Winter & Spring 2019

struggle to discover how various values and distinct traditions co-exist productively. Diverse populations are merging together in human societies due to some multi-facet reasons. On the one hand, the advancement of technology keeps people connected physically or virtually. On the other hand, displaced persons and refugees emanated from armed conflicts, natural disasters, and welfare-seeking movements constitute new grounds of inevitable diversity.

2.1. Cultural Diversity & Cultural Heritage

UNESCO's General Conference codified dictations of cultural diversity for the first time by adopting the UNESCO Universal Declaration on Cultural Diversity in 2001.²⁶ The Declaration elevates cultural diversity to the status of common heritage of humanity through emphasizing on four principles: first, culture takes various forms across time and space; second, cultural diversity leads us to cultural pluralism, and long-lasting interaction between people requires policies for participation of all citizens and nations which guarantee social cohesion;²⁷ third, cultural diversity intellectually, emotionally, morally, and spiritually widens options open to everyone as a means to achieve development;²⁸ and

26 UN Educational, Scientific and Cultural Organisation (UNESCO), UNESCO Universal Declaration on Cultural Diversity, 2 November 2001, available at: <https://www.refworld.org/docid/435cbcd64.html> [accessed 5 December 2019]

27 Ibid, Article 2.

28 Ibid, Article 3.

fourth, while cultural diversity strengthens respect for human rights, it cannot be invoked to infringe international law of human rights.²⁹

The link between securing cultural heritage, upholding cultural diversity, and implementing human rights is the main question which should be addressed. While there is no unanimity on the definition of cultural heritage, some authors deem the enjoyment of cultural heritage as one piece of cultural rights. This approach encourages international standard settings about the concept of preservation of heritages. Indeed, human rights mechanisms and monitoring bodies make contribution to guaranteeing cultural heritage.³⁰ To establish the link between human rights, cultural diversity, and cultural heritage, it is necessary to focus on heritage identification and management.

To build a long, wide, and well-founded bridge from cultural diversity to cultural heritage, it is enough to remember the context of the Cold War and decolonization era, which transformed the legal literature radically. As an instance, “the people”, who share the culture, was used instead of the minorities interchangeably. Cultural diversity simply seems indispensable because the State’s current boundaries are consequences of various historical factors of international relations such as the cold war and decolonization. Borders divide cultures alongside with States and peoples. Hence, cultural diversity is inherited to cultural heritage which is

29 Ibid, Article 4.

30 Michele LANGFIELD, William LOGAN and Mairead Nic CRAITH, *Cultural Diversity, Heritage and Human Rights*, (London: Routledge, 2010), at 35-37.

The Iranian Review for UN Studies (IRUNS)—Vol.2, Issue 1, Winter & Spring 2019

rooted in human societies before geopolitical divisions brought by the war and decolonization.

UNESCO's General Conference adopted a Declaration on the Principles of International Cultural Cooperation that shows a strong link between human rights, human dignity and culture, recognizing the right of everyone to take part in cultural life under Article 15 of the ICESCR. UNESCO's Declaration considers "all cultures, in their diversity, as a part of the common heritage belonging to all mankind". Therefore, cultural diversity, which reflects cultural heritage, makes all peoples entitled as well as obligated to develop their culture.

The 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage, the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage, protecting heritage places, and the 2003 UNESCO Convention for the Safeguarding of Intangible Cultural Heritage, safeguarding masterpieces of oral and intangible cultural components, provide an umbrella to recognize and manage cultural diversity which mirrors the heritages in communities. Today, human rights standards are being incorporated into the heritage law dialogue and it is impossible to deny that State practice or international instruments on heritage safeguards should be evaluated under international human rights norms.

Cultural rights are the minimum manifestation of such mutual contribution. Article 5 of the 2001 Universal Declaration on Cultural Diversity provides that:

“Cultural rights are an integral part of human rights, which are universal, indivisible and interdependent. The flourishing of creative diversity requires the full implementation of cultural rights. “...” All persons have therefore the right to express themselves and to create and disseminate their work in the language of their choice, and particularly in their mother tongue; all persons are entitled to quality education and training that fully respect their cultural identity; and all persons have the right to participate in the cultural life of their choice and conduct their own cultural practices, subject to respect for human rights and fundamental freedoms”.

A survey of the status of the Universal Declaration in legal systems, whether national or international, shows the profound influence of the Declaration on much of the post-1945 codification of human rights, while the UDHR did not itself include any machinery for its own implementation.³¹ Taking into account the simultaneity of establishment of the United Nations and growing number of independent States after decolonization, the UDHR makes it clear that atrocities like the World War II convinces States that universal human rights standards should regulate conduct of military powers in the new-born nation-States which also secure cultural rights among others. Article 22 of the UDHR requires that: “Everyone “...” is entitled to the realization, through national efforts and international co-operation “...”, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality”. In this line, it is notified that international cooperation constitutes a great basis for the so-called second generation of human

31 Hurst HANNUM, the Status of the Universal Declaration of Human Rights in National and International Law, (1996) Georgia Journal of International and Comparative Law, Vol. 25, nos. 1-2, at 289.

The Iranian Review for UN Studies (IRUNS)—Vol.2, Issue 1, Winter & Spring 2019

rights to be promoted as universal. Moreover, cultural rights are mainly described as individual rights rather than collective rights; however, they apply to groups in practice.

2.2. Cultural Diversity vs. Cultural Uniformity

Official positions on cultural diversity and cultural heritage look so delicate in the context of policy making process. While socio-politically influential States in contemporary international order play some kind of crucial role, it is vital to determine whether these superpowers are democratically representatives of the so-called “international community”. As community dynamics become problematic, conflict between the views of the group leaders and individual members of the group does not seem far from reality. Thus, some questions will be raised here such as can individual States reject the community heritage? Do national authorities or heads of States have the right to dictate any specific cultural heritage on community members?

Defenders of cultural diversity intend to protect disadvantaged and endangered cultural minorities. While the defense of cultural diversity may incorporate cultural rights into human rights standard frameworks, it can also be translated to cultural protectionism, particularly with respect to those cultures which are placed in disadvantageous conditions. This approach condemns any sort of laws and regulations, customs, and practices prescribing cultural homogenization. Cultural homogenization is nothing but deleting colors of human attitudes, ideas, and appearances.

Cultural uniformity will bring about the disappearance of some languages, concerns of persons on the conservation of their traditions as

well as their sacred beliefs, and influence of the values appreciated by superpowers, like those of Americanized values through media, fashions, lifestyles, among others. That is why a number of international organizations like UNESCO perform their missions to set standards on cultural protection and to promote cultural diversity. As referred to by the Court of Justice of the European Union, culture in this context should be interpreted beyond cultural values. It is displayed through films, languages, and even businesses and industries.³²

Supporters of the cultural diversity argue that it is a prerequisite of the long-lasting survival of human kind, and that the preservation of all cultures is important to save humanity. However, there are a number of writers who reject cultural diversity for several reasons. This group of scholars assert that nature dictates which species can survive throughout time, and so, indigenous cultures should be able to adapt themselves with the context to exist. Moreover, securing less developed societies prevents people within cultural minorities from enjoyment of advances available in developed or even developing countries. Despite this radical approach towards cultural diversity, the current international trends declare that escalation of poverty shall not be justified in underdeveloped countries and it is morally unjustifiable if cultural diversity were to facilitate those traditional, superstitious, and religious practices detrimental to human beings. With reference to the human rights context, examples such as

32 Violaine HACKER, "Building Media Industry while promoting a community of values in the globalization: from quixotic choices to pragmatic boon for EU Citizens", (2011) *Politické Vědy - Journal of Political Science*, Slovakia, Vol. 11, at 64-74.

The Iranian Review for UN Studies (IRUNS)—Vol.2, Issue 1, Winter & Spring 2019

female genital mutilation, human sacrifice, and child marriage can be mentioned.³³ In other words, cultural diversity cannot be considered as an excuse for tremendous human rights abuses and the destruction of human dignity.

Cultural uniformity, as a process as well as a result of globalization, threatens developing or so-called “south” nations by insisting on traditional patterns and practices. Interestingly enough, relationships between States, citizens, and other actors have been reshaped due to the development of technology, data, and capital. Demonstrations of cultural diversity such as values and tastes will be killed gradually if enormous pressure encourage people to behave in the one single style across the globe. Thus, individual identity and cultural heritage, which should be deemed as a point of strength for societies, might be neglected.

This is why immediately after the adoption of the World Heritage Convention by UNESCO in 1972, which expands heritage activities such as, *inter alia*, intellectual properties, arts, or songs to heritage places, protection of cultural diversity was put at the top of UNESCO’s agenda during 1990s. The main motivation for this movement can be found in the fear that globalization may threaten the survival of the world’s cultural diversity.³⁴ Subsequently, the Universal Declaration on Cultural

33 Amory STARR and Jason ADAMS, Anti-globalization: The Global Fight for Local Autonomy, (2003), *New Political Science*, Vol. 25 (1), at 19–42.

34 W.S. LOGAN, Closing Pandora’s Box: human rights conundrums in cultural heritage protection, in: SILVERMAN, H. and RUGGLES, eds., *Cultural heritage and human rights*, (New York: Springer, 2007) at 33–52.

Diversity, as the founding version of a code of conduct for the international community of the 21st century, was adopted by UNESCO's General Conference in 2001.

3. Cultural Diversity & Human Rights in Iran

With reference to the implications of cultural diversity in human rights dialogue, one can consider that States do not reflect similar degree of commitment to the so called "universal" human rights obligations. Although some countries emphasize on international law, particularly human rights duties, rather than domestic law, the majority of countries move in opposite direction. Noteworthy, the US does not believe in economic and social rights as core human rights. Also Iran maintains that Islam embodies self-sufficient standards on human rights.³⁵ Hence, these countries, with reference to their domestic laws and values, have their own specific interpretation of human rights obligations, whereas some other States consider all international rules of human rights as their international commitments.

Generally, the approach of States to human rights issues is nothing more than reconciliation of internal values and pressures of the given society plus international standards. The combination varies from one State to the other based on the governing dictations of place and time. While the Western European countries respect international law favorably, the United States is considered less attentive to the

35 Seyed Yahya YASREBI, "Evaluation of Allameh Jafari's Position towards Human rights"[Persian], (2011) Hekmat Moaser, Vol. 2, at 107-122.

The Iranian Review for UN Studies (IRUNS)—Vol.2, Issue 1, Winter & Spring 2019

international legal system. For example, the US has repeatedly neglected provisional measures issued by the International Court of Justice. Additionally, US courts interpret international law notions as a matter of comity, not obligation. Moreover, the United States tends unilateralism against the well-established United Nations trends.³⁶

Self-images of countries affect State policies on human rights. The national self-image constitutes part of political culture of a nation, which forms the attitude of peoples to political values and processes. Such a “selfie” can be discussed under the framework of roles that States choose to play in international relations. There are few countries like Iran which accent their self-image in international context and simultaneously refuse secular version of universal human rights. That is why Iran can be introduced as a strong supporter of cultural diversity to emphasize on its national, historical and religious specifications. Due to the taken position by Iran, Islamic values and orders determine whether the Human Rights Council-sponsored human rights can be recognized as acceptable or not. In fact, the Islamic Republic of Iran becomes the gate-keeper against secular human rights concepts which are not upheld by very cultural manifestations, particularly Islamic teachings. For this purpose, on the one hand, Iran endeavors to cultivate Islamic universality which is

36 To clarify, the United States did not observe requirements of the ICJ provisional measures in *LaGrand case* (Germany v. United States), Judgment, [2001], I.C.J. Rep. 244, at 27; *Nicaragua case* (Nicaragua v. United States), Judgment on Jurisdiction, [1986], I.C.J. Rep. 14, at 82; *Avena and Other Mexican Nationals case* (Mexico v. United States), Judgment, [2004], I.C.J. Rep. 12, at 56. Moreover, the US Courts believe that immunity shall not be considered as an obligation under international law, but as a comity.

mirrored in the Constitution of the Islamic Republic of Iran. Principle 154 of the Constitution provides that: ‘The Islamic Republic of Iran has as its ideal human felicity throughout human society, and considers the attainment of independence, freedom, and rule of justice and truth to be the right of all people of the world. Accordingly, while scrupulously refraining from all forms of interference in the internal affairs of other nations, it supports the just struggles of the mustad’afun (vulnerables) against the mustakbirun (Arrogates) in every corner of the globe.’ On the other hand, as Iran intends to resist against artificial uniformity of universal culture or, in Iranians’ words, the Americanization of international values and ideals, it has been humiliating the US human rights propaganda which recognize the practice of this hegemon as a role model in international relations.³⁷ The position taken by Iran appears to be an aspect of worship of cultural diversity rather than mere submission to a mono-culture of human rights. This country has never embraced the western concept of human rights as a whole. Instead, it takes Islamic law which in many aspects has similarities with the United Nations confirmed version of human rights. As mentioned earlier, most provisions of international human rights can be found in the Constitution as well as

37 On July 8, 2019, Secretary of State Mike Pompeo established a Commission on Unalienable Rights. The Commission will “provide the Secretary of State advice and recommendations concerning international human rights matters ... [and] provide fresh thinking about human rights discourse where such discourse has departed from our nation’s founding principles of natural law and natural rights.” The Commission has an initial two-year mandate. Democratic lawmakers have raised concerns that the Commission will circumvent existing structures and challenge LGBT protections and reproductive rights. Secretary of State Establishes Commission on Unalienable Rights. (2019). *American Journal of International Law*, 113(4), 2019, pp. 842-844.

The Iranian Review for UN Studies (IRUNS)—Vol.2, Issue 1, Winter & Spring 2019

other legal statutes of Iran. In this line, the Deed of Prospects of the Islamic Republic of Iran in 2025 requires development of the country upon cultural, geographical, and historical necessities, relied on Islamic, national, and revolutionary principles and values emphasizing religious democracy, social justice, legitimate freedoms, human dignities and rights, and judicial as well as social security.³⁸ This shows that the Iranian government is under a two-fold obligation to respect human rights. From an international aspect, Iran with the view of compatibility of the core human rights obligations with Islamic teachings is under an obligation to respect, protect and fulfill these rights. From the other side, the domestic laws and regulations also oblige the government to protect and promote human rights both from Islamic and international dimensions.

4. Conclusion

In October 2017, Iran, in reaction to a report by the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, has stated: “The Islamic Republic of Iran remains committed to cooperating with the universal periodic review mechanism and with all bodies of treaties to which it is a party, as well as with the Office of the United Nations High Commissioner for Human Rights. Even though Iran continues to strongly denounce the appointment of the country-specific Special Rapporteur and views it as a harmful measure against constructive dialogue and

38 The Expediency Discernment Council, the Deed of Prospects of the Islamic Republic of Iran in 2025, para. 1, 2003. Also is available at www.farsi.khamenei.ir (Visited May 10, 2018).

cooperation, it has extended an invitation to three thematic Special Rapporteurs, which is due to be finalized in 2017”.³⁹

This phrase clearly shows that from the Iranian perspective, there is a need for constructive dialogue and cooperation and this is why Iran has committed itself to remain active in discussing its human rights situation with all Charter-based and treaty-based universal mechanisms to protect human rights, except for the country Rapporteur which Iran deems harmful. Although both mechanisms are following the same target which is the promotion and protection of human rights, there is a structural difference between these so-called “constructive” and “harmful” mechanisms in their methodology and tone for addressing the situation of human rights in different countries; i.e. *dialogue vs. denunciation*.

While denunciation is mainly a kind of unilateral and top-down approach which dictates the will of one side, usually ending up in a confrontation, dialogue contains an interaction among all parties. Dialogue in our view is an exchange of ideas or opinions on a particular issue, especially a political or religious one, with a view to reach an amicable agreement or settlement. In the context of human rights, the dialogue contains both political and religious concerns, especially with respect to cultural diversity. Human rights dialogue among nation-States like the Universal Periodic Review (UPR) process in the Human Rights

39 Letter dated 10 October 2017 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General, UN Doc. A/C.3/72/11, 12 October 2017, para. 15.

The Iranian Review for UN Studies (IRUNS)—Vol.2, Issue 1, Winter & Spring 2019

Council is preparing the ground for all civilizations to refer to their cultural, historical and religious values while showing how these traditions are reflected in their contemporary practice of implementing the international human rights law. State parties like Iran are participating in this interaction with other countries, believing that this is a constructive approach. On the other side, Iran and most of other States with country-specific mandate holder usually reject the findings of their mandated special rapporteurs and consider their reports politicized and harmful with no respect for their culture and the concept of cultural diversity, which leads to different interpretations and also different modalities in implementing human rights norms.

As a matter of fact, none of the international human rights mechanisms and the mandate holders seek a confrontation and, from the other side, none of the member States which rely on cultural diversity prefer to continue an endless and destructive controversy. In other words, all sides are trying to find a way for a constructive dialogue. Constructive dialogue in this context is a non-political, respectful, realistic and encouraging one which follows a step-by-step, interactive approach. These are simply the ultimate goals of the UN Human Rights Council which opens new perspectives on horizons of international legal system of human rights, which embodies the spirit of cooperation and solidarity, rather than politicized, coercive, and unilateral pressure.

Perhaps, the realization of international cooperation to replace endless controversies, derived from diversity, with constructive dialogue, emanated from unity, is relied on the tie between Article 2(1) of the

Charter of the United Nations and Article 28 of the UDHR, i.e. solidarity among sovereignties and individuals.

References

Books

1. Adamantia POLIS and Peter SCHWAB, *Human Rights: New Perspectives, New Realities*, (London: Lynne Rienner Publishers, 2000).
2. Ahmed An-Na'im ABDULLAHI, *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*, (Pennsylvania: University of Pennsylvania Press, 1992).
3. Antonio CASSESE, *the General Assembly: Historical Perspective, 1945-1989*, in ALSTON, Philip, eds., *the United Nations and Human Rights: A Critical Appraisal*, (New York: Clarendon Press, 1992).
4. Charlotte SEYMOUR-SMITH, *Macmillan Dictionary of Anthropology* (London: The Macmillan Press LTD, 1986).
5. James SILK, *Traditional Culture and the Prospect for Human Rights in Africa: Cross-Cultural Perspectives*, in ABDULLAHI, Ahmed An-Na'im and DENG, Francis M., eds., *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*, (New York: Brookings Institution, 1990).
6. Michele LANGFIELD, William LOGAN and Mairead Nic CRAITH, *Cultural Diversity, Heritage and Human Rights*, (London: Routledge, 2010).
7. Morton E. WINSTON, *The Philosophy of Human Rights*, (London: Wadsworth, 1989).
8. Seyed Mohammad HASHEMI, *Human Rights and Fundamental Freedoms [Persian]*, (Tehran: Mizan Publication, 2006).

The Iranian Review for UN Studies (IRUNS)—Vol.2, Issue 1, Winter & Spring 2019

9. W.S. LOGAN, Closing Pandora's Box: human rights conundrums in cultural heritage protection, in: SILVERMAN, H. and RUGGLES, eds., Cultural heritage and human rights, (New York: Springer, 2007).

Articles

10. Amory STARR and Jason ADAMS, Anti-globalization: The Global Fight for Local Autonomy, (2003), *New Political Science*, Vol. 25 (1).
11. Hurst HANNUM, the Status of the Universal Declaration of Human Rights in National and International Law, (1996) *Georgia Journal of International and Comparative Law*, Vol. 25.
12. Seyed Yahya YASREBI, "Evaluation of Allameh Jafari's Position towards Human Rights"[Persian], (2011) *Hekmat Moaser*, Vol. 2.
13. The British Museum, The Cyrus Cylinder, available at: http://www.britishmuseum.org/research/collection_online/collection_object_details.aspx?objectId=327188&partId=1.
14. Violaine HACKER, "Building Medias Industry while promoting a community of values in the globalization: from quixotic choices to pragmatic boon for EU Citizens", (2011) *PolitickéVédy-Journal of Political Science*, Slovakia, Vol. 11.

Documents and Cases

15. A world against violence and violent extremism, UN Doc. A/RES/68/127, 18 December 2013.
16. American Anthropological Association, Statement on Human Rights, in *American Anthropologist* 49, no. 4 (1947).
17. ICJ, *Avena and Other Mexican Nationals case (Mexico v. United States)*, Judgment, [2004], I.C.J. Rep. 12.

18. ICJ, LaGrand case (Germany v. United States), Judgment, [2001], I.C.J. Rep. 244.
19. ICJ, Nicaragua case (Nicaragua v. United States), Judgment on Jurisdiction, [1986], I.C.J. Rep. 14.
20. Letter dated 10 October 2017 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary- General, UN Doc. A/C.3/72/11, 12 October 2017.
21. Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, UN Doc. A/HRC/34/65, 17 March 2017.
22. The Expediency Discernment Council, the Deed of Prospects of the Islamic Republic of Iran in 2025, 2003. Also is available at www.farsi.khamenei.ir (Visited May 10, 2018).
23. UN Doc. A/PV. 183, 10 December 1948.
24. UNESCO, Cultural Diversity, available at: <http://www.unesco.org/new/en/social-and-human-sciences/themes/international-migration/glossary/cultural-diversity/>(visited 10 October 2017).
25. United Nations Year of Dialogue among Civilizations, UN Doc. A/RES/53/22, 4 November 1998.
26. United Nations Year of Dialogue among Civilizations, UN Doc. A/RES/55/23, 13 November 2000.