

AN ISLAMIC PERSPECTIVE ON HUMANITY & HUMAN RIGHTS IN RELIGIOUS TEXTS AND ITS GENESIS AND COMPATIBILITY TODAY: AN ANALYSIS

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ABSTRACT

What constitutes human rights and a drawing common understanding of these rights and thereby ensuring that these are universally granted to every member of society have been the subject of historic documents such as The Magna Carta ,The French Declaration of the Rights of Man, The American Bill of Rights, and The Geneva Convention. What is often overlooked, however, is that these questions have also been addressed by various religious traditions. The Islamic model of human rights in particular is striking in its rigor, its vision and its relevance to modern times. Is Islam compatible with human rights? This question has been in recent years the focus of attention of numerous human rights scholars, who have produced varying answers and advanced conflicting views.. Islam's contribution to human rights can be appreciated when compared against the backdrop of world history as well as the realities of modern times. Social, racial, gender, and religious inequities have always existed. This paper while considering the question of human rights and Islam, will examine the distinction between textually prescribed rights, and their misapplication and misinterpretation by imperfect human beings. The present paper examines the following issues: Can the application of the Sharia be compatible with human rights law or can Sharia-compliant States ever find compatibility with evolving norms of international human rights.

Keywords

The Magna Carta, religious inequities, Glorious Qur'an,. Human dignity, Divine spirit. Khalifa.

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1. Introduction

Man today stands in dire need both of safeguards for his human personality and of means to perfect his temporal, material and spiritual well-being, by balancing his scientific and technological advancement on the one hand, and his moral and spiritual advancement on the other. to be given the intelligence, strength and will necessary to be God's Khalif (representative) in this troubled world and to carry out this divine mission by working under His guidance and with fairness and justice for the well-being and prosperity of all. Islam, which has. Confirmed the messages of all previous religions, considers the coexistence of peoples of different creeds, races, colours and tongues to be a manifestation of the wisdom and providence of the Creator. It considers its message to be one of guidance and compassion to all mankind and it repudiates racial discrimination. Because of the depth and spread of its knowledge of human existence, Islam can find effective solutions to current problems and is a continuously growing influence in this world of diverse peoples, cultures, races and languages. Islam is continuously developing and replenishing

its vitality in harmony with its own aesthetic values and moral ideals.

The distinguishing feature of human rights in Islam is that these rights are the natural outcome of a broader practice of faith, deeds and social behavior that Muslims believe are divinely mandated. The Glorious Qur'an says:

“Allah commands justice, the doing of good, and liberality to kith and kin, and He forbids all shameful deeds, and injustice and rebellion: He instructs you, that ye may receive admonition.” [Quran, 16:90-91].

Human dignity originates from God who has singled out humankind from other creations and favoured it in several ways.

“We are the only creatures that contain the Divine spirit which was placed in humankind by God during creation” (Qur'an, 15:29).

In the decades since the Declaration, the term "human rights" has become an integral part of both political and popular discourse, particularly amongst Western, and Western educated, persons. Until very recently most of this discourse has been in largely secular terms. In fact, it is frequently assumed, as well as stated, by many advocates of human rights, in both Western and non- Western

(including many Muslim) countries, that human rights can exist only within a secular context and not within the framework of religion.

2. Different Views on Human Nature

Muslim Women and Human Rights

Since the modern notion of human rights originated in a Western, secular context, Muslims in general, but Muslim women in particular, find themselves in a quandary when they initiate, or participate in, a discussion on human rights whether in the West or in Muslim societies. Based on their life experience, most Muslim women who become human rights advocates or activists, feel strongly that virtually all Muslim societies discriminate against women from cradle to grave. This leads many of them to become deeply alienated from Muslim culture in a number of ways. This bitter sense of alienation oftentimes leads to anger and bitterness toward the patriarchal systems of thought and social structures which dominate most Muslim societies. Muslim women often find much support and sympathy in the West so long as they are seen as rebels and deviants within the world of Islam. But many of them begin to realize, sooner or later, that while they have serious difficulties with Muslim culture, they are also not able, for many reasons to identify with Western, secular culture. This realization leads them to feel - at least for a time - isolated and alone. Much attention has been focused, in the Western media and literature, on the sorry plight of Muslim women who are "poor and oppressed" in visible or tangible ways. Hardly any notice has been taken, however, of the profound tragedy and trauma suffered by the self-aware Muslim women of today who are struggling to maintain their religious identity and personal autonomy in the face of the intransigence of Muslim culture, on the one hand, and the imperialism of Western, secular culture, on the other hand.

As creations of God, women are accorded spiritual equality with men. They are rewarded for prayer and charitable acts, and likewise held accountable for their actions, good or bad, while on earth. The Glorious Qur'an says:

"If any do deeds of righteousness, - be they male or female - and have faith, they will enter Heaven, and not the least injustice will be done to them."

Both men and women have responsibilities towards their families and societies as is clear from the following verse:

"The Believers, men and women, are protectors one of another: they enjoin what is just, and forbid what is evil: they observe regular prayers, practise regular charity, and obey Allah and His Messenger. On them will Allah pour His mercy: for Allah is Exalted in power, Wise."

Under the laws of Islam, women have the right to own property and businesses, engage in financial transactions, vote, receive inheritance, obtain an education and participate in legal and political affairs. The fact that Muslim societies do not always accord women all these rights is an example of how human beings can fall short of fully implementing the Divine Will.

3. Sources of the Islamic Tradition

Before addressing the issue of human rights in Islam, it is useful to clarify that the Islamic tradition - like other major religious traditions - does not consist of, or derive from, a single source. Most Muslims if questioned about its sources are likely to refer to more than one of the following: the Qur'an or the Book of Revelation which Muslims believe to be God's Word transmitted through the agency of Angel Gabriel to the Prophet Muhammad; Sunnah or the practical traditions of the Prophet Muhammad; Hadith or the oral sayings attributed to the Prophet Muhammad; Fiqh (Jurisprudence) or Madahib (Schools of Law); and the Shari'ah or code of law which regulates the diverse aspects of a Muslim's life. While these "sources" have contributed to what is cumulatively referred to as "the Islamic tradition", they are not identical or considered to be of equal weight. Of all the sources of the Islamic tradition, undoubtedly, the most important is the Qur'an which is regarded by Muslims in general, as the primary, and most authoritative, source of normative Islam.

To many Muslims the Qur'an is the Magna Carta of human rights and a large part of its concern is to free human beings from the bondage of traditionalism, authoritarianism (religious, political, economic, or any other), tribalism, racism, sexism, slavery or anything else that prohibits or inhibits human beings from actualizing the Qur'anic vision of human destiny

embodied in the classic proclamation: "Towards Allah is thy limit" .

In the section entitled "General Rights" which follows, an account is given of the Qur'an's affirmation of fundamental rights which all human beings ought to possess because they are so deeply rooted in our humanness that their denial or violation is tantamount to a negation or degradation of that which makes us human. From the perspective of the Qur'an, these rights came into existence when we did; they were created, as we were, by God in order that our human potential could be actualized.

Rights created or given by God cannot be abolished by any temporal ruler or human agency. Eternal and immutable, they ought to be exercised since everything that God does is for "a just purpose".

4. General Rights as Referred in Scriptures

The most basic right of a human being is the right to live. The Glorious Qur'an recognizes this right in the following verses:

"Nor take life - which Allah has made sacred - except for just cause..."

"Whosoever kills a human being without due reason - not in retaliation for murder or corruption on earth - it is as though he had killed all of mankind."

Islam's position on life is that it is a sacred trust from God. No human being is permitted to take the life of another, unless it is for justice administered by a competent court following due process of law. Not only do human beings have the right not to be harmed, they have the right to be safeguarded from harm - physical or otherwise. Even in a state of war, Islam enjoins that one deals with the enemy nobly on the battlefield. Islam has drawn a clear line of distinction between the combatants and the non-combatants of the enemy country.

The Glorious Qur'an says:

"And in their wealth the beggar and the outcast had due share." [Qur'an 51:19]

The Qur'an upholds the sanctity and absolute value of human life and points out that, in essence, the life of each individual is comparable to that of an entire community and, therefore, should be treated with the utmost care.

The Qur'an deems all human beings to be worthy of respect because of all creation they alone

chose to accept the "trust" of freedom of the will. Human beings can exercise freedom of the will because they possess the rational faculty, which is what distinguishes them from all other creatures. Though human beings can become "the lowest of the lowest", the Qur'an declares that they have been made "in the best of moulds".

As stated earlier, the Qur'an is deeply concerned about liberating human beings from every kind of bondage. Recognizing the human tendency toward dictatorship and despotism, the Qur'an says with clarity and emphasis in Surah 3: Al-'Imran: 79:

It is not (possible) That a man, to whom Is given the Book, and Wisdom, And the Prophetic Office, Should say to people: "Be ye my worshippers Rather than Allah's" On the contrary

(He would say):

"Be ye worshippers Of Him Who is truly The Cherisher of all."

The institution of human slavery is, of course, extremely important in the context of human freedom. Slavery was widely prevalent in Arabia at the time of the advent of Islam, and the Arab economy was based on it. Not only did the Qur'an insist that slaves be treated in a just and humane way, but it continually urged the freeing of slaves.

The greatest guarantee of personal freedom for a Muslim lies in the Qur'anic decree that no one other than God can limit human freedom. and in the statement that "Judgment (as to what is right and what is wrong) rests with God alone."

The Qur'an recognizes the right to religious freedom not only in the case of other believers in God, but also in the case of not-believers in God. The right to freedom includes the right to be free to tell the truth. The Qur'anic term for truth is "Haqq" which is also one of God's most important attributes. Standing up for the truth is a right and a responsibility which a Muslim may not disclaim even in the face of the greatest danger or difficulty.

A cardinal concept in the Qur'an - which underlies the socio-economic political system of Islam - is that the ownership of everything belongs, not to any person, but to God. Since God is the universal creator, every creature has the right to partake of what belongs to God. This means that every human being has the right to a means of living and that those who hold economic or political power do not have the right to deprive others of the basic necessities of life by misappropriating or misusing

resources which have been created by God for the benefit of humanity in general.

According to Qur'anic teaching every man and woman has the right to work, whether the work consists of gainful employment or voluntary service. The fruits of labour belong to the one who has worked for them - regardless of whether it is a man or a woman. As Surah 4: An-Nisa': 32 states: "...to men Is allotted what they earn, And to women what they earn"

The Qur'an recognizes the need for privacy as a human right and lays down rules for protecting an individual's life in the home from undue intrusion from within or without. The Qur'an recognizes the right of human beings to be protected from defamation, sarcasm, offensive nicknames, and backbiting. It also states that no person is to be maligned on grounds of assumed guilt and that those who engage in malicious scandal mongering will be grievously punished in both this world and the next.

According to Qur'anic teaching, a Muslim's ultimate loyalty must be to God and not to any territory. To fulfill his Prophetic mission, the Prophet Muhammad decided to leave his place of birth, Mecca, and emigrated to Medina. This event ("Hijrah") has great historical and spiritual significance for Muslims who are called upon to move away from their place of origin if it becomes an abode of evil and oppression where they cannot fulfill their obligations to God or establish justice.

The Qur'an uphold the right of the human being only to life but to "the good life". This good life, made up of many elements, becomes possible when a human being is living in a just environment. According to Qur'anic teaching, justice is a prerequisite for peace, and peace is a prerequisite for human development. In a just society, all the earlier mentioned human rights may be exercised without difficulty. In such a society other basic rights such as the right to a secure place of residence, the right to the protection of one's personal possessions, the right to protection of one's covenants, the right to move freely, the right to social and judicial autonomy for minorities, the right to the protection of one's holy places and the right to return to one's spiritual center, also exist.

5. The dignity of humankind & Islamic holistic worldview (tawhid) Dignity, Equality & Justice

The Islamic principle at the core of preserving the dignity of human beings is justice. In the hierarchy of values, justice is a central universal value and a basic objective of Islam, to the degree that it stands next in order of priority to the belief in God's exclusive right to worship (tawhid) and the truth of Muhammad's prophethood. This is evidenced from the Qur'anic injunction:

"Be just, for this is closest to God-consciousness."

The centrality of justice to the Islamic value system is displayed by the Qur'anic verse that says:

"We sent our messengers with clear signs and sent down with them the Book and the Balance (of Right and Wrong) in order to establish justice among the people"

The Islamic conception of justice is transcendental and based on fairness, for God says in the Qur'an: "Oh you who believe! Stand out firmly for God, as witnesses to fair dealing"

Islam views social justice as setting out the balance of rights and obligations, and of freedoms and responsibilities within a framework of equality and solidarity.

The Qur'an puts great emphasis on the right to seek justice and the duty to do justice. In the context of justice, the Qur'an uses two concepts: "adl" and "ihsan". Both are enjoined and both are related to the idea of "balance", but they are not identical in meaning. "Adl" is defined by A.A.A. Fyzee, a well-known scholar of Islam, as "to be equal, neither more nor less." Explaining this concept, Fyzee wrote: "...in a Court of Justice the claims of the two parties must be considered evenly, without undue stress being laid upon one side or the other. Justice introduces the balance in the form of scales that are evenly balanced." "Adl" was described in similar terms by Abu'l Kalam Azad, a famous translator of the Qur'an and a noted writer, who stated: "What is justice but the avoiding of excess? There should be neither too much nor too little; hence the use of scales as the emblems of justice." While constantly enjoining "adl", the Qur'an goes beyond this concept to "ihsan", which literally means, "restoring the balance by making up a loss or deficiency".

Islam requires that Muslims possess upright character and deal justly with the entire human race, irrespective of their ethnicity, nationality, creed, and whether they are friend or foe.

The Glorious Qur'an says:

"O ye who believe! stand out firmly for Allah, as witnesses to fair dealing, and let not the hatred of others to you make you swerve to wrong and depart from justice. Be just: that is next to piety: and fear Allah. For Allah is well-acquainted with all that ye do." [Quran, 5:8]

The sense of justice that Islam encompasses "is one of the most wonderful ideals of Islam, because, as I read in the Qur'an, I find those dynamic principles of life, not mystic but practical ethics for the daily conduct of life suited to the whole world."

6. Human rights, UN Bill of Rights & Cairo

Declaration on Human Rights in Islam (CDHRI)

Human rights are a means to achieving justice and preserving human dignity. They are also directly linked to freedom and equality. At their respective doctrinal levels, both Islam and the UN Bill of Rights are in agreement on human dignity as the foundation of human rights. In Islam the root of human rights lies within theology and begins with faith in God, who is the source of transcendent value. It is God who bestowed dignity on humankind and who makes it unacceptable for anyone to violate human rights and take away a person's dignity. Rights and duties in Islamic law are derived from the Qur'an and the traditions of the Prophet (PBUH).

According to Islamic teaching, rights are linked with a duty toward others. This differs from the thrust of the Universal Declaration of Human Rights (UDHR), which appears to utilise a libertarian notion of an individual divorced from his/her social commitments and/or relationship with the collective.

The Islamic model of human rights in particular is striking in its rigor, its vision and its relevance to modern times. Islam's contribution to human rights can be appreciated when compared against the backdrop of world history as well as the realities of modern times. Social, racial, gender, and religious inequities have always existed. Economic and social disparities have resulted in oppression of the lower classes; racial prejudices have been the cause of subjugation and

enslavement of people with darker skin; women have been weighed down by chauvinistic attitudes, and pervasive attitudes of religious superiority have led to widespread persecution of people with different beliefs. When considering the question of human rights and Islam, it is important to remember the distinction between textually prescribed rights, and their misapplication and misinterpretation by imperfect human beings. Just as Western societies still fight against racism and discrimination, Muslim societies struggle to fully implement Islamic human rights.

Further, Muslim countries throughout the world have ratified international human rights covenants, and our research has shown that as a group their implementation of these covenants is no better or worse than that of non-Muslim countries. In the final analysis, it is clear from Islamic teachings that any act that is detrimental to crucial elements of a person's faith, life, mind, family or wealth is an affront to the person's dignity and a violation of their rights. This is a broader and more comprehensive framework than the rights regime in the UDHR.

7. Is Islam compatible with human rights?

The Sharia as well as human rights law form essential segments of regulatory behaviour for all Muslim societies: the role and influence of both remains substantial as well as uncontested. However, there is considerable debate surrounding the incompatibility of application between the Sharia on the one hand and human rights norms on the other. In engaging with the subject, In engaging with this debate, this paper contends that Sharia and human rights are not incompatible to each other. It goes on to argue that in fact Sharia may compliment human rights norms so long as the operational spheres for both the Sharia and human rights law are determined and understood and an effort is made to retain both within their specific mandates spheres. The Cairo Declaration on Human Rights in Islam (CDHRI) is a declaration of the member states of the Organisation of Islamic Cooperation (OIC) adopted in Cairo, Egypt, on 5 August 1990, (Conference of Foreign Ministers, 9–14 Muharram 1411H in the Islamic calendar which provides an overview on the Islamic perspective on human rights, and affirms Islamic sharia as its

sole source. CDHRI declares its purpose to be "general guidance for Member States of the OIC in the field of human rights".

This declaration is widely acknowledged as an Islamic response to the United Nations' Universal Declaration of Human Rights (UDHR), adopted in 1948. It guarantees some, but not all, of the UDHR and serves as a living document of human rights guidelines prescribed for all members of the OIC to follow, but restricts them explicitly to the limits set by the sharia. Because of this limit, the CDHRI has been criticized as an attempt to shield OIC member states from international criticism for human rights violations, as well as for failing to guarantee freedom of religion, justifying corporal punishment and allowing discrimination against non-Muslims and women.

Compatibility of Sharia and human rights

Any discussion of Islam, particularly in relation to Islamic values and the compatibility of the Sharia with norms of human rights law is extremely interesting and yet evokes considerable controversy. In addressing this subject, widely divergent views have been adopted. The most pronounced views have been advanced by the so-called 'rejectionists' and the 'apologist' camps. The 'rejectionist' camp, as the title suggests takes the view that Sharia, in its essence, can never be compatible with human rights law and this view has been advanced both within the western jurisprudence as well as by the Islamic jurists and activists.

The European Court of Human Rights in the famous *Refah Partisi* (the welfare party) against Turkey held the Sharia to be incompatible with the fundamental principles of democracy and human rights law and noted that 'Like the Constitutional Court, the Court considers that sharia, which faithfully reflects the dogmas and divine rules laid down by religion, is stable and invariable. Principles such as pluralism in the political sphere or the constant evolution of public freedoms have no place in it. In the Court's view, a political party whose actions seem to be aimed at introducing sharia in a State party to the Convention can hardly be regarded as an association complying with the democratic ideal that underlies the whole of the Convention.'

The European Court of Human Rights appears to suggest that democratic ideals including democracy, free expression and human rights

cannot be accommodated within the Sharia model. This 'rejectionist' approach is unfortunately not found exclusively within the domain of western, secularist ideologies, but also represents the mindset of many factions within Islamic world. The typical position is advanced by Maulana Mawdudi, an Islamic jurist of the twentieth century. In his view the divine ordinances that are enunciated through the Sharia are not open to any challenges nor do these have to be compatible to man-made evolutionary systems such as modern day human rights law.

As a reaction to the rejectionist approaches, there have been various attempts at reconciliation and rapprochement. Scholars and jurist have argued that in fact Sharia is compatible with human rights and a number of themes have been presented.. It is argued that Islam was a positive force of change in the seventh century Arabia and produced many positive features including an egalitarian model of rights, and Islam's contribution to human rights must be viewed within this historical, social and political kaleidoscope.

In making an assessment as to the compatibility of the Sharia with human rights, it is important to conceptualise and visualize the content, scope and definition of both the Sharia and human rights law. Human rights law is a modern construct, which is evolving and is laden with its own, inherent shortcomings of context, and relativity of historical, cultural, geographical and religious relativism. Likewise, although God-ordained, the Sharia must be understood within its proper context.

8. Conclusion

The preceding discussion reflects the pluralism of Muslim responses to the modern, secular perspectives on human rights. On the one hand, the conservative argument seems to be more dominant in Egypt, while in Indonesia the moderate-liberal argument seems to prevail in the public debate on human rights. In other words, Muslims in both countries have different attitudes toward international standards of human rights. However, despite the difference, there is a similar trend in the way Muslims take part in the discourse of human rights. That is, Muslims' participation in the human rights discourse is determined by the dynamic tensions among three interconnected poles. The first pole is

conservative Islam, which argues that Islam is a religion whose universal claims encompass the realm of human rights. The second pole is liberal or reformist, and argues that the modern, secular-based concept of universal human rights is compatible with Islam. The third pole, the most complex, is the state's own interpretation of human rights principles in accordance with national interests real or imagined.

The fact that Islam contains universal principles, which may or may not be compatible with the secular-based universal principles of human rights, is beyond dispute. Because of this, tensions between the first two poles are influenced by the ways in which Islamic groups and leaders interpret such universal principles. They are also influenced by the responses from advocates of secular-based human rights principles to certain Islamic principles. Thus, coming to grips with the diversity of opinions on, and interpretations of, basic principles advocated by different groups within the Islamic community is important. In this regard, Monshipouri argues that "fusing secular and Islamic principles can effectively promote human dignity." Conservatives advocate legal formalistic strategies in putting their ideas into practice, while moderates advocate transformative and gradual approaches through inculcating Islamic ethics in society. Developing a modern society in which Islam will attempt to influence its moral and ethical bases without using legal formalistic means is important. Islam, in this view, is but one among many value systems that exist in society and should not claim to be the only alternative for the development of the new society.

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