



recensione¹

Ferminia Moroni, *I diritti umani nelle Costituzioni dell'Iran del 900. Una analisi comparata delle fonti*, prefazione di C. Saccone, presentazione di P. M. Borrmans, Centro Essad Bey-Amazon IP, Seattle 2022, pp. 288

Few indeed were the countries of Muslim tradition who took part, in 1948, in formulating the Universal Declaration of Human Rights in New York which was masterminded by Eleonora Roosevelt, from America, René Cassin, from France, and the Lebanese Charles Malik. In June 1993, however, more than 138 countries, many claiming to be Islamic, met in Vienna (Austria) for a World Conference on Human Rights. What is the situation, then, in those countries who accepted the 1948 Declaration and whose governments agreed to abide by its text and the so-called New York Conventions which aimed at ensuring their implementation, while at the same time declaring in their constitutions that, for them, Islam is the religion of the state and that the Shari'a is one of the sources – or the only source- of legislation.

Certain associations or leagues, reasonably well-recognized from a juridical point of view, have been set up in these countries to promote the contents of the above-mentioned Universal Declaration of 1948. However, the international Islamic institutions which claim to represent these countries have recently proposed some Declarations of Human Rights in Islam which render these latter subject to the prescriptions of the Shari'a, to the limitations it imposes and to the forms of discrimination which it lays down. The objection is often made against the Universal Declaration of Human Rights of 1948 that it expresses Western cultural values and is particularly marked by Christian civilization. Thus, out of a sense of respect for cultures,

¹ Testo inedito di P. Maurice Borrmans, preparato in riferimento alla tesi dottorale dell'Autrice, presentata all'Istituto universitario Orientale di Napoli nell'anno 2000. I materiali di questa tesi sono stati pubblicati per la prima volta nel 2022 nel volume presentato in questa pagina.

some would maintain that these Rights are not universal and that “cultural relativism” allows each signatory to interpret them in his own way, thereby denying their universal character.

For this reason, Madame Ferminia Moroni has considered it fitting to make a comparative study of the constitutive texts concerning public order of the Islamic Republic of Iran and what these say concerning those same Human Rights contained in the 1948 Universal Declaration. She also examined how the same instances of public order received the various Conventions which set down the content of these texts or arranged their application. In her study she makes mention of the Charter of Human Rights in Islam, drawn up in Teheran and elaborated within the framework of these international Islamic institutions (1989), that of Cairo, proposed by the Minister for Foreign Affairs of the Organization of the Islamic Conference (1990), and the unofficial Charter of Âyatollâh Ja’fari Tabrizi (1991), and she considers these as they are interpreted and commented on by the two Human Rights experts, Professor Soltân-Hosein Tâbandè Gonâbâdi and Professor Zeino’ l-Âbedin Qorbâni. She explores the important areas of the equality, life, the family, religion, freedom of opinion and expression, the government.

She goes on to consider carefully how the whole legislative structures of the Islamic Republic of Iran make up a progressive interpretation of these Declaration of Human Rights in Islam during a preliminary period of “transition”, then during a long period of “evolution”, so as to end up at the “present situation” under the supreme leadership of the “great faqih”, the Ayatollah Khâmene’i and under the administration of two successive presidents of the Republic, Âyatollâh Rafsanjâni and Âyatollâh Khâtami. It would seem that one ends up with an Iranian “Virtual Charter of Human Rights in Islam” which corresponds to the vision of Âyatollâh Khomeini, a vision which remains quite distinct from the ideals which inspired the Universal Declaration of 1948 and which reflects the shî’ite ja’farite tradition through the interpretation made by the Iranian legal advisors to the present Islamic Republic. This would explain why it still maintains the numerous distinctions and discriminations of classical Shari’a Law, considered as the essential source of Iranian juridical “culture”.

Padre Maurice Borrmans, 1925-2017 (scritto inedito)