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Preface

Human rights (whether the creator of universe gave them to Human, whether society or international organizations) are among the things that every human wants these rights to be respected and implemented.

These universal rights are inherent to us all, regardless of nationality, sex, national or ethnic origin, color, religion, language, or any other status.

These rights are among the issues welcomed by the various nations and it is necessary to study the concept of human rights in all religions. The present issue explains the views regarding Human rights and deals with certain issues of human studies necessary for understanding human rights such as the creator and lord of human being, human essence, his nature, position of human being in the universal existence, his relation with the universal existence, and the ultimate goal of creation of human being.

In Islam, human rights, is stated that: "Human rights are those things that are fixed and stable and common to all human beings, which every human being must have and has in order to be human.

And this right has been given by the creator of man at the beginning of his birth.

The last sermon of Holy Prophet in Hajjat-ul-vida that no one has any superiority over any one due to race, colour or culture. All are equal, children of Adam and Adam was created by clay. This is the declaration of human rights in Islam.

In Islam, Human Rights have been conferred by God and therefore these are permanent and cannot be changed. Any charter, proclamations or resolutions on Human Rights by Governments or the United Nations therefore cannot be compared with the Rights sanctioned by God. In Islam woman have been granted the right of inheritance, engage in financial transactions, education, and participation in political and legal affairs from the very beginning.

Risalat-ul-Haqooq is one of his most outstanding teachings by Imam Zain-ul- Abideen (AS). It is a master document on Islamic human rights, which not only covers human rights, but also includes the rights of God, our body parts, and our deeds. Any intelligent reader who thinks carefully and deeply about the contents of this valuable document on rights, it immediately becomes clear that Islam has already established the first document on rights nearly fourteen centuries ago.

Regarding the importance of human rights, which is the topic of the day, I think dozens of articles should be written and discussed about this topic.

Hujjat-ul-Islam Dr. Reza Shakeri

Chief Representative
Al Mustafa International University, in India

Editorial

Another Issue(part two)¹of 'International Journal of Religious Thoughts' is with you. This issue deals with another important subject for everyone that is human rights. Basically, human rights in life is very important for both those who believe in religion and those who do not believe in religion, Because the system of existence cannot continue its life without respecting human rights, even the rights of other creatures. Due to the importance of human rights in the world, we dedicated the current issue to this topic. With every succeeding Issue, the response that we are getting in the form of letters, mails and contributions from the learned authors has been encouraging for us. It is an indication in itself as regards the popularity of 'Religious Thoughts' that it has achieved. Our main goals in publishing this journal have been to inform the educated class about the common points of religions regarding the beliefs, morality, mysticism, spirituality, peace and security, so that we can reach an ideal, progressive, and stress-free society. Another point that may be of interest to our worthy readers is that 'Religious Thoughts' has now been allotted ISSN number and we are trying to get the ISI standard (Scopus Title Evaluation) for this journal soon. It is a milestone in our journey, which started with the realization of the need to publish a Journal that presents discussions on Inter-Faith and various positive aspects of religion to Indian and Iranian readers. The publication is a sincere attempt

¹- Regarding the importance of human rights, which is the topic of the day, This issue was also dedicated to human rights.

by Al-Mustafa Islamic Research Society to highlight those different paths and processes of thought exist in the world. We believe that initiating the process of dialogue and expression of different views and thoughts always adds to sustenance of mutual understanding. In a world, where difference of opinion offers leads to misunderstanding and conflicts, we wish to use the tools of dialogue and interaction for better understanding and human relations. We intend to and have tried to take a deeper look at various existing religions and to develop a spirit of togetherness. Study of culture and religion shows that, peace oriented, convergent and scholarly approaches are welcomed by the right-thinking people in India and Iran both. While thanking the scholars and experts on the subject, we earnestly hope that they will continue to patronize us in this momentous task through their constructive criticism and suggestions.

Dr. Syed Fayaz Husain

Editor-in-Chief IJRT

Implications of Human Dignity in Penalty on Adultery; an Islamic Perspective

Sayyid M. Lavasani¹

Seyed Mohammad Kalantarkousheh²

Abstract:

Here, it has been explained about the fundamental performance of punishments from viewpoint of Islam. Then, the parameters of human dignity have been examined in three parts of penalty on adultery: the stage prior to performing Had (punishment on adultery), the stage after performing Had and enforcing limitations at the time of performing Had. In each of these 3 steps, the tokens of human dignity and rights are clearly evidence. In other words, human dignity and Islam viewpoint are hand in hand, even in conditions that one has been committed the worst sin. Lastly, it can be inferred that a comprehensive consideration to legislating a decree in terms of human dignity and rights, instead of having a limit look at decision making and accepting or rejecting an Islamic decree, has pivotal function in Islam.

Key Words: Islamic view, Human dignity, Sexual crimes, Penalty on adultery

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1. Introduction

No doubt, one of the important issues in Modern world is human dignity and honoring it (Lavasani & Kalantarkousheh, 2012). Therefore, laws implicated on human penalty are evaluated with regard to honoring laws to human dignity. In fact, laws including violation treatment with man emphasized to avoid them without any pre - conditions. It should be said that the scope of this restriction was so extensive which includes some of Islamic penalties such as penalty on adultery. As the Holy Quran says:

"The woman or man found guilty of sexual intercourse - lash each one of them with a hundred lashes" ¹(Q. 24:2)

In addition, from viewpoint of many legal societies, penalty on adultery is considered to be leading example of ignoring human dignity and it is emphasized on the necessity of its cancellation and resorting to replaced penalties far from violation treatments. Of course, In this connection, with regard to conditions of this penalty, many researchers have another opinion. They believe that in Islamic penalties, it is advisable to forge, not in implication and Islam penalty laws are implicated in line with preventing from happening crime and conditions, which legislator has selected for performing punishment, confirm the claim and prevent from realization of performing in many cases².

With regard to the mentioned topics, it seems that struggle for paying attention to the realities of this punishment and its aims has

¹- Quran,24:2

²- Gorban Neyaa, 1389; Nobahaar, 1391.

been necessary from viewpoint of Islam legislator and helps researchers to recognize more the dimensions of this penalty decree. It is hoped that this writing will be successful in its mission which is to create a comprehensive atmosphere and better understanding among people about Islam penalty decrees.

2. Islam's Approach to Performing Penalty

2.1 Performing Not Wanted

It looks that Islam has no tendency towards proving adultery and its implication; Tarmezi reported a narrative, including more valuable notes regarding the mentioned claim, from the Holy Prophet of Islam (S.A.W.):

"ادرنوا الحدود عن المسلمين ما استطعتم، فان كان له مخرج فخلوا سبيله، فان الامام ان يخطى في العفو خير من ان يخطى في العقوبه"

As far as you can, keep away the punishment from Muslims, [and if you could find a way not to enforce penalty, do not punish]; for if Islamic judge makes a mistake in forgiveness [and forgives those who are not deserved] is better than he makes a mistake in punishment [and punishes persons unjustly]¹

2.2 Reason for Punishment

One of questions which is raised many times is that basically, why should adulterer be punished? With regard to some conditions which Islam legislator has anticipated for proving crime of adultery with reason at court, performing its punishment is only restricted

¹-Al-Tirmidhi, 1986.

to limited cases which adulterer has disgraced his society and he openly has committed this disgraceful act.

Now, is it possible to forget the public sanctity of society? If we do so, have we committed treason to people and society and ignored the dignity of both of them? It sounds that in humanistic societies such an act is considered to be obscener and more unbearable in public. Therefore, Islam does its best to observe a penalty for adulterer till the dignity of society will not be hurt.

Now, with regard to the above – mentioned subjects, this word can be accounted to be true and correct about sexual crimes like adultery which if a legislator knows a behavior is punishable if there are only considerable witnesses for testifying. From this approach, we can understand that the sensitive of law – maker is more monitoring the apparent action and anti – social behavior, its relationship with society and public discipline, not its essential corruption¹.

3. Cases Related to Human Dignity on Penalty on Adultery

Here, this question is posed that in fact with legislating punishment, is any honor left for adulterer or not? In reply to this question, we need to raise two important discourses:

¹- Nobahaar, 1391

3.1. Dignity of Adulterer prior to Enforcing Had

a) Hardship of Conditions Proving Barriers of Implicating Penalty on Adultery

In Islamic jurisprudence, proving adulteress's action is only possible through two ways: one is person's confession and another evidence by witnesses, but each one of these two ways enjoys more difficult conditions which according to some of researchers, it practically causes that no way for proving such crimes is left or at least its proving will be more difficult¹. conditions such as the necessity of 4 times true confession in 4 separate meeting or evidence by 4 just men that their claim united and far from any doubt and skepticism. More interestingly, the author of the book, Javahar-ul - Kalam clarifies that looking at adulterers' genitals is unlawful even for testifying at court, for it is not unlawful to testify to the act of adultery, if someone gives reasons for seeing that action.² Therefore, approximately no one has the expediency of evidence and its performance.

So, what can we take from the word of the author of the book, Javaher al - Kalam? In one hand, when witness can testify that he himself has seen this act clearly and fully and on the other hand, he cannot testify, for optional looking at him even for testifying is forbidden and in case of committing unlawful (Haram) act, he loses his justice and expediency. Thus, evidence by witnesses is useful when he has seen the act unintentionally and accidentally. In this

¹-See: Muhaqqeqeh Damad, 1385.

²-Najafi, 1363.

case, they are still just and their evidence will be accepted. This case may happen very rare. Therefore, the only way to prove this action is the adulterer's confession in order to purify himself. In spite of this, confession in religious culture is not good, since Imam Ali (A.S.) stated: "The best purification is repentance and no need to confession any longer."

It seems that arranging such conditions is not justifiable except for Islamic judge does his best not to perform punishment by keeping the dignity of adulterer.

b) Religious Leaders Emphasize on not Proving Crime and Implicating Adultery

Thinking deeply of received reports regarding adultery indicates that Islamic judge not only does his best to prepare hard conditions for proving crime but also gives another strategy for not proving crime and enforcing penalty; strategies such as keeping this act secret by the Imam (leader), not following crime to prove it, changing the adulterer's mind in order not to confess his sin and encouraging him towards repentance.

This indicates that in many cases, crime has been proven by common law, but religious leaders, with applying some strategies, do not pay attention to common law affirmation and prevent from common law affirmation and its disclosing. Now, how could this kind of interaction between crime and adulterer be evaluated? Surely, does this behavior not indicate to honor the adulterer's station and dignity?

For example: When a person went to the Holy Prophet (S.A.W.) and confessed his sin (committing adultery) several times.¹ after 2 times confession, the Prophet turned his face to consider it unheard and indirectly wanted him to hide that; when he went to him to confess for 3 times, the Holy Prophet (S.A.W.) said: "Does he mad?" perhaps, it could be said that this speech means that the wise man never confesses such an action, but, he hides it.

According to a narrative, after 4 times confession and enforcing penalty, the Holy Prophet (S.A.W.) regretted for him and said: "It would be better for him, if he had hidden his action and repented."

This behavior indicates clearly that enforcing punishment in Islam is not suitable.

As you know, in narratives, performing limit after proving crime is more emphasized by religious leaders; so that according to Imam Baqir (A.S.) and Imam Kazim (A.S.) enforcing punishment on earth is more blessed and purer and useful than 40 days raining." And based on the saying of Imam Ali (A.S.): "God addressed his prophet and said: "Whoever does not enforce any Had (limit) of My limitations, he has raised against me."²

In spite of this subject in this narrative, in many narratives reported related to this, Infallibles Leaders have no tendency towards proving sin and executing its punishment. So, what can this indicate?

¹- Al-Amili, 1414.

²- Ibid.

c) Happiness of Imam Ali (A.S.) Since Penalty on Adultery Not Implicate

Based upon a narrative, when a group of people testified that a woman committed adultery with a man, Umar ibn Khattab ordered his men to punish them, but Imam Ali (A.S.) prevented him from doing so. And after investigating, it was clear that she committed this action unwillingly. So, no punishment will be implicated for her. In addition, the Imam (A.S.) said: "Allah Akbar; God is the Great!"¹. This is indicative of happiness of the Imam.

In fact, if all interests and results are derived from executing punishment, should the Imam get happy and unhappy when adulterer gives reasons and how to justify the Imam's happiness in this case? It should be said that when performing punishment bears good results and more blessing that crime has been proven with all its hard conditions, but this is the case. In spite of it, religious leaders welcome warmly from not proving penalty. Thus, it should be considered in line with not hurting human dignity of adulterer before executing penalty in valuation of this kind of the Imam's reaction to this issue.

3.2 Dignity of Adulterer at the time of Performing the Punishment

a) Dissatisfaction of Islam Regarding Seeing Penalty scene

Although the second verse of Nour chapter emphasizes on the necessity of gathering a group of Muslims on penalty scene and

¹- Ibid.

performing Had (limit) on adulterer, referring to narratives indicate that performing this penalty and gathering of people in penalty scene have special conditions and decrees. At first, it should be noted that based on a narrative, Imam Ali (A.S.) has interpreted the term "Taefeh" to one person in this blessed verse¹. According to the very narrative, Shia jurists issued their decree². In addition to this, based on religious teachings, only those persons who are not sinful, can be invited to see penalty scene and it is not suitable to attend people except for good – doers³.

Another point is that to keep honor of adulterer, the gathering of hooligans and indifferent people towards religious issues is not good. Thus, the author of Wasael al – Shia has allocated a chapter called "Dislike of Gathering People for Seeing the Scene" and in continuation, he mentions a narrative that when a person was taken to enforce penalty in Basrah, Imam Ali (A.S.) asked Qanbar: "Why do this crowd come for?"

He said: "For seeing performing penalty."

When they came closer, the Imam (A.S.) looked at their faces and said: "Blessed not those faces on which nothing can be seen other than ugliness." And then he said: "O Qanbar! Keep them away from me⁴."

¹-Tusi, 1365

²-Tabatabae, 1422

³-Mufid, 1410

⁴- Al-Amili, 1414

b) Caring about Dignity of wan human**1) Child Through Adultery**

Based upon some narratives¹. from the infallibles (A.S.), if a woman committee such a disgraceful action and her sin proved and confessed by her with reason at court and she was also pregnant, performing punishment for her is delayed till she delivers a child. Even some narratives have clearly explained that until someone will be found to feed her child or she milks her child and passes the period of suckling, it is necessary that performing punishment is delayed².

In some of narratives, it has been explained the causes of this delaying in performing with this Quranic verse: "Nor can the bearer of a burden bear the burden of another³. And comparing it with this matter that the child is innocent and no penalty includes him. Likewise, Imam Ali (A.S.) objected the second caliph about this matter⁴. Here, it can be well comprehended that the child was born by this disgraceful action, is weak and or he is never born, but since he is innocent, Islam emphasizes more on keeping his live so that it leads to delay the performing punishment too late.

¹-Al-Amili, 1414

²-Al-Amili, 1414; Sajestani, 1410

³-Q, 17:15

⁴-Al-Amili, 1414

2) Adulteress

some researchers indicated that in Islamic codes one of points which is well observed about the punishment of adultery is observing the equality between man and woman and not supporting man¹. In the past and present, many laws of nations have supported man in selecting penalty for the crime of adultery. But on the contrary, considering woman's nature, Islamic laws have specified lighter punishment for her. As an instance, it has not implicated the punishment of exile for adultery with not married woman².

c) Enforcing Limitation of the Performance

1) In Relation to Adulterer's Body

Although Islam has considered some penalties for those who desecrated public sanctity of society and in some cases, it observes the penalty of execution for some people, it never ignores the personality of adulterer and his dignity and even with realization such a penalty, it does not deprive him of honor. Therefore, we see that at the time of performing punishment, it should be some special frameworks taken into consideration and in executing skin punishment, some of his organs such as head, face and genital should not be scourged³.

About philosophy of abstaining from scourging face and genital, Fazel Handi writes: "Perhaps, scourging both of them leads to his

¹-Nobahaar, 1391

²-Najafi, 1363

³-Najafi, 1363

mutilation¹. About abstain from scourging these 3 organs, the writer of Reyaz clarifies that perhaps, scourging head leads to blindness and mental disorder and the like².

2) In Relation to Performance Time

One of other limitations which Islam law – maker has prognosticated towards executing penalty is time limitation. This means that Whenever he wants to scourge, it should be in the warmest hours of day, if it is winter and if it is summer, he should execute punishment in the coldest hours of day and according to MuhaqqeqHalli, in winter punishment should be implicated in the middle of the day and in summer, in the early morning or end of the day³. According to the author of Javaher, this leads to happen side – effects⁴. According to some, performing penalty other than this, leads to appearance of some diseases in future and therefore, it is necessary that when punishment should be implicated that it has fewer side effects⁵.

Husham ibn Ahmar said: once, Imam Kazim (A.S.) and I had sat at the Masque that the Imam (A.S.) heard a man's voice who was being scourged at the time of mourning prayer in the coldest hours of day. The Imam (A.S.) said: "What's happened to that man?"

¹-Shams, 1376

²-Khoe, 1396; Tabatabae, 1422

³-Najafi, 1363

⁴-Ibid.

⁵-Shams, 1376

They said: "This is a man who is being scourged. "He said: "Subhan al - Allah! (Glory be to God) at this time you are scourging him. Surely, no penalty will be implicated for each person in winter unless, it is in the warmest hours of day and also in summer, it is in the coldest hours of day"¹.

4. Conclusion

With a comprehensive look at all dimensions of punishment decree, it sounds that Islam has observed the more difficult conditions for proving this crime regarding punishment on adultery. These conditions indicate that Islam has no tendency towards proving crime and believes that penalty on crime is inevitable. More importantly, what Islam means by specifying these punishments is informing people about hard penalty and preventing from realization of this crime. In addition to this, if a person committee such a crime, it is not so that he will be surely punished, rather, this penalty is only restricted to this that ethical security has reached a complicated situation so that a person impudently committed such a graceful action in front of people.

Yet, it is obvious that even in this rare case, the dignity of adulterer is hidden from Islam perspective and in this regard, it had been given some strategies in 3 stages prior to performing penalty, after it and at the time of it. Now, can penalty on adultery be observed to be inconsistent with human dignity?

With regard to what mentioned before, it is suggested that it has been carried out a comprehensive and modern revision in legal

¹-Al-Amili, 1414

societies concerning this punishment and its dimensions and also it has been made more attention to extensive teachings of human dignity in it – whether it is mentioned or not.

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The Debate on Human Rights: Positing the Vision of Rāshid al-Ghannūshī

Mohammad Dawood Sofi¹

Abstract:

Human rights, the hotly debated issue in 1970s Muslim world, set into engagement the diverse denominations like governments, political activists, civil society members, intellectuals, thinkers, and even common people. Though not a novel development, the phenomenon rather represented a renewed interest of individuals and groups in many issues including democracy and secularism. Shaykh Rāshid al-Ghannūshī—the ‘most adroit and flexible’ Tunisian Islamic reformist leader and the primary ideologue of *Ḥizb al-Nahḍah* is a prominent voice who has discussed widely the issue of human rights and in this regard his famous book *al-Ḥurriyyāt al-‘Āmah fī al-Dawlah al-Islāmiyyah* represents a core strand of his thought.

In the contemporary era, Ghannūshī through his prolific writing skills and appealing intellectual discourse especially on the issues of Islam-West relation, democracy, pluralism, and human rights is

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engaging the minds of intellectuals globally. Keeping in view, the global importance of this religio-political thinker, the current study, besides endeavoring to know that how the concept of human rights emerged in the West, will examine and explore objectively Ghannūshī's views on human rights. Moreover, in the whole paper, special focus will be placed on understanding his vision about some of the hotly debated issues such as apostasy, freedom in Islam and the West, and rights of women.

Key word: Human Rights, Rāshid al-Ghannūshī, Vision, Muslim, Society

Introduction

The contemporary Muslim thinkers and reformers such as Shaykh Rāshid al-Ghannūshī, while endeavoring to revive the Muslim society, heavily emphasize on reconciling Faith—through continuous reinterpretation of Islam—with modern or in other words 'Western derived global ideals' like democracy, human rights, pluralism, and equality.¹ With an aspiration to make Islam compatible with the frequently changing environment, Ghannūshī together with other likeminded reformers are engaged in

¹- Charles Kurzman, "Modernism," in Richard C. Martin, ed., *Encyclopedia of Islam and the Muslim World*, (New York: Macmillan Reference USA, 2004), 2: 456

developing and framing various philosophies and responses fitting the modern challenges.¹In the words of Graham E. Fuller:

Islamists are struggling, like so much of the rest of the developing world, with the genuine dilemmas of modernization: rampant change of daily life and urbanization at all levels, social dislocation and crisis, the destruction of traditional values, the uncertain threats of globalization, the need for representative and competent governance, and the need to build just societies and to cope with formidable political, economic, and cultural challenges from the West.²

The Muslim reformers, including Rāshid al-Ghannūshī, thus, endeavor to reconcile Islam with the modern issues. The fact is that the encounter of Muslims with the West especially in the last decades of the nineteenth century resulted in the emergence of two very significant polarities among the Muslims, 'Traditional and Western-oriented'. "Muslim views of the West and responses to its power and ideas" according to Esposito "varied from rejection and confrontation to admiration and imitation."³The philosophy of

¹-David Commins, "Modernism," in John L. Esposito, et al., eds., *The Oxford Encyclopedia of the Islamic World*, (New York: Oxford University Press, 2009), 4: 26 [Hereafter abbreviated as OEIW]

²- Graham E. Fuller, *The Future of Political Islam*, (New York: Palgrave Macmillan, 2003), p. xii

³-John L. Esposito, *The Islamic Threat: Myth or Reality*, 3rd ed., (New York: Oxford University Press, 1999), p. 49

Ghannūshī reflects one of the voices that call for reconsideration, rethinking, and reorientation of Islamic traditions, values, and institutions. He deserves, in this regard, unrestricted appreciation and credit for his earnest intellectual endeavors and efforts coupled with social activism as well. Therefore, seen in this light, it entails to make a profound observation and analysis of Ghannūshī's views *vis-à-vis* contemporary discourse about human rights.

Rāshid al-Ghannūshī as a Moderate Muslim Thinker

Rāshid al-Ghannūshī (often spelled in English as Rachid Ghannouchi) was born in a hamlet not far from al-Hamma, in the province of Gabès in south eastern Tunisia on 22 June 1941 (28 *Jamādal-Awwal* 1360).¹ He is a famous political leader, activist, thinker, reformer, and at the same time intellectually a highly productive writer as well. He has emerged in the recent years as the most famous and most influential leader in the Islamic world. The different situations and challenges (Arab Nationalism, life in Syria and France, the journey to the West, relation with the Tunisian government etc) he encountered had a profound impact on his life as well as on his thinking faculty. With his intellectual and academic capacity, he succeeded in establishing and leading a political party, *Hizbal-Nahḍah*—a pragmatic exposition of his religio-political ideology—that in the post Arab Spring ambiance forms one of the dominant political denominations in Tunisia. With his

¹- Azzam S. Tamimi, Rachid Ghannouchi: A Democrat within Islamism (New York: Oxford University Press, 2001), 3; see also; Rāshid al-Ghannūshī, *Ḥuqūq al-Muwāṭānah: Ḥuqūq Ghayr al-Muslim fi al-Mujtama' al-Islāmī* (London: International Institute of Islamic Thought, 1993)

prolific writing skills and appealing intellectual discourses, he has maintained his unequivocal leadership in the Party and has thereby profusely spread his views regarding various issues of diverse natures that have highly engaged the contemporary world's intellectual class.

Human Rights: A Brief Debate

Human rights, the hotly debated issue in 1970s Muslim world, set into engagement the diverse denominations like governments, political activists, civil society members, intellectuals, thinkers, and even common people. Though not a novel development, ¹the phenomenon rather represented a renewed interest in many issues including democracy and secularism.

¹- Simonetta Calderini, Senior Lecturer in Islamic Studies at Roehampton University, argues that many Human Rights Organizations in the Islamic world date back to 1930s, however, it is in 1980s that these organizations not only proliferated but also established themselves more frequently in the legal and political arenas. See, Simonetta Calderini, "Women, Gender and Human Rights," in Andrew Rippin, ed., *The Islamic World*, (London and New York: Routledge, 2010), p. 626

The idea of human rights as is claimed by the West originated from the *Magna Carta* of Britain.¹ Paradoxically, *Magna Carta* came into existence six hundred years after the advent of Islam. It, therefore, speaks about the level of West's naivety that it attributes everything, which is good, to itself. West had no concept of human rights at all before the seventeenth century, says AbūA'lāMawdūdī.² He further states that although the philosophers and thinkers talked about these ideas still the representation of these concepts can be found in the proclamations and constitutions of America and France that too at the expiry of eighteenth century.³ About the ideological and institutional arrangements of human rights, Farid Esack, a South African Muslim thinker, is of the view:

Human rights are only two hundred years old. The ideology and the institutional arrangements of

¹- *Magna Carta*, meaning 'The Great Charter', (also called *Magna Carta Libertatum*— the Great Charter of the Liberties), issued by King John of England (r. 1199-1216) as a practical solution to the political crisis he faced in 1215, is one of the most famous documents in the world. It embodied that everybody, including the king, was subject to the law. Moreover, it granted 'right to justice' and a 'fair trial' to all the freemen. Some of its core principles are echoed in the United States Bill of Rights (1791), Universal Declaration of Human Rights (1948), and the European Convention on Human Rights (1950). For more information on this see, Claire Breay and Julian Harrison, "Magna Carta: an introduction," British Library, retrieved from <http://www.bl.uk/magna-carta/articles/magna-carta-an-introduction> accessed on 3 April, 2016

²- Abul A'la Mawdudi, *Human Rights in Islam*, (London: The Islamic Foundation, 1976), p. 13

³- Ibid.

human rights were born after unprecedented forms of social and personal deprivation took root among the “developed” peoples of the world. The regime of the nation-state fusing nationalism and statehood was constructed at this same time, to keep the social order in a society exposed to forces of the modern market reducing the human condition to that of *homo aeconomicus*.¹

This was followed by the passing of Universal Declaration of Human Rights (UDHR) in the twentieth century by the United Nations. The Declaration (of 1948) is just an expression of a pious hope without any pragmatic observation. ²Moreover, UDHR or the rights conferred by the legislative assemblies, argues Mawlānā Mawdūdī, are ephemeral and evanescent. On the other hand, the rights granted by Islam are not only lasting but also devoid of alteration and change. No one has the authority to abrogate or to withdraw them for these rights are part and parcel of the Islamic Faith. ³

The pertinent issue now at the hand is to explore and examine the approach and philosophy of Ghannūshī toward the concept of human rights. Consequently, significant is also to find an answer to

¹- Farid Esack, “The Contemporary Democracy and the Human Rights Project for Muslim Societies Challenges for the Progressive Muslim Intellectual,” in Abdul Aziz Said, Mohammed Abu-Nimer, and Meena Sharify-Funk, eds., *Contemporary Islam: Dynamic, not Static*, (New York: Routledge, 2006), p. 120

²- Mawdudī, op. cit., p. 14

³- Ibid., pp. 14-15

the very question that whether hestands for compatibility or incompatibility of Islam and human rights. His book, *al-Ḥurrīyyāt*,¹ in this regard, will definitely represent the core strand of thought. Therefore, in the subsequent sections the engagement will mainly revolve around Ghannūshī and the book mentioned.

In this book, Ghannūshī has presented a general paradigm of human rights in Islam and according to him it is based on people's welfare. The general welfare should not be breached and therefore, what is needed is to maintain both individual and communal rights. Ghannūshī further states that whenever individual rights encroach on the rights of the society or community; the rights of the latter should be given precedence. Further, the whole legislative system, which is based on the 'Intent of *Sharī'ah*' (*Maqāṣid al-Sharī'ah*), is the criterion against which every right or duty should be checked. He says that the individual can enjoy limitless freedom and rights unless he opposes truth or violates the rights of the community.² He has divided these rights into headings and subheadings which include, *among others*, right to freedom of religion, right to freedom of thought and expression, right to work, right to build family, right to social security, and right to own property.³

¹- Rāshid al-Ghanūshī, *al-Ḥurrīyyāt al-'Āmah fī al-Dawlah al-Islāmiyyah*, [Civil Liberties in the Islamic State], (Beirut: Markaz Dirāsāt al-Waḥdah al-'Arabiyyah, 1993)

²- Ibid., pp. 42-43

³- Ibid., pp. 42-68

Al-Ḥurriyyāt is a concentrated effort by Ghannūshī aimed at underscoring that Islam guarantees individual rights, public liberties, and protects the rights of political and religious minorities as well as the rights of the women. It was the period (when Ghannūshī had started this work) that witnessed heavy engagement and interest in, *inter alia*, the issues of apostasy and its relationship with individual, political and religious freedom and the compatibility of Islam and democracy. He, therefore, attempted to provide the answers to the challenging questions raised and respond to those who had started a malicious propaganda against Islam. This was the time when, according to him, "the presentation of unequivocal answers to the challenges facing Islamic thought ... had become an indispensable epistemological necessity for the Tunisian Islamic Movement." ¹

Concept of Freedom

In his book, *al-Ḥurriyyāt*, Ghannūshī, while elaborating the 'Western concept of freedom (حول مفاهيم الحرية في الغرب)' ² opines that (to emancipate man from all types of restrictions that deprive him from fulfilling his needs and desires), freedom in West, is seen to be man's ability to revolt against the societal system to fulfil his own caprices. This has endangered, says Ghannūshī, the interests of the whole society. On the other hand, contemporarily much space has been provided for the individual freedom reflected in the constitutions and laws of the so called advanced democratic

¹- Ibid., p. 69

²- Ghannūshī, *al-Ḥurriyyāt*, op. cit., p. 31

countries. However, there are no practical steps, according to him, taken for the individual to realize such rights, therefore, limiting his freedom to theory only. The fact is that the political power, means of education, communication, and economy are concentrated in the hands of few. These people by virtue of these powers manipulate and govern the thinking and conviction of the subject(s) who are theoretically equal to him or them.¹

An individual's nature is characterized by the philosophy that he aims to be his own master. He, therefore, desires that his decisions should be his own—devoid of any influence or interference from external forces. However, it is inevitable that there should be some agency that would check and balance his empirical bundle of uncontrolled human desires. Islam recognizes the realization of human desires in a lawful and controlled manner that would obviously lead and guide an individual toward the servitude of Allah alone.

Rāshid al-Ghannūshī, while discussing Islamic concept of freedom, associates human rights and freedom with '*Aqīdah* (Islamic faith) and says that it means belief in Allah alone. '*Aqīdah*, for him, is the highest source of legal authority that provides the believers sense of equality and intimacy. It is a revolt against all idols of worship and sinking into the servitude of Allah alone.

إن الحرية في التصور الإسلامي أمانة، أي مسؤولية، وعي بالحق والتزام به،

¹- Ibid., pp. 31-33

Freedom in Islamic view, according to him, 'is a trust or responsibility (*Amānah*), understanding the truth, committing to it and devoting oneself to it.¹

Ghannūshī has presented the definitions of freedom of some eminent scholars such as 'Alāl al-Fāsī, Ḥasan al-Turābī, 'Abbās al-Madanī, and others and has tried, thereof, to evolve his own views about the subject. For instance, discussing and drawing on the Turābī's view of freedom, he says that: 'وكلما زاد إخلاصاً في العبودية لله زاد (تحرراً من كل مخلوق في الطبيعة) the more an individual demonstrates servitude to Allah the freer he becomes from all created beings.²

Comparing and contrasting the evolution of freedom and human rights in the West and in the Muslim world, Ghannūshī says that the former represented the realization of human rights based on the transition of power from the 'church' or 'politics' to the 'masses' who later had absolute right of legislation. However, the situation is different in the latter even in times of regress. There was no such separation in the Muslim world, maintains Ghannūshī, between ruler and the ruled, therefore, all reformation attempts sought to go back to the original sources. The ruler was bound by them and had no authority to formulate new laws or levy taxes beyond Islamic ordinances.³ So, at the theoretical level, for Ghannūshī, freedom in Islam means absolute servitude to Allah and at practical level Muslims did not fall into the abyss of concentrating authority of legislation into the hands of fallible men.

¹-Ibid., p. 38

²- Ibid.

³-Ibid., p. 39

The Question of Riddah (Apostasy)

Ghannūshī has dealt with this issue by starting with the definition of *Riddah* (Apostasy). He says that it is an act of conscious and deliberate reversion from *belief* (Islam) to *unbelief* (*Kufr*) by abnegating Islam's fundamental beliefs ('*Aqā'id*) and rites (*Sha'ā'ir*). Its various forms include abnegation of Prophethood, authorization of prohibitions, and negation of obligations.¹ While discussing this significant issue, Ghannūshī offers and introduces the views of two groups. His treatment of this matter actually revolves round two questions: Is *Riddah* a religious offense that men cannot intervene in? Or is it a political crime left to the discretion of a ruler or a *Qāḍī*?²

The first group—which forms the majority in every period (classical, medieval, and modern) —are of the opinion that *Riddah* is a 'religious offence' related to Allah, therefore, no one has right to decide otherwise. According to this group, the retribution to an apostate is that he or she is to be killed because no one is entitled to embrace Islam except with full awareness. Thus, none has the authority to abjure Islam after embracing it. This does not fall within 'compulsion' for it means forcing people to leave their religions and embrace Islam forcefully.³ This notion is absolutely alien to Islam according to the famous command of the *Qur'ān* that reads *there is no compulsion in Dīn*.

¹-Ibid., p. 48; Tamimi, Rachid Ghannouchi, op. cit., p. 78

²-Ghannūshī, al-Ḥurrīyyāt, ibid.

³- Ibid, p. 49

The second group, who mostly belong to the modern period, accept *Riddah* as a 'political offence' tantamount to raising arms against the state. For this group, *Riddah* is an act of sedition, mutiny or treason and the retribution of which is not predefined. So, according to this group (small in size), the punishment should be left to the decision of the ruler or a *Qādī*, keeping in view the preservation of community and maintenance of law and order.¹

Ghannūshī's saying that "we subscribe to the opinion of the second group (ونحن نرجح الرأي الثاني)"² explicitly demonstrates his standing on the critical issue of *Riddah*. Stating that the *Aṣḥāb* unanimously agreed on fighting an apostate (وأجمع الأصحاب رضي الله عنهم على قتال المرتدين)³ together with avouching the preponderance of the view of the first group and yet subscribing to the opinion of the second one is really strange; keeping in view that it dismisses the argument of the majority. It shows that he either fails to absorb the pressure—within and beyond—posed by the West and 'Westoxicated' minds or for some petty gains or vested political interests he consciously is sticking to the opinion of the minority. Perhaps the reasons provided may be far from truth or may be inadequate; the position of Ghannūshī in this regard is also far from being justifiable as well.

¹- Ibid.

²-Ibid, p. 50

³- Ibid, p. 48

Status of Women

From last two centuries up to now, the issues ranging from segregation of the sexes, *Hijab*, and woman's place in the home as faithful wife, to the working of women outside their homes continue to be a disturbing topic for one and all. In the contemporary societies and in the name of status and rights of women, it is witnessed that women's empowerment is linked and interlinked with the slogan that they need to come out of their houses, uncover themselves, and do whatever they wish. Such a predicament posed a serious challenge to the Muslim scholars to have an appropriate and fitting response. The voices that were, thus, raised by the Muslim scholars represented a variety of explanations and approaches. The scholars with traditional approach produced vast literature warning as well as condemning the participation of women in socio-political matters; resulting in free mixing of opposite genders (an act strictly prohibited in Islam). This group, representing the opinion of the majority, maintains that the role of women is to run the affairs of the home as good mothers and good wives.

Rāshid al-Ghannūshī on the Status of Women

For Ghannūshī, the status of women was a critical issue that needed to be discoursed thoroughly. Therefore, he demonstrated his position about the women rights in a detailed manner in his own book titled –*al-Mar'ahbayn al-Qur'ān waWaqi'al-Muslimīn* (Women: Between the Qur'ān and the Present Conditions of the Muslims). In this work, while remaining much concerned about promoting anti-secular ideas among the Muslim societies in general

and among the Tunisians in particular, it is observed that Ghannūshī propounds almost the same views as propounded by the earlier pioneers like Muḥammad ‘Abdūh.¹ He touches almost all the issues related to the rights of women, but here it is desirable to mention briefly some of them that are hotly discussed and debated: (a) polygamy (b) dress (c) education (d) work (e) mixing of the genders.

In the first case—polygamy, Ghannūshī adheres to the arguments of the modern Muslim thinkers. According to him monogamy is “original,” but not always. In certain specific situations wherein the proportion of men and women gets disturbed, polygamy is a fitting and a proper remedial option. He regards polygamy as the very basic and safe mechanism to overcome the crisis,² emerging out of some untoward situations. Islam is a religion, he claims, that is in total conformity with the human nature. In certain cases where some unevenness prevails in such a natural state, the circumstances at that time demands men to have more than one wife. But this is only in extraordinary situations, otherwise the original is “monogamy” says Ghannūshī.³ He not only emphasizes the ‘distinctive nature’ of polygamy but also maintains that the practice is legal provided a man has no apprehension at all of committing

1- Muhammad Mahmoud, “Women and Islamism: The Case of Rashid al-Ghannushi of Tunisia,” in Abdel Salam Sidhahmed and Anoushiravan Ehteshami, eds., *Islamic Fundamentalism*, (Boulder, Colorado: Westview Press, 1996), p. 252

2- Ibid, p. 260

3- Anne Sofie Roald, *Women in Islam: The Western Experience*, (London: Routledge, 2001), p. 209

injustice for the *Qur'ān* explicitly declares (فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاجِدَةً) *But if you fear that you will not be able to deal justly, then only one* [al-*Qur'ān*, al-*Nisā'*: 3].¹

Muslim thinkers have recurrently debated over the public appearance of women, the dress and the place where they appear. Deliberating on the issue of dress, Ghannūshī not only favors a long dress for the woman covering her whole body but also affirms that her head too should remain covered. He regards such type of dress highly valuable in terms of virtuousness (*'Iffah*) and decency (*Hismah*). Moreover, while taking into consideration the working of women with men outside their homes, he validates that women have every right to work actively in the process of social production as long as they put on Islamic dresses and behave in accordance with the teachings of Islam.²

Scholars differ in their opinions about providing the education to a woman. Some believe that a woman should be given that quantum of education which will qualify her to be a good house wife. Ghannūshī, however, differs from this line of thinking and argues that such thinking is totally incompatible with the precepts and dispositions of Islam. He goes on to say that Islam has posed no such restriction at all on the education of women, for there are ample evidences that suggest, encourage, and motivate them to enrich themselves as well as their societies with the pearls of

¹- Rāshid al-Ghannūshī, *Al-Mar'ah bayn al-Qur'ān wa Waqi' al-Muslimīn*, [Women: Between the Qur'ān and the Present Conditions of the Muslims], (London: al-Markaz al-Maghāribī li al-Buhūth wa al-Tarjumah, 2000), p. 90

²- Mahmoud, *Women and Islamism*, op. cit., pp. 259-260

knowledge. Nevertheless, they should seek that sort of knowledge which is beneficial for them in both lives (this life and life to come).¹ He maintains that education is vital in many aspects:

[It is] through education, both women and men can be liberated from the dominant age of *inhibitat* and the horizons of women can be significantly expanded and their bondage to their present world of trivialities broken. Education can also offer an alternative model of a well-cultivated Islamic female to counter what he describes as “Bourguibist permissiveness.”²

The issue of a woman working outside is another issue vigorously debated and discussed. Concerning this subject, Ghannūshī safeguards his position by calling home as a perfect setting for a woman. However, he permits her to work outside although with certain pre-requisites. He advocates that women can work outside, but it should not be at the cost of men’s employment, as Islam never admonishes female employment especially at a time when the males are unemployed. He regards home as the woman’s “natural place” where she can raise, in a better way, her children and thereof strengthen the family structure. Her prime role in the society, he says, is to take care of the family and if need arises then she can work outside as long as her employment is regulated in accordance with the precepts of Islam.

1- Ghannūshī, *Al-Mar’ah bayn al-Qur’ān*, op. cit., p. 89

2- Mahmoud, *Women and Islamism*, op. cit., p. 258

From this description, it can be discerned that he does not reject woman working outside, however, at the same time he believes 'home' a better or to be more appropriate a desired place for her. ¹This view is further substantiated by Fāṭimah al-Ghannūshī, who relates that she had to say goodbye to her university career at the birth of her first child, when her husband persuaded her that a natural place for a woman is her home.²

About the intermingling of the sexes, Ghannūshī recognizes 'complete segregation' something that is foreign to Islam. While discoursing on the issue, he draws a sharp distinction between two types of gender mixing. He indicts the intermingling in such conditions conducive to sexual seduction—the presence of a man and a woman in a 'suspicious circumstance'. Amid totally disapproving and rejecting the above-mentioned type of gender mixing, he promotes and advocates the presence of women in the circumstances where sexual temptation is most unlikely to arise for example gathering in a *Masjid*, in a battle field, or in a session of learning.³

In an article titled *Deficiencies in the Islamic Movement*, Ghannūshī has criticized Islamic movements on several grounds. Drawing on the reasons amounting to the failures and deficiencies, he

¹- Ghannūshī, *Al-Mar'ah bayn al-Qur'ān*, op. cit., pp. 83-85

²- Susan Waltz "Islamist Appeal in Tunisia," *The Middle East Journal*, 40: 4, Autumn, 1986: 651-670, pp. 662-623

³- For more on the issue of 'Intermingling' between sexes; see "Qaḍiyat al-Ikhtilāt," in Ghannūshī, *Al-Mar'ah bayn al-Qur'ān*, op. cit., pp. 81-83; see also Mahmoud, *Women and Islamism*, op. cit., pp. 259-260

highlights that Islamic movements have not addressed the issues of the women perfectly. He goes on to say that many Islamic activists have created a different atmosphere by spreading that women means veil, seclusion within the house, and fulfilling the desires of the men.¹ These people, according to him, have not only degraded the status of women but have also circumscribed their role in the social welfare activity; that is why many of them looked to the West as a 'hope' for realizing their freedom and rights.²

Criticizing these people and their ideology, Ghannūshī, in contrast, views that women like men have rights as well as duties to endeavor actively for a more viable and expedient socio-political and economic order.³ This is practically apparent as well because Ghannūshī and his party have given more space to women, as compared to other thinkers and parties, to represent themselves in the socio-political affairs of the country. This view-point also suggests that many injustices were perpetrated against women that not only stopped them to realize their human potential but denied them the right to play their positive role in the society as well.

Such a stand of Ghannūshī regarding the issue of women has evoked both welcome and censure. However, at large such rhetoric has opened the gate for the Tunisian women to engage themselves in socio-political affairs and also proved to be the beginning of a

¹-Rachid Ghannouchi, "Deficiencies in the Islamic Movement," Middle East Report, July-August, 1988, p. 24

²-Ibid.

³- Rachid Ghannouchi, The Battle Against Islam, Middle East Affairs Journal, 1: 2, Winter, 1993, p. 7

greater role of women in the society coupled with the amelioration of the bond between *al-Nahḍah* and the Tunisian women. Ghannūshī and *al-Nahḍah* has reiterated their statement that they, unlike other groups, believe in the equality of rights between men and women. In the words of Ghannūshī, they applied this principle in societies and in organization; manifested by the representation of its female members in Constituent Assembly.¹ The role of women within *al-Nahḍah* is continuously being strengthened. The extensive (political) space given to the women further facilitates the female activism philosophy of Ghannūshī. Through this cloak of political activism, many females are now in a position to express themselves at various podiums regionally and globally that too on a level equal to that of males. In this way, it can be voiced that Ghannūshī makes them to remind that they are *or* can become an effective force in the struggle of reform.

Conclusion:

The debate on human rights is not something which is novel; rather the Muslim intellectuals and groups have been continuously engaged in this hotly debated issue. Consequently, the discourse on human rights from the perspective of Muslims is neither stagnant nor homogeneous. Different Muslim intellectuals have different understanding of the issue and, therefore, accordingly characterize their views and opinions. As for as Rāshid al-Ghannūshī is concerned, he can be regarded as a moderate Muslim thinker for he

¹-Speech delivered by Rāshid al-Ghannūshī at Aligarh Muslim University, Aligarh on 8 April, 2015. In this event, the author was present there and has recorded the statement himself.

readily endeavors to reconcile Islam with the modern global values. He does so by re-interpreting and re-orienting various ideals of Islam in the modern context and the framework. Moreover, he seems to be more interested in making moderate and new interpretations of the teachings of Islam by favoring the views and opinions of likeminded Muslim scholars especially in case of *Riddah*.

Furthermore, Ghannūshī attempts to assimilate specific Western civilizational values like human rights, freedom etc. on the one hand and then strives to reproduce them thereof into the Islamic hinterland and its epistemological system on the other. This serves as one of the main reasons for the development and spread of his vision and thinking. However, in this wholesome process, Ghannūshī as a 'self-styled *Mujtahid*' thoroughly uses the institution of *Ijtihād*, which represents the most fascinating dimension of his personality as a famous Muslim thinker.

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Comparative study between Human Rights in Islam and Universal Declaration of Human Rights

Dr.Sartaj Ahmad Sofi¹

Abstract:

The present paper will deal with two major approaches regarding the question of Human Rights: the western and the Islamic. It will also analyze western concepts particularly the Universal Declaration of Human Rights and comparatively study it with the Islamic perspective of Human Rights. In the light of historical documents of west and Islam, pertaining to the issue of human rights, will be highlighted to familiarize the relevance and importance of human rights in the contemporary global society.

Key Words: Universal Declaration, Magna Carta, Hajjat-ul-Wida', Humanity.

Introduction

The history of the civilizations explicates the fact that the concept of human rights has always achieved a great fame among the societies of the world. The issue has always been elaborated by intellectuals and propagated by the champions of human rights. Prophets, Sages

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and philosophers had discussed the matter at great length, and each one of them has left a code or a manifesto which determines its importance and necessity. Even a cursory glance at the contents of the Islamic ideology indicates that the *Quran* and the *Sunnah* have dealt with every aspect of human rights very deeply. Islam as a religion of peace and tolerance has always advocated the cause of human rights, brotherhood, freedom, equality and fraternity.

From centuries after Islam, the west proceeds to deal with the freedom and rights of human beings in respect to the socio-cultural, political and economic aspects. The concept of “human rights” is the reciprocal of “Natural Rights” emerged after 2nd world war in 1945. From here, it accelerated the developmental process and evolved in 1948 as “Universal Declaration of Human Rights”.

Human rights are the weltanschauung of the contemporary era. Scholars, orators are busy in discussing the issue. Innumerable works had been done and hundreds and thousands of scholars both from East and West are busy in working on the subject. The most famous and often quoted name is Eleanor Roosevelt. More attention is yet needed to deal with the issue of human rights academically to present it in a proper way.

Universal Declaration of Human Rights

The western concept of “human rights” is of recent origin, although some historians have tried to go back to the code of the Babylonian king Hammurabi (2130 to 2088 B.C.), but it would not support the concept by any concrete evidence. Undoubtedly, the earliest testimony in this direction would be in the edicts of Republican

Rome, which gave the citizens the right to participate in law-making and elect public officials. In England the petition of rights 1628 and the bill of rights 1689 are land mark documents, but they don't provide any elaborate system of human rights. The idea commences from the comprehensive philosophy *droits de'homme* produced by French thinkers in the second half of the 18th century.

The period of the second half of the 18th century left indelible marks in the history of human rights in the western world, as it witnessed that the masses raised a revolt against the despotism Bourbons of France known as "French Revolution", emerge with full of tremendous political and intellectual fermentation, attracted much attention from the side of philosophers and historians. It was the first instance of its kind, in the modern history of the world, in which masses snatched reins of power from corrupt autocracy, and their leaders sat down to lay the foundations of a regime in which dignity of man and his inalienable rights would be highlighted in every act of the government. It was the period when people were becoming rapidly aware about the political injustice and economic inequities. But unfortunately, very soon the hopes of these revolutionaries, however, were completely belied when the philosophical spirit of the revolution was quenched and the destiny of France passed into the hands of Emperor Napoleon, who ruled the whole nation as a despot. But its political failure, however, did not mean the end of its intellectual and moral triumphs. In fact, with the passage of time, its ideals and ideas, crossed frontiers, entered many other lands outside Europe and became a beacon light for countless freedom fighters. Therefore, the historians, with

respect to its philosophical breadth and influence, consider it as the “Universal Revolution”. The ideas of the French revolution were embodied in an historic document called “Declaration of the Rights of Man and of Citizens” adopted by the French National Assembly.

It was the overall influence of all these occurrences, happened during the period which gave birth to an unending debate which plunged the Europeans to think about the dignity of the man, his place in history, and his rights which give luster and richness to human civilization. It created an antagonistic atmosphere among the Statesmen and philosophers and divided them into two camps, their discussions were often acrimonious. The classic example of such a debate was the one that took place between Burke¹ and Paine.²

The issue of human rights became more acrimonious in the 19th century after the public debate of Burke and Paine. Rapid

1- Edmund Burke who ranked very high among the greatest English statesmen-philosophers during the latter half of the eighteenth century earned his early reputation as a great crusader against oppression and tyranny which had been perpetrated by his countrymen in American and Asian Colonies. (See Also: Human Rights in Islam by Parveen Shaukat Ali, Adam Publishers and Distributors, Delhi, 1995, pp. 20)

2- Thomas Paine remained in all of his life a consistent advocate of human rights. He played an important role in both the American and the French Revolutions. He came to America in 1774, and soon after his arrival got embroiled in all the social and moral issues which confronted the colonies of the new world at the time. Particularly Slavery and the treatment of the slaves provoked his maximum chagrin. (See Also: Human Rights in Islam by Parveen Shaukat Ali, Adam Publishers and Distributors, Delhi, 1995, pp. 22-3)

industrialization, and the rise of sprawling slums where thousands of human beings lived a miserable and deprived life, gave a powerful impetus to thinkers and reformers to further crystallize their ideas about human rights. Reformers like Jeremy Bentham,¹ Metternich,² and Karl Marx discussed a great deal about the dignity of human beings portrayed according to their respective ideologies.

All these ideologues and their ideological doctrines did not satisfy in showing the ray of hope regarding the welfare of humanity, even after the establishment of the United Nations. The dispute arose that still the charter does not elucidate in concrete terms the human rights and fundamental freedoms. It was only to fill this gap that the General Assembly at its 183rd meeting on December 20, 1948 adopted the "Universal Declaration of Human Rights". The declaration begins with the following statement.

The General Assembly, proclaims this Universal Declaration of human rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this declaration constantly in mind, Shall strive by teaching and education to promote respect for these rights and

¹- He was the great utilitarian philosopher who seriously questioned the concept of natural law and natural rights.

²-He was the Austrian statesman, who had emerged after Waterloo as the leading statesman of Europe. He was determined to wash away every vestige of liberal thought through the instrumentality of the Holy Alliance, Concert of Europe and the Quadruple Alliance. He made statuesque the watchword of European diplomacy, and won immediate recognition as the high-priest of reactionary Forces. (See Also: Human Rights in Islam by Parveen Shaukat Ali, Adam Publishers and Distributors, Delhi, 1995, pp. 26-7)

freedoms and by progressive measures, national and international to secure their universal and effective recognition and observance, both among the peoples of the Members states themselves and among peoples of territories under their jurisdiction.¹

The Declaration of Human Rights (UDHR) is a milestone document in the history of human rights, consists of thirty articles, drafted by the representatives with different legal and cultural backgrounds from all regions of the world. With the passage of time, it achieved a great width and laid great impact in the constitutions of many developed countries. It provided a base for regional human rights conventions in Europe and Latin America. The Universal Declaration has inspired many individuals and policy makers around the world to work toward a better world. Today there are “around two hundred assorted declarations, conventions, protocols, treatise, charters, and agreements dealing with the realization of human rights in the world. Of these postwar (documents) no fewer than sixty-five mention...the Universal Declaration of Human Rights as their source of authority and inspiration.”²

Human Rights in Islam

The history of Islamic civilization shows that the concept of the dignity of man and human rights has always remained the burning

¹- Hans Kelsen, *The Law of the United Nations*, New York, Frederick A Praeger, 1996, p. 34

²- Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting and Intent*, (Philadelphia: University of Pennsylvania Press, 1999, p. 20

issue in the primitive societies, among the tribal people of Arabia. The inter-tribal hostilities among the pre-Islamic 'Arabs (*Ayyam-ul-'Arab*) gave birth, and accelerated the issue of dignity and human rights in the Arabian Peninsula. The period, prior to 571 B.C. known as *Jahiliya* Period, swank the provenance of humanity in 'Arabia. Before the birth of Prophet Muhammad (S.A.W.), Arabia was the most degraded nation in the world. Islam, the sole factor and Muhammad (S.A.W.) the last messenger, the only preacher of Islam, elevated human entity and provide them due status in the whole world. From the proclamation of prophethood in 610 C.E., only in 23 years of short span, he established the society based on universal brotherhood and peaceful co-existence, which transferred the whole scenario of *jahiliya* society into heroes of nursery.

For the betterment of humanity, only after Hijrah in 622 A.H, Prophet Muhammad(S.A.W.) framed the first written Constitution in Medina known in the annals of Islamic history as "the Constitution of Medina" (*Mithaq-i-Medina*). The constitution guarantees the freedom and rights of human beings irrespective of caste, color, creed, sex, religion etc. though it was meant for particular period and for particular groups of people, but Prophet remained it for the whole community and for all times to come.

While proceeding ahead through the *Seerah* of Prophet Muhammad (S.A.W.), his address on the Conquest of Makkah (*Fath-i-Makkah*) declared the three important historical rights, that later on were enunciated as the parts of Un's Universal Declaration. These three are as under:

- 1 Declaration of Peace
- 2 Declaration of Freedom
- 3 Declaration of Human Equality

The last sermon of Prophet Muhammad (S.A.W.) delivered at Makkah during the Farewell Pilgrimage known as *Hajjat-ul-Widda'* is the universal declaration of human rights that has an appeal and relevance in the contemporary times, not only in the Muslim community but in the whole world as well. This is more comprehensive than the modern United Nations Universal Declaration.

Islam appreciates fulfillment of rights instead of demand of rights. It has elevated human rights from a status of "rights" to that of "necessities" and to the level of "duties and obligations". From this perspective, it is clear that Islam guarantees what no other religion, school of thought or philosophy can claim to guarantee. It is also clear that the depth of the Islamic conception of human rights has no equal in its authenticity and harmony with human environment. A leading orientalist and scholar of his time, Hamilton Alexander Roskeen Gibb (1895–1971) acknowledging the fact as;

But Islam has a still further service to render to the cause of humanity. It stands after all nearer to the real East than Europe does, and it possesses a magnificent tradition of inter-racial understanding and cooperation. No other society has such a record of success uniting in an equality of status, of opportunity, and of endeavors so many and so various races of mankind...Islam has still the power to reconcile apparently irreconcilable elements of

race and tradition. If ever the opposition of the great societies of East and West is to be replaced by cooperation, the mediation of Islam is an indispensable condition in its hands lies very largely the solution of the problem with which Europe is faced in its relation with East.¹

It is the basic teaching of Islam to prepare one for fulfilling the rights of others. While mentioning *Haquq al- 'Ibad*, Islam, crosses the boundary of justice and goes up to *Ihsān*. Islam—the advocate of human rights, left no field of human affairs to retreat or rebuild human life on best ideals and pattern.

Comparative Study between Human Rights in Islam and Universal Declaration of Human Rights

The western world, proceeded from 12th century, commenced initiatively to take the concept of human rights—the most critical dimension of the organized life of societies into consideration. It had taken centuries of time commence from Magna Carta to the Universal Declaration of Human Rights. Prior to the wave of human rights, Western world was merged in the more degraded form of slavery. Thus, in the west the concepts of human rights have evolved through a slow, gradual and often painful process involving tremendous human sacrifice of which the French Revolution and the American Revolution are two prominent signposts. While as Islamic concept of human rights is as old as the human history, and is more comprehensive and relevant in all times to come. It is Islam and Islam alone which systematizes and

¹- Gibb, Hamilton Alexander Roskeen, *Whither Islam*, London, 1932, p. 379.

securely safeguard human rights. With Islam human rights are absolute whereas in all other systems they are only contingent.

To make an analytical assessment of the study of human rights in Islam and Universal Declaration of Human Rights, let us have a cursory glance over the nature and concept of human rights in Islam and in the modern western universal Declaration. Universal declaration is somewhat similar to Islam or the offshoot of Islamic human rights but Islam, in the modern times, is wrongly portrayed by western media as the religion of terrorism and violence, by taking some anti-religious elements within Muslims into consideration. The in-depth study of Islam and the concept of human rights will secure people to disgrace Islam and make them to acknowledge it as a humanitarian *Din*, more comprehensive and practical than Universal Declaration.

Universal declaration is the developed form of western concept of human rights. As a matter of fact, man is the imperfect being in comparison to His creator, hence man-made laws are changing with the passage of time and according to the change of circumstances. They frame laws as per their own understanding for the betterment of their country or society and towards the freedom and protection of the humanity, taking the needs of socio-cultural, political and economic into consideration. Hence are dynamic in nature and needs amendments with the passage of time, therefore, should not be universal and suitable for humanity in all times to come, i-e why, at the time when the Universal Declaration of Human Rights was adopted, it was the opinion of the United Nations that it was only the first step towards the final goal of

having an international covenant on human which will put member states under legal obligation to implement human rights.¹

As the human understanding is limited, so are the human made laws with fewer purviews and more strait. Due to the limited intellectual faculty, human laws exclude wider expansion and flexibility. It is, however, in many countries, where Muslim rulers are governing, do not fully accept the Declaration and considers some of its articles antagonistic with the Muslim creed and against the human dignity.

From the very early till now, the western world did not succeed to put forward a concrete and comprehensive policy of human rights. Hundreds of rights were given to humans by Islam but only some of them are mentioned in Universal Declaration. The thirty articles of Universal Declaration did not encompass the whole compendium of rights that guarantees all aspects of human life. It is only the initiative to frame the universal framework, encompass all aspects of human life. The fact has been acknowledged by the House of Commons as; “the EU is firmly committed to respect for human rights and is a defender of human rights in its internal and external affairs, yet it has no comprehensive or coherent human rights policy in either case”.²

¹- One of the first acts of the United Nations was to appoint the commission on Human Rights on February 12, 1946 the General Assembly recommended the constitution of the commission and four days later it came into existence by resolution of Economic and Social Council.

²- Human Rights in the EU, HC Library

While as Islamic law is divine in nature. Allah the all-knowing has bestowed us a book of rules and regulations (*Al-Qur'an*) which contains universal laws for the betterment of humanity irrespective of any discrimination. Allah says in *Qur'an* as;

“Verily we have honoured the children of Adam. We carry them on the land and the sea, and have made provisions of good things for them, and have preferred them above many of those whom we created with a market preferment”.¹

Besides, Islam guarantees the practical implementation of laws in the world without any force and army. The believers obey the laws of Allah by themselves, an integral part of religion, and follow their rights without transgressing the rights of others. Every Muslim or administrators who claim themselves to be Muslims will have to accept, recognize and enforce them. If they fail to enforce them, and start denying the rights that have been guaranteed by God or make amendments and changes in them, or practically violate them while paying lip-service to them, the verdict of the Holy Quran for such governments is clear and unequivocal: “Those who do not judge by what God has sent down are the dis-Believers (*kafirun*)”.² The following verse also proclaims: “They are the wrong-doers (*zalimun*)”³ while a third verse in the same chapter says: “They are the evil-livers (*fasiqun*)”.⁴

¹-Al-Quran, 17: 70

²- Al-Qur'an, 05: 44

³-Al-Qur'an, 05: 45

⁴- Al-Qur'an, 05: 47

In other words, this means that if the temporal authorities regard their own words and decisions to be right and those given by God as wrong, they are disbelievers. If on the other hand they regard God's commands as right but wittingly reject them and enforce their own decisions against God's, then they are the mischief-makers and the wrong-doers. Thus, all those temporal authorities who claim to be Muslims and yet violate the rights sanctioned by God belong to one of these two categories, either they are the disbelievers or are the wrong-doers and mischief-makers. The rights which have been sanctioned by God are permanent, perpetual and eternal. They are not subject to any alterations or modifications, and there is no scope for any change or abrogation.

While as, Universal Declaration needs force for its enforcement. The western proponent of human rights, i.e. why, focus upon the drafting charters to be legally bind and shouldn't be only just a 'Solemn Proclamation'. But it is yet only a proclamation of human rights in a documented form and practically free from implementation. They are only conferred on paper for the sake of show and exhibition and denied the actual life. They are just an expression of a pious hope. They have no sanctions behind them, no force, physical or moral to enforce them. Further they are the outcome of philosophical concepts which have no sanctions at all. While discussing regarding its western influences and contradictions with Islam, Majid Khadduri, also acknowledged its limitations and divorced it from the claim of universality as;

"The Declaration, notwithstanding its universal sweep and optimism, was not a binding document with the force of law. It

contained several contradictions and its formulations clearly reflected a Western cultural influence. Those Muslim-majority states upholding Islamic ideology (e.g. Saudi Arabia) agreed with most of the aims and objectives of the Declaration, but could not accept the idea of complete freedom of belief, which could include the right not to believe in God”.¹

Further the westerners do not firmly find it suitable for themselves. The fact is evident that in the Vienna declaration of Universal Human Rights Conference held in June 1993, it was said;

“All human rights are universal, indivisible and interdependent and interrelated”.²

Though legally accepted this concept of human rights, it is mentioned in the article 10 of charter 2000, in the European Union’s fundamental rights as;

“Certain rights shall be reserved for citizens of the European Union”.³

Universal Declaration of Human Rights is somewhat different, in terms of its conciseness and of its later development, from Islamic universal declaration framed and propagated by Muhammad—the final messenger of God at the time of *Hajjat-ul-Wida’*, so is it criticized by Muslim scholars as well. Centuries before the

1- Khadduri, Majid, *The Islamic Conception of Justice*, Baltimore and London: The Johns Hopkins University Press, 1984, p. 238

2- The Vienne Declaration 1993, UN, NY, 1995, p. 30

3- Human Rights in the EU: The Charter of Fundamental Rights, House of Commons Library, Research Paper 00/32, 20 March

emergence of western liberal thought, Islam had put the concept of human rights on very solid ethical grounds.

Conclusion:

Undoubtedly, Both Islam and west promotes fundamental freedom and human rights but differs in the matter of human rights from their basic perspectives. Islam perceives it from the perspective of humanity as the servants of God while as western liberal thought treats it from secular democratic perspective. An analytical and comparative study articulates the difference between the fundamental perspectives of Human Rights in Islam and west. Islam accepts the final authority of Allah and His laws as the supreme, the man as the representative of God on earth, while in western secular democracy, the subjects are considered as whole authority and the devised laws of their representatives are considered as supreme law of country. Further, western world does not yet succeed to produce concrete and comprehensive policy of human rights as Islam had produced in the form of the last sermon of prophet of Islam – *Hajjat-ul-Wida'*.

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HUMAN RIGHTS IN ISLAM AND RIGHTS OF WOMAN

Syed Ghulam Murtuza Rizvi¹

Abstract:

The treatise that is famous by this name is one of several works attributed to Imam Sajjad Ali ibn al-Hussein (a.s.).

In this treatise, Hazrat Imam Sajjad (a.s.) states various rights. This work is undoubtedly one of the honors of the Shia religion, which shows that the Imams (PBUH) were pioneers in observing and recommending human rights, animal rights, and plant rights.

At a time when cruelty, suffocation, and oppression seemed to be a normal thing in the daily life of that time, the expression of this treatise by Hazrat Imam Sajjad (a.s.) once again showed that these imams are higher than other people in terms of knowledge, perfection, and piety.

In this article, we will study human rights according to Imam Sajjad's treatise on rights.

Key Words: Human Right, Women, Quran, Islam, Jurisprudence

Introduction:

Human right is a right which is believed to belong to every person. These rights are inherent to all human beings, whatever may be

¹-Advocate, Additional Chief Legal Adviser ONGC (Retired).

nationality, place of residence, sex, nationality or ethnic origin, colour, religion, language, or any other status. Every human being is equally entitled to human rights without discrimination. These rights are interrelated, interdependent and indivisible. According to West the Human Right was first defined by the Scottish philosopher John Locke (1632-1704) as absolute moral claims or entitlements to life, liberty, and property, and the best-known expression of human rights is in the Virginia Declaration of Rights in 1776 which proclaimed that "All men are by nature equally free and independent and have certain inherent rights, of which, when they enter a state of society, they cannot, by any compact, deprive or divest their posterity".

There is a common view also that human rights have been answered and dealt historically by the 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 Islam much earlier to this. The contribution of Islam in eradicating the Social, racial, gender, and religious inequities, Economic and social disparities in oppression of the lower classes; enslavement of people with darker skin; women have been from the very beginning. The soul of the Human Right is equality and justice.

This equality and justice have been declared by Holy Quran that "People, we created you all from a single man and a single woman, and made you into races and tribes so that you should recognize one another. In God's eyes, the most honored of you are the ones

most mindful of Him: God is all knowing, all aware" (49:13). This declaration of Holy Quran prohibited all kind of the racial superiority and discrimination. The sermon of the Holy Prophet Muhammad SA in Hajjat ul Vida that, "No Arab has any superiority over a non-Arab, nor does a non-Arab have any superiority over an Arab. Nor does a white man have any superiority over a black man or the black man any superiority over the white man. You are all the children of Adam, and Adam was created from clay." is the clear declaration of equality and justice to all human beings and a clear declaration of Human Rights by Islam.

Under the laws of Islam, women have the right to own property and businesses, engage in financial transactions, receive inheritance, obtain an education and participate in legal and political affairs. Here an attempt is being made to discuss the rights of Woman as a mother, wife and as a child in the light of Risalat-ul-Huqooq (The Charter of Rights) given by Imam Zain ul Abideen A.S.

Imām 'Alī ibn al-Husayn is the fourth of the twelve divinely appointed successors of the Last Messenger of Allāh, Muhammad al-Mustafa (blessings and mercy of Allāh be on him and his progeny). His piety and devotion to worship has earned him the titles of Zaynu 'l- 'Ābidin (adornment of the worshippers) and Sayyidu 's-Sājidīn (leader of those who prostrate in prayers). His Book of invocations, known as as-Sahīfah al-Kāmilah (or, as-Sahīfah as-Sajjādiyah) is a treasure of spiritual, theological and

ethical knowledge. One of his most important but less- known works is his *Risālatu 'l-Huqûq* (The Charter of Rights).

In fact all ancient civilizations had created a privileged group which had all the rights, and another group had no rights at all. Generally, women, children (especially the orphans), slaves, and people of lower strata were oppressed and deprived of rights. Islam, for the first time in the history of mankind, established and enforced the principle of reciprocity of rights, by saying: "And the women have rights similar to those (which men have) upon them in a just manner." Imām 'Alī bin AbīTālib has said in *Nahju 'l-Balāghah*,¹ ".....A right does not accrue to any person unless it accrues against him also, and a right does not accrue against a person unless it also accrues in his favour..." In order to create a balance between the mutual rights and duties of various groups, it was essential to delineate them in clear terms, and Islam has done it through the *Qur'ān*, the *sunnah* of the Prophet and the traditions of the Imams. The *Risālatu 'l-Huqûq*, the Charter of Rights is the centre-piece of that fine collection.

In the Charter of Rights (*Risālatu 'l-Huqûq*), Imām Zayn -ul- 'Ābidin (peace be on him) has clearly delineated the basic rights, mostly from legal point of view, although no paragraph is devoid of the flavour of morality and ethics. In this charter, the Imam has divided the things and persons (with whom man comes into contact and with whom he deals) into fifty categories. Beginning with the rights of God on man, it covers a wide range of rights:

¹-ed. Dr. Subhi as-Sālih (Beirut: 1967) sermon 216, pp.332-3

human soul and body, family and relatives, superiors and dependents, neighbors and friends; in short, all those with whom a person interacts in his social life, not excluding the non-Muslims living in an Islamic society.

Islam established the reciprocal rights more than six hundred years before, when the English landlords forced King John in 1235 C.E. to put his signature on the document known as Magna Carta, and which the Western world mistakenly describes as the “first” charter of rights. Then came the American Constitution with its Bill of Rights. The Bible of today's politicians is the Universal Charter of Human Rights adopted by the U.N.O. in 1948. This once more shows the ineffectiveness of manmade laws as compared to the divine laws.

Magna Carta:

Magna Carta, meaning ‘The Great Charter’, is one of the most famous documents in the world. Originally issued by King John of England (1199-1216) as a practical solution to the political crisis he faced in 1215, Magna Carta established for the first time the principle that everybody, including the king, was subject to the law. Although nearly a third of the text was deleted or substantially rewritten within ten years, and almost all the clauses have been repealed in modern times, Magna Carta remains a cornerstone of the British constitution. Some of Magna Carta’s core principles are echoed in the United States Bill of Rights (1791) and in many other constitutional documents around the world, as well as in the

Universal Declaration of Human Rights (1948) and the European Convention on Human Rights(1950).

There are few specific clauses in Magna Carta about women:

1- Widows get a mention in Clause 7 of Magna Carta which says that "A widow, after the death of her husband, shall ...have her ... inheritance...and she may remain in the house of her husband for forty days after his death". This shows how gracious the society was towards the women in 1215 AD.

2- In Clause 8 of Magna Carta it has been mentioned that "No widow shall be compelled to marry, so long as she prefers to live without a husband". This was a concession given to the women. The historian, James Holt, views this as "one of the first great stages in the emancipation of women" offering widows "a direct route to freedom from a forced marriage, and empowerment over their dower and inheritance". He asserts that "to let widows have their way was to encourage the acceptance of the principle that they should have their way". To put it into context most women were either under the 'protection' of their father or husband. Widows were deemed to be under the 'protection' of the King but as Susanna Annesley (Kings College, London) points out "for all the undeniable benefits of Magna Carta there were still considerable loopholes that the king could exploit and widows often still found themselves at the mercy of a male overlord, whether he be a member of their own family or the king himself".

3- One of the most significant clauses in the Magna Carta is number 39, which says that no "freeman" is to be imprisoned or

punished without the lawful judgment of his peers or the law of the land. This would have been taken to include "free women". But women could not sit on juries, so they would always be judged by men.

4- The word for woman, "femina", is actually only mentioned once and that was near the end, in Clause 54. This said "No one is to be arrested on the accusation of a woman for the death of anyone other than her husband" so it actually reduced and limited women's right to be heard as a witness in court. This shows that women were being discriminated in Magna Carta.“

The Universal Declaration of Human Rights (UDHR)

The Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly on 10 December 1948 at Paris. The Declaration arose directly from the experience of the Second World War and represents the first global expression of rights to which all human beings are inherently entitled. The Declaration consists of thirty articles which have been elaborated in subsequent international treaties, economic transfers, regional human rights instruments, national constitutions, and other laws. The Declaration was explicitly adopted for the purpose of defining the meaning of the words "fundamental freedoms" and "human rights" appearing in the United Nations Charter, which is binding on all member states. For this reason, the Universal Declaration is a fundamental constitutive document of the United Nations, but has no sanction and only advisory and cannot be enforced. The Declaration has served as the foundation for two binding

UN human rights covenants: The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The principles of the Declaration are elaborated in international treaties such as the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Elimination of Discrimination Against Women, the United Nations Convention on the Rights of the Child, the United Nations Convention Against Torture, and many more. The Declaration continues to be widely cited by governments, academics, advocates, and constitutional courts, and by individuals who appeal to its principles for the protection of their recognized human rights.

In order to live with dignity certain basic rights and freedoms are necessary, which all Human beings are entitled, these basic rights are called Human Rights. Human rights demand recognition and respect for the inherent dignity to ensure that everyone is protected against abuses which undermine their dignity, and give the opportunities they need to realize their full potential, free from discrimination .

Human rights include civil and political rights, such as, the right to freedom of expression, the right to freedom of religion or conscience, the right to property, the right to freedom of assembly, the right to privacy, and the right to vote. Human rights also cover economic and social rights, such as: the right to an adequate standard of living, the right to adequate food, housing, water and sanitation, the right to work and the right to education.

Human rights are basic rights and freedoms that all people are entitled regardless of sex, national or ethnic origin, race, religion, language, descent, or other status. Human Rights are Universal and belong to everyone, regardless of race, sexuality, citizenship, gender, nationality, ethnicity, or abilities. Human Rights are Inherent and belong to people simply because they are born as human beings. Human Rights are Inalienable it cannot be taken away by any person, corporation, organization, or even the government. Human Rights are Essential for freedom, justice, and peace.

Risalat-ul-Huqooq

Imam Ali ibn e Husain AS known as Imam Zain ul Abideen A.S.', which means 'the adornment of the worshippers', while his title 'al-Sa-jjīd' means 'one who prostrates long and often' lived for fifty-seven years, and devoted most of his efforts to reviving the spiritual aspects of the society. Imam Sajjīd's life and statements were entirely devoted to asceticism and religious teachings. His religious teachings are in the form of invocations and supplications. Having witnessed the unpleasant social situation of that era during which religious values were deviated and changed, Imam Sajjīd (MGB) attempted to establish a divine relationship between the people and God. Consequently, he was able to touch the hearts of the people and the people were deeply influenced by his words and his life style. His famous supplications are well known as "Sahifa-e-Sajjīdiyyah." About three decades of the Imam's life was devoted to the revival of spiritualism in the society. Risalat-ul-Huqooq is one of his most outstanding teachings. It is a master

document on Islamic human rights, which not only covers human rights, but also includes the rights of God, our body parts, and our deeds. Any intelligent reader who thinks carefully and deeply about the contents of this valuable document on rights, it immediately becomes clear that Islam has already established the first document on rights nearly fourteen centuries ago.

In Islam people are equal in terms of human values yet every individual is rewarded according to what he presents to his society and community. The only distinction between people is on the basis of service that they offer. The Human Rights in Islam have been granted by God and not by any Government. The rights granted by Government can be changed or withdrawn in the same manner in which they are conferred. In Islam, Human Rights have been conferred by God and therefore these are permanent and cannot be changed. Any charter, proclamations or resolutions on Human Rights by Governments or the United Nations therefore cannot be compared with the Rights sanctioned by God.

Right of Woman

Universal Declaration of Human Rights, is the landmark Declaration, adopted by the General Assembly on 10 December 1948, which reaffirms that all human beings are born free and equal in dignity and rights, and that everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, birth or other status. In 1979, the General Assembly adopted the Convention on the Elimination of All Forms of Discrimination against Women

(CEDAW), which is often described as an International Bill of Rights for Women. The Convention defines discrimination against women as, any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

By accepting the Convention, States commit themselves to undertake a series of measures to end discrimination against women in all forms, such as to incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women; to ensure the effective protection of women against discrimination; and to ensure elimination of all acts of discrimination against women by persons, organizations or enterprises.

In Risalat-ul-Huqooq Imam Zain -ul-Abideen has described the rights of woman in three ways the, The Right of the Mother, The Right of the Wife, The Right of the Child.

The Right of the Mother

The right of the mother has been explained by Imam Zain ul AbideenAS in the following words:

” The right of your mother is that you know that she carried you where no one carries anyone, she gave to you of the fruit of her heart that which no one gives to anyone, and she protected you

with all her organs. She did not care if she went hungry as long as you ate, if she was thirsty as long as you drank, if she was naked as long as you were clothed, if she was in the sun as long as you were in the shade. She gave up sleep for your sake; she protected you from heat and cold, all in order that you might belong to her. You will not be able to show her gratitude, unless through God's help and giving success“.

Imam AS has used the word “Umm” for mother, which has been used in the Holy Quran also for the mother. The Arabic word ‘Umm’ that is used for mother really means the root and the foundation. It is so widely used to mean mother that its other meanings have been overshadowed.

Imam Zain ul Abideen AS has expressed regarding the rights of the mother. Imam starts his discussion from the time of pregnancy and describes how a mother suffers the hardships of the period of pregnancy and the pains of labor. This is the type of hardship that no one else is ready to suffer for our sake. This has been very clearly explained in the Holy Quran in the following way that “We have enjoined on man kindness to his parents: In pain did his mother bear him, and in pain did she give him birth. The carrying of the (child) to his weaning is (a period of) thirty months. At length, when he reaches the age of full strength and attains forty years, he says, "O my Lord! Grant me that I may be grateful for Thy favor, which Thou has bestowed upon me, and upon both my parents, and that I may work righteousness such as Thou mayest

approve; and be gracious to me in my issue. Truly have I turned to Thee and truly do I bow (to Thee) in Islam."¹

It can be seen from the above ayat that a mother performs great sacrifices for her baby during the periods of pregnancy and breast-feeding. These sacrifices are both physical and emotional. It is interesting to note that the Quranic verse Ahqaf 46:15 stresses kindness to both parents, but goes on to mention only the sufferings of the mother and the hardships she has to go through on one's behalf. This is to awaken us, and to make us realize her great rights incumbent upon us. Then it recommends that we thank God and both our parents who are the means by which God's blessings are delivered to us.

There is a well-known hadith in which the Prophet replied to a Companion who asked him toward whom he should show familial devotion (birr): 'He answered: "Your mother." He asked: "Then to whom?" He replied: "Your mother." Once again, he asked: "Then to whom?" He replied: "Then to your father, then to the next nearest, then to the next nearest"².'

A man went to see the Holy Prophet and asked "O' Prophet of God! Whom shall I treat well?" He said: "Your mother." The man asked: "Who else?" The Prophet (MGB) said: "Your mother." The man asked: "Who else?" Again, the Prophet (MGB) said: "Your

¹ - Quran, Ahqaf 46:15]

² - Tirmidhi, Birr I; Abu Dawud, Adab 120; Ibn Maja, Adab I; Ahmad V, 3 and 5

mother.” Again, the man asked: “Who else?” This time the Prophet (MGB) said: “Your father“.

Thus, we can see that our mothers have a greater right incumbent upon us. We can say that the mother’s share is three times that of the father’s based on the above tradition. Though the

father pays for the expenses of the child, the mother has a greater role in the period of pregnancy, breast feeding and upbringing of the child. The father just pays for the needs, but it is the mother who is always with the child and never leaves him alone and whole heartedly attends to him.

Mother is the first and the best teacher of the child. The teachings of mother to her child create permanent impression in the heart and mind of the child. The person, who impresses the child the most, is always a mother.

Imam e Zain ul Abideen AS says about the right of the teacher as under:

”The right of the one who trains you (sa’is) through knowledge is magnifying him, respecting his sessions, listening well to him, and attending to him with devotion. You should not raise your voice toward him. You should never answer anyone who asks him about something, in order that he may be the one who answers. You should not speak to anyone in his session nor speak ill of anyone with him. If anyone ever speaks ill of him in your presence, you should defend him. You should conceal his faults and make manifest his virtues. You should not sit with him in enmity or show hostility toward him in friendship. If you do all of this, God's

angels will give witness for you that you went straight to him and learned his knowledge for God's sake, not for the sake of the people“.

The mother is the first and best teacher therefore she has all rights of a teacher upon us. The company of a learned mother will be beneficial in this life and life after death, because The Holy Prophet has said that, “One hour of attending the meetings held by a knowledgeable one and engaging in scholarly discussions is more valuable to God than attending a thousand battles and reciting the whole Quran.” ¹Thus, the company of learned mother is beneficial in the life as well as in the life after this life.

The Right of the Wife

In English law there was a principle of Coverture which has been criticized by Jurists. The principle of coverture was described in William Blackstone's Commentaries on the Laws of England in the late 18th century as under:

”By marriage, the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband: under whose wing, protection, and cover, she performs everything; and is therefore called in our law-French a feme-covert; is said to be covert-baron, or under the protection and influence of her husband, her baron, or lord; and her condition during her marriage is called her coverture. Upon this principle, of a union of person in husband and wife, depend almost all the legal

¹ -Bihar ul-Anwar, v.1, p.203.

rights, duties, and disabilities, that either of them acquires by the marriage. I speak not at present of the rights of property, but of such as are merely personal. For this reason, a man cannot grant anything to his wife, or enter into covenant with her: for the grant would be to suppose her separate existence; and to covenant with her, would be only to covenant with himself: and therefore, it is also generally true, that

all compacts made between husband and wife, when single, are voided by the intermarriage“.

Therefore, all deeds executed, and acts done, by her, during her coverture, are void, or at least voidable. This situation continued until the mid-to-late nineteenth century, when married women's property acts started to be passed in many English-speaking jurisdictions, setting the stage for further reforms.

Sexual instincts are among the major forces in man to derive pleasure in life. These strong instincts attract men and women towards each other. The love they have for each other makes them work hard to unite with one another. That is why sex and marriage have always been a hot topic of discussion in all religious or scientific gatherings.

The followers of the Church, some religions, some philosophers and some teachers of ethics have considered sex to be an animal act and have called it filthy. By going to the other extreme, they have totally abandoned sex.

Islam clearly establishes that men and women are equal; it recognizes that they are not identical. God has created men and

women with unique physiological and psychological attributes and these differences are embraced as vital components to a healthy family and community structure with each individual contributing their own distinctive talents to society. The God's rules apply to both genders, but in diverse ways. For example, God commanded women to cover certain parts of their body, including their hair, to preserve their modesty. Men are also required to cover parts of their body out of modesty, but not in the same way as women. Therefore, God commanded both men and women to be modest; yet, the manner in which they observe it is different. Similarly, the rights, roles, and responsibilities of women are evenly balanced with those of men but are not necessarily the same.

Islam condemns the extremist view. The Commander of the Faithful Hazrat Ali AS has considered going to either extreme to be out of ignorance. He said: "The ignorant is always going to either extreme." Taking a moderate stance regarding sexual instincts is liked by God and is according to the nature of our creation. In the moderate method, sexual instincts are neither let loose, nor are they totally abandoned. The law and social ethics support the fulfillment of this natural instinct in a moderate degree, and the means for its proper fulfillment are provided. In the method that is supported by God's Prophets, people are instructed that God has encouraged the people to get married. On the other hand, any form of sexual deviation or being loose is seriously fought with, and human societies are advised against these things.

Islam encourages its followers to establish a family and considers the family to be the most beautiful thing in the sight of God. The

Holy Prophet of God said that, "There is no establishment dearer to God the Almighty than marriage."¹

"O' Young people! Any of you who have the means to marry should do so since this is the best way to protect your eyes from corrupt and treacherous looks, and guard the sex organs from sin and immodesty. Whoever does not have the means to get married should fast since fasting can reduce lust."²

In another tradition, Imam Ali Reza AS narrated that a woman told Imam Baqir (MGB): "I am a Mutabattil." Imam Baqir (MGB) asked: "What do you mean by that?" She said: "I intend to never get married." Imam Baqir (MGB) asked: "Why?" She said: "In order to attain nobility." Then Imam Baqir (MGB) said: "Forget it. If there was any nobility in not getting married, the Blessed Fatima Zahra (MGB) was more suitable to have recognized this nobility, and there is no one who can supersede her in nobility."³ From these traditions, we realize that Islam advised men and women against celibacy so that they remain chaste.

Imam Zain ul Abideen AS has stated the right of the wife in this way in Risalat-ul-Huqooq:

"The right of your wife (zawja) is that you know that God has made her repose and a comfort for you; you should know that she is God's favour toward you, so you should honour her and treat her gently. Though her right toward you is more incumbent, you must

¹- Mustadrak al-Vasa'el, v.2, p.531.

² - Makarim -ul-Akhlaq, p.196.

³- Bozorgsal va Javan, v.1, p.194.

treat her with compassion, since she is your prisoner (aseer) whom you feed and clothe. If she is ignorant, you should pardon her“.

Islam considers the Marriage as the Firm Foundation of Life, and encourages its followers to establish a family and considers the family to be the most beautiful thing in the sight of God. The Prophet of God has said that, “There is no establishment dearer to God the Almighty than marriage.”¹ Marriage is Garment in view of Holy Quran. The Holy Quran has considered the chastity of men and women and has said:

”They are your garments and ye are their garments.”²

Our garments cover up our body and private parts and protect us against many bad conditions such as heat, cold and bad weather. Marriage helps us stay clean and pure. The Noble Prophet has said that, “Whoever likes to meet God in a clean and pure state should protect his chastity by means of marriage.”³ The first characteristics mentioned by Imam Sajjid AS are tranquility and love. God has considered the creation of man and woman, and their dwelling together as signs in the Holy Quran:

”And among His signs is this that He created for you mates from among yourselves that ye may dwell in tranquility with them. And he has put love and mercy between your (hearts): Verily in that are Signs for those who reflect.”⁴

¹- Mustadrak -ul-Vasa’el, v.2, p.531.

²- Quran, Baqarah 2:187

³-Mustadrak -ul-Vasa’el, v.2, p.530.

⁴-Quran, Rum 3:21

"It is He Who created you from a single person, and made his mate in order that he might dwell with her (in love)." ¹

It has been said that, "The law of creation has made men and women in need of each other in order to better unite men and women together, and strengthen the family which is the main basis for human prosperity. If men have been established as the ones for the women to financially rely on, women have been created for men to spiritually rely on. These different needs attract them to each other, and finally unite them." ²

Islam gives message to the husbands to adjust and accommodate with their wives. Islam advice to its followers to be compassionate and polite towards the woman. Ishaq ibn Ammar asked Imam Sadiq (MGB) regarding the rights of a woman upon her husband. Imam Sadiq (MGB) said: "He should fill her stomach, and cover her body. If she makes a mistake, he should forgive her. Abraham (MGB) - the friend of the Merciful complained to the Almighty God about Sara's bad temper. God revealed to him: The similitude of a woman is like that of a dry bent stick. It will crack if you try to straighten it, but it will abide by you if you leave it as it is."³ The Holy Prophet has said that: "Whoever is affluent but is stingy (unwilling to spend money) with his wife does not belong to our nation." ⁴

¹-Quran, A'raf 7:189

²-Nizame Huqooq-e Zan Daer Islam ,p.242

³ - Makarim ul-Akhlaq, p.216.

⁴- Mustadrak al-Vasa'el, v.2, p.643.

The wife and husband are the basis of creation of a healthy family and healthy society. Each are in need of each other and supplemental to each other. "The law of creation has made men and women in need of each other in order to better unite men and women together, and strengthen the family which is the main basis for human prosperity. If men have been established as the ones for the women to financially rely on, women have been created for men to spiritually rely on. These different needs attract them to each other, and finally unite them¹.

The husband and wife are like garments for each other. Garments are used for coverage, tranquility, and the protection and beauty of the body. Couples cover up each other's faults, and are a means of each other's comfort and tranquility, too. This coverage encompasses all aspects of their life. They are supposed to cover up each other's faults. They are not supposed to talk about each other's bad temper with other people. They should not divulge their private secrets. They should respect each other. They should not accuse each other. They should be patient and withstand each other's bad temper, so that God grants them the great promised rewards. The husband and wife are great blessings for each other as Imam Sajj'id (MGB) said. They should share the sweet moments of life as well as its hardships. They should possess a high spirit and ambition so that their children grow up to be eminent people.

¹- Nizame Huqooq-e- Zan Daer Islam, p.242.

The Right of the Child

The Convention on the Rights of the Child, adopted by the United Nations General Assembly in 1989, sets forth the basic human rights of children, usually those under 18 years of age. These rights include nondiscrimination; the right to survival and development of potential; protection from harmful influences, abuses and exploitation; and full participation in family, cultural and social life. The convention also spells out some human rights violations that are unique to the girl child, including discrimination based upon sex, prenatal sex selection, female genital mutilation and early marriage. The world has recognized the right of nondiscrimination to a female child only in 1989 by this convention.

Discrimination and harmful practices against the girl depend on cultural context. Intentional abortion of female fetuses and female infanticide are common practices. The significant sex- ratio imbalance in the populations are the result of this practice. Prenatal sex selection is more common where modern medical technology is readily accessible and open to misuse. According to the UNFPA 2004 report, sex-selective abortion and female infanticide have resulted in at least 60 million “missing” girls in Asia. The shortage of females in some Asian countries has led to other problems, such as increased trafficking in women for marriage and sex work. The girls are discriminated from the earliest stages of life in the areas of nutrition, health care, education, family care and protection. Girls are often fed less, particularly when there are diminished food resources. The Girls are denied education. In 2007, an estimated

101 million children worldwide the majority of whom were girls did not attend primary schools (UNICEF, 2010).

In Risalat-Ul-Huqooq Imam Zain ul Abideen AS has said about the right of the child in the following way:

”The right of your child is that you should know that he is from you and will be ascribed to you, through both his good and his evil, in the immediate affairs of this world. You are responsible for what has been entrusted to you, such as educating him in good conduct (husn-ul-adab), pointing him in the direction of his Lord, and helping him to obey Him. So, act toward him with the action of one who knows that he will be rewarded for good doing toward him and punished for evil doing“.

From the perusal of this it is clear that Islam do not differentiate between male and female child in its upbringing and education. Imam Jafar-e- Sadiq AS has said that, “Three rights for the children are incumbent upon their parents: exercising their authority over him, choosing a good name for them, and exerting an effort in raising them well.”¹

Imam Sajjīd AS has said that, “O’ God! Please help me in raising and educating my children and making them good people.” [SahifeyeSaj’jadieh.]

The children are the greatest gift of God. It should be realized that the children are sign of trust of God. Among the children Islam gives more emphasize in upbringing of the daughters. The girls

¹-Tuhuf -ul-Uqool, p.238.

should be treated kindlier than boys are. This is really stressed in the sayings of the Holy Prophet and Imams. Hazieh Yamani quoted on the authority of God's Prophet "Your daughters are your best children."¹ Imam Jafar Sadiq AS has said, "Daughters are good deeds, and sons are blessings. One will be rewarded for good deeds, but will be questioned about blessings."² When the Holy Prophet was given the glad tidings that God had granted him a daughter. His companions were so upset about the news that one could notice it from their faces. Then the Holy Prophet said that, "Why are you so upset? A daughter is like a flower that I will smell. God will give her daily bread" (sustenance).³

God's Holy Prophet has further said, that, "Daughters behind veils are good blessings. God will establish a daughter as a protection against the Fire of Hell for her parents. God will use two daughters as an excuse to let their parents enter Heaven. God forsakes participation in a holy war and payment of charity for whoever has three daughters or sisters."⁴

Ibn Abbas quoted on the authority of God's Holy Prophet said that, "One who goes to the bazaar to buy a present for his wife is like one who has given some charity to needy people. One must put a higher priority on giving gifts to his daughters over his sons, since

¹-Makarim -ul-Akhlaq, pp.219-220

²-Ibid.

³-Ibid.

⁴- Ibid.

making one's daughter happy is like freeing a slave from the children of Ishmael."¹

The children need good nutrition, food, and love to grow. The Holy Prophet has said that, "Love your children, and be kind and merciful to them. Fulfill your promises made to them since children consider their father to be the one who provides for their sustenance."² Loving the children and fulfilling promises made to them are stressed here so that they do not learn to break their promises. There are many ways to express your love. One way is to kiss and hug them when they are small. The Prophet (MGB) said, "Kiss your children. There is an elevation in your rank as a reward for each kiss. Each raise in rank is as much as five hundred years."³

From the it is very clear and evident that the rights which a woman got in 20th century has been granted to her by Islam from the very beginning.

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Violence - A Prime Challenge to the Birthright of Life and Security

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Abstract:

Violence is not new, every age and religion saw the crises of Violence, and history of violence goes back 2000 years. But in the modern age, Violence is increasingly high on the religious ground, although the history of religious violence is as older as historical records. Religious violence developed in the last few years has affected the world and religious terrorist and violent extremist share the decision to interpret religion to justify violence, whether they are Buddhist, Muslim, Christian, Hindu, Jew, Sikh etc.

9/11 attack on US and various other act of terrorism in the 21st century have resulted in many non-Muslims indictment of Islam as a violent religion, On the basis of Quran's teaching on the matter of war. Today innocent people are being killed all over the world, terrorist organizations are doing this by using the name of Islam and justified their act of violence as Jihad, a religious obligatory. And by quoting some Quranic Ayaats and misinterpreting them, they change the real teachings of Islam and Islam is wrongly thought of as a religion of violence.

The UNO declaration of Human Rights, declared in article 3 - "Everyone has the right to life, liberty and security". Here in this

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paper I would explain the Islamic concept of Birthright of life and Security, which is the foremost the basic right given to mankind by Allah.

“Whoever kills a person (innocent person) ... it is same as he has killed all mankind and whoever saves a life, it is as same as he has saved all mankind”. [Quran – Surah Maida,]

If Islam doesn't give permission of taking lives, then why all over the world people are being killed through violence in the name of Islam? So here in this paper, I would like to explain the concept of peace and violence in the Quran in detail and highlight the Quranic concept of Jihad and propose some methods to prevent violence in the world, in order to stop violation of birthright and Security, which is a basic right of Islam to the mankind.

Key Words: Violence, Security, Birthright, Challenge,

Introduction:

What is Violence? Violence is a global phenomenon; a more than a million people are dying as a result of violence around the world. It is hard to define violence and it's understood by different people, different culture and different country differently, and there is no standard definition has developed. WHO defines violence – “The intentional use of physical force of power threatened or actual, against oneself, another person or against a group or community

that either results in or has a likelihood of resulting in injury, death, psychological harm, mal development or deprivation?"¹

It is true that all the great religions of the world have preached and promoted peace, amity, brotherhood and co-existence. But it is equally true that violence is not new, every age and religion saw the crisis of violence. And the history of violence goes back to 2000 years. But in modern age, violence is increasingly high on the religious ground. Although, the history of religious violence is as old as historical records. Religious violence developed in last few years affected the world and religions have been blamed for hatred, discord and all sorts of conflicts and wars. Although, only certain fanatic followers of religion are indulged in such practices, all religions are based on the faith and faith easily turns into fanaticism, that is very negation of faith.²

9/11 attack on US and various other terror attacks over the 21st century have resulted in many non-Muslims indictment of Islam as a violent religion. Today, everywhere is hatred; innocent people are being killed all over the world. Violent people are doing this by using the name of Islam and justify their act of violence as Jihad, a religious obligatory. Is such killing lawful? Is any religion permits such killing?

UNO Declaration of Human Rights – declared in article 3-
“Everyone has the right to life, liberty and security”.

¹- W.H.O World report on Violence and Health - 2002

² -Islamic Response to Contemporary Challenges, page - 51

1400 years back, Quran revealed and Allah gave us the right of life and security, which is the foremost basic right.

“Everyone has the right to life, liberty and Security of person”.

The Holy Quran lays down-

“Whoever kills a person [innocent person] ...it is as though he has killed all mankind. And whoever saves a life, it is as though he had saved all mankind.”¹

Killing is strictly prohibited in Islam. There are several forms to save human life from death. If a human being is dying due to starvation, wound, disease, its duty of a man to save life of another human being, irrespective of nationality, caste, color or religion.

These instructions have been repeated in another Surah of Quran.... says

“Don’t kill a sole which Allah has made sacred, except through due process of law” [6:151]

So, in Islam killing is not permissible and only establish government will be able to decide to kill a man but as per the order of proper and competent court, not an individual or any organization has right to take life of another human being.

“From the Thunder to the Angles, from the birds to the hills, all creation is to join in the praise of Allah” [Quran, 13:14]

¹ -Quran, Surah Maida- 5:32

From the above verse, it is clear that not only human life, Islam gives value to all life. All creations should be respected by Humans, as it also worships to Allah and is also a part of Allah's creation.

There is a tradition of Prophet Mohammad, in which Prophet declared – "The greatest sins are to associate something with God, to kill human being, and disobedience of parents"¹

Means, Prophet declared killing human being is as prohibited as Polytheism, and Polytheism is forbidden in Islam, so killing is also forbidden.

In the Islamic world view, life is a gift given by Allah to Human beings. So, it should be preserved and cultivated and should be lived in the service of Allah and his creatures. In Islam, suicide is forbidden because a man does not own his life, but just a trustee of it. If killing is forbidden in Islam, then why these terrorist organization are killing people all over the world, and they are justifying their act of terrorism as Jihad. Terror attacks show that Jihad is the central teaching of Quran, but this is not true. The word Jihad occurs in Quran 41 times and not even one verse talks in a sense of war. The other words in the Quran which represent most fundamental teachings of Quran are – Adl, Ishan, Rehman and Hikmah. These are also Allah's name and occur in the Quran repeatedly. In Quran, compassion is the central and important. Every Muslim begins his work reciting Rehman and Rahim-Bismillah-ir-Rahman-ir-Rahim"

¹ - Al Bukhari – Book of Faith – 266/4

Means - In the name of Allah, the most merciful and Compassionate.

The word compassionate occurs 335 times, Adl 224 times, Ishan occurs 194 times and Hiqmah 101 times, Allah is described 33 times in the Quran as Gafur-Al_Rahim(forgiver and merciful).So, these are the central teachings of Islam and not Jihad.

The word Jihad is an Arabic word, derived from the word 'Juhud', which means 'strive'. Jihad includes fighting with weapons but as a last option, and fighting with one's own desires, which according to one Hadith is Jihad-e- Akbar (greatest Jihad). Imam Raghیب-al-Isfahani divides Jihad into 3 categories -

- 1) To fight against enemies
- 2) Against Satan
- 3) Against one's own self i.e. own greed and selfishness.

People indulge in violence, misinterpreted some Quranic verse such as, "Kill them wherever you find them"

They are not looking at the whole verse; they are only looking a small part of verse of Quran. The complete verse is -

"Fight for the sake of Allah, those who fight against you, but do not commit aggression. Allah does not like the aggressors" [2:190]

In Quran, Allah used the word - Qital and Harb for war, and used the word Jihad for moral struggle, such as to fight against corruption, injustice, environmental pollution, human rights, weaker section of the society. So, we can conclude Jihad as "Jihad is only for noble cause". But today, what is going on in the world,

by using the name of Jihad, like killing people and destruction, this is for the lust of power and wealth. Quran calls it *Fasad* and not Jihad. In Islam, militant Jihad is the lesser Jihad and Islam set conditions for Militant Jihad.

1. It should be to the cause of Allah
2. Only established government can wage Jihad in response of self defense
3. No any individual or organization cannot wage Jihad even if facing suffering, oppression, aggression. If establish government invites the individual or any organization, then their participation is lawful in Islam.

Now I would like to suggest some measures that can help to control Violence.

Today, the world is full of aggression and violence, and the response to avoid violence is patience and worship.

According to Quran,

“Reconciliation is the best” [Quran, 4:128]

Islam says when conflict is unavoidable and hostilities are on, then reconciliation is the best in order to bring hostilities to an end. When Prophet faced aggression from his opponents, Prophet exercised the strategy of avoidance, through which only 3 battles took place out of 83 aggressions, which were attempted by the opponents. Another example of avoidance of confrontation and violence is “Treaty of Hudabiyah”, whose term and conditions

were not in favor of Muslims, but Prophet did the treaty in order to avoid bloodshed.

Another response is justice; all violence and aggression have their origin in injustice. According to the Quran – “O Believers, conduct yourself with justice and bear true witness of Allah, even though it be against yourselves, your parents or your kinsfolk” [Quran, 4:135]

Islam quotes justice with peace, if there is no justice; there cannot be peace and co-existence.

Quran says – Do justice with all, not only with your co-religionist, because Quran talks as Al-a-Nas (all mankind).

“All mankind is a single Ummah or community”

Prophet Mohammad resolved many of disputes by using justice as a rule and maintained peace in the society. Justice is the central value of Islam, this is the reason, and the weaker section of society was attracted towards Islam, because Islam talks about Equality and Justice for all.

Asghar Ali Engineer says that, Allah created the tendency of war and aggression, and the tendency of peace and love. There is a verse in the Quran –

“Create human person in the best of the mould(Ahsan-i-Taqwim) and then rendered him lowest of the low” [95:4-5]

So, in human being there is a tendency of peace and violence. There is an internal struggle (Jihad) to rise to the level of Ahsan-i-Taqwim(best of mould) and continuously resist the temptation of

power and wealth. The Quran focuses our attention on ongoing conflict, the conflict is between, arrogant and power and the weak and oppressed, but there is no need to be violent, the conflict can be settled through struggle, it depends on the situation. Prophet Mohammad did peace treaty instead of violence, in order to avoid bloodshed. And also, Prophet Ibrahim and Moses liberated their oppressed people not through violence but through struggle. As we already discussed that Allah created tendency of violence and peace, and the root of violence is greed. The world today is full of violence, there is no peace, and it is because of our greed of wealth and power. In this context, Quran prescribe these verses –

“The wealth should not circulate among the rich only” [59:7]

“And it also exhorts Muslims that those who hoard gold and silver and do not give them away in the way of Allah announce to them the painful chastisement.” [9:34].¹

Islam and violence are mutually contradictory; Islam from its root s-l-m literary means peace and submission. A Muslim greets others with the words *Assalam-O-Alaikum* which means ‘peace be on you’ and the return greeting *wa-alaikum-as-salam* also denotes the same. Every Muslim starts his work by reciting - *Bismillah-ir-Rahman-ir-Rahim* which means “In the name of Allah, the most merciful and Compassionate”. Surah-e-Fatihah, the opening chapter of Quran which is considered as Epitome of Islamic teachings and every Muslim recites in every prayer, begins with “Praise be to Allah”, the Beneficent the Merciful. The religion that talks about mercy,

¹ -Jihad and Other Essays, page 243

compassion and peace, how can such religion can give permission of violence? How the followers of that religion can take lives of innocents? Whose religion even doesn't give permission to take life of other creation, such as animals, birds etc. This is totally misuse of Islam and Islamic teachings, through violence extremist violating the birth right of life and security of human beings, which is given by Allah. Allah is the only one who gives us life and takes it. That is the reason that in Islam, suicide and abortion is forbidden.

Through suicide bombing, hijacking, kidnapping only innocents are being killed, and they are being targeted for retaliation and to fulfill their vested interest, which is totally wrong, in Quran it is clearly said don't kill a soul which Allah has made sacred. Prophet Mohammad when entered in Mecca after conquest, announced that army of Muslims was not able to interfere with anyone who took refuge in Kabbah or any other residence, a one who is wounded and the one who was running away. So, killing is forbidden in Islam, and today what is going on in the name of Islam is totally against the Quranic teachings. In Quran, compassion and mercy are the most repeated qualities which lead to justice, fair play, patience, tolerance and co-existence. From starting to end Quran empowers human being, to develop a positive attitude and to shun all the negativity.

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Human Rights in Islam and Peaceful Coexistence

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Abstract:

We live in an age that is striking in its unprecedented technological sophistication. Unfortunately, the prejudices and inequities that have plagued the human race historically continue to exist, and are responsible for untold human suffering. It is in this context that the subject of human rights is especially pertinent. This paper explains the origins & process of development of human rights in Islam, detailing the comprehensive and progressive entitlements Islam advocates on various issues afflicting the world today.

Islam's contribution to human rights is best appreciated when viewed against the backdrop of world history as well as the realities of modern times. Social, racial, gender, and religious inequities continue to exist. 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 in Islam, it is important to

¹- Jamia's Premchand Archives & Literary Centre, Al-Beruni Block Jamia Millia Islamia.

distinguish the divinely prescribed rights of Islam from potential misinterpretation and misapplication by imperfect human beings. Just as Western societies still fight against racism and discrimination, many Muslim societies struggle to fully implement the rights outlined in Islam.

The word '*Islam*' comes from the Arabic root '*Salama*, which connotes 'Peace'. The common salutation in Islam is '*Al-Salamu-Alaikum*' or 'Peace be upon you'. Both are self-explanatory. One of the most significant concepts, concerning the universal peace, brotherhood and tolerance is the idea that the whole humankind, irrespective of caste, creed, colour or race is all descendants of one man & woman. This message, in spite of all the differences, unites the whole humankind in a universal brotherhood & ensures their co-existence as members of one family, ultimately with a common descent.

In the light of the fact that all religions aspire for peace & co-existence, this paper, specifically deals with the contribution that Islam can make to the cause of global peace. It will also clarify such key conceptions about Islam that have been the subject of much understanding. The events of 9/11 and their aftermath posed a formidable challenge to Islam. A scientific exposition of the attributes of Islam that stress peace and co-existence urgently needs to be undertaken and South Asia is the best ground for such work since it is a labyrinth of the world's religions. The central concern of the Qur'an is man and his betterment. The Qur'an, in a simple and forceful manner, assigns man the highest status among all living beings – that of the Vice-regent (*Khalifah*) of God on the Earth.

Accordingly, God has also prescribed certain commandments for the regulation of human conduct. *Prophet Mohammad* 'Peace be upon him' is the personification of moral & human values as outlined in the Qur'anic discourse and his own conduct is a perfect example to be followed by humanity. Such a view of Islam can help the global society to initiate a discourse on positive lines with other great religions of the world understanding the wide range of human rights in Islam and for securing peaceful co-existence. During the current scenario, there is a great need to study and analyze the Islamic spirit of freedom, its cultural legacy and value-system based on tolerance, justice and peace to all. Moreover, only with such a study of Islam and its teachings, can Islam in Asia convey a message to the West that a truly global dialogue from an Islamic perspective can help bring world peace.

In this backdrop, this paper makes a humble effort to understand the *philosophy of human rights in Islam*. It suggests a seven-fold ethical paradigm for universal application of human rights that transcends color, race, gender ethnicity and religious affiliation of the people of the world. It aims, at the same time, to provide an ethical and legal basis for realization of human rights in the context of the Islamic states.

Key words: Human Rights, Islam, Peaceful Coexistence, peace, Quran

Introduction:

“God commands justice, doing good, and generosity towards relatives and He forbids what is shameful, blameworthy, and oppressive. He teaches you, so that you may take heed. ”

(Qur'an- Sura-16:90)

We live in an age that is striking in its unprecedented technological sophistication. Unfortunately, the prejudices and inequities that have plagued the human race historically continue to exist, and are responsible for untold human suffering. It is in this context that the subject of human rights is especially pertinent. This paper explains the origins and process of development of human rights in Islam, detailing the comprehensive and progressive entitlements Islam advocates on various issues affecting the world today. Islam is the religion revealed for all of humankind. It is not exclusively for Arabs or Asians, men, or women, the wealth or the downtrodden. Islam is the religion and way of life that assures that humankind is able to access all of their rights. It makes sense to think that the One Who created us knows what is best for us, and He (God) has given us access to all the knowledge we need in order to live happy secure lives.

Muslims believe that this knowledge is accessible through the Quran and the authentic traditions of Prophet Muhammad, may the mercy and blessings of God be upon him, and that it is guaranteed by the *Sharia* (Islamic Law). Islam established a legal framework, and embodies a code of ethics, designed to protect the rights of an individual including his or her right to live in a secure

society. There are many verses in Quran that point to the dignity, equality, and brotherhood of humankind. Furthermore, God makes it clear that rights and freedoms are granted to all, regardless of race, gender, social origin, nationality, language, colour, or status.

Islam's contribution to human rights is best appreciated when viewed against the backdrop of world history as well as the realities of modern times. Social, racial, gender, and religious inequities continue to exist. 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 in Islam, it is important to distinguish the divinely prescribed rights of Islam from potential misinterpretation and misapplication by imperfect human beings. Just as Western societies still fight against racism and discrimination, many Muslim societies struggle to fully implement the rights outlined in Islam.

In this backdrop, this paper makes a humble effort to understand the philosophy of human rights in Islam. It suggests a seven-fold ethical paradigm for universal application of human rights that transcends color, race, gender ethnicity and religious affiliation of the people of the world. It aims, at the same time, to provide an ethical and legal basis for realization of human rights in the context of the Islamic states. Thus, the present study is an attempt to provide an

epilogue on human rights given in the Qur‘an and Sunnah. It is an in-depth analysis of Human Rights and dignity of person, encompassing its various dimensions. The study is an attempt to understand the true philosophy of human rights in Islam. It aims at providing an ethical and legal basis for the realization of implementation of human rights in the world states in general and in the Muslim states in particular.

The right of a person is considered very important and sacred in Islamic law. *“In all the sources of Islamic law beginning from Quran to ijtiḥad there is a mention of the concept of human right.”*¹ Looking at from the historical aspect the concept of human rights in Islam is as old as man himself. Islam has declared and guaranteed it fourteen hundred years ago and every Muslim is bound to accept and follow it. ²Some Muslim authors have traced the declaration of the human rights in Islam from the creation of Adam by Allah. They quote the following *Ayat* in their support *“He who taught (the use of) pen, taught man that which he knew not”*³ *“He taught Adam the names of all things”*⁴ Here we see that Allah has placed man as His vicegerent on the earth, taught him the names of things, of which the angels were ignorant and in view of the superiority of his Knowledge, they were commanded to prostrate themselves before Adam, the

1- S.A. Rahman, The Quran and Fundamental Human Rights, Hamdard Islamicus, Vol.1, No. 1, Summer 1978, p.71-73.

2-Nayyar Shamsi, Human Rights and Islam, Reference Press, New Delhi, 2003, p.73, Chowdhury, Muhammad Sekander, The Prophet of Islam (SAW) and Human Rights, Hamdard Islamicus, Vol. XXII, No.1, Jun-March, 1999, p.59.

3-The Holy Quran: 96:4-5.

4-The Holy Quran: 2:31.

first man. Syed Abul A'ala Maududi in his commentary of the Quran writes on it as: *"The only way man acquires knowledge is through a mental grasp of their names. So, we can say all man's knowledge really comprises the names of things. Teaching Adam the names of these things were virtually imparting knowledge of all those things to him."*¹ The best statement of the human right is to be found in the address delivered by the Messenger of Allah Muhammad (SAW) in his last Sermon on the eve of the Hajjat al-Wida'a (*the Farewell Pilgrimage*) *"O People, just as you regard this month, this day, this city as Sacred, so regarding the life and property of every Muslim as a sacred trust. Return the goods entrusted to you to their rightful owners. Hurt no one so that no one may hurt you"*.²

In Shariah, human rights are a consequence of human obligations. All members of a society are responsible to God and as a result of fulfilling these obligations they gain certain rights and freedoms.³ The philosophy of Islam is justice, and this "requires an integrated and Unitarian approach towards rights and obligations. Both the individual and society are working under the commandment of Allah, to enable people to live freely on the earth in peace and

¹-Syed Abul Ala Mawdoodi, Tafheem-al Quran, Vol. 1, Makhtaba Tameera Insaneet, Lahore, 30th Edition, 1976, pp. 63-64.

²-Afzal Iqbal, Dimensions of Islam, Islamic Book Foundation, Lahore, 1st Edition, 1984, p.81, 82, Farida Khanam, Life and Teachings of the Prophet Muhammad (SAW), Goodword Book Ltd., New Delhi, 2003, pp.119-121.

³-Sayyed Hossein Nasr, The Concept and Reality of Freedom in Islam and Islamic Civilization, in The Philosophy of Human Rights, (ed). Alan S. Rosenbaum Westport, Connecticut: Greenwood Press, UK, 1980, Nayyar Shamsi, Human Rights and Islam, Reference Press, New Delhi, 2003, p. 80.

satisfaction".¹ In Islam rights and duties are in fact, two sides of same coin". They are so co-related that they cannot be separated. The Shariah tends to integrate rights and obligations into the broad concepts of *haqq* (right) and *hukm* (ruling). In this context each individual's rights become others' duties, and others' duties become his rights.² In Islam right is only one end of a social relation while the other end is the duty. One's right to do something can only be guaranteed in a society if he accepts to allow the same amount of freedom of action to others.³ The Quran emphasizes on duties rather than rights. It insists upon the fulfillment of individual obligations before the individual can claim his privileges. With this approach the individual is neither a part nor separate from society, and his rights are neither different from nor conflicting those of the community. He is part and parcel of society, and the fulfillment of his obligations and those of the other members of the society constitute the reservoir of social rights which are then shared by all. The individual enjoys as many privileges as society can afford, and society affords just as much as

¹-Mohammad H. Kamali, *Fundamental Rights of the Individual: An Analysis of Haqq in Islamic Law*, The Association of Muslim Social Scientists and the International Institute of Islamic thought, Washington DC, Kuala Lumpur, Islamabad, 1993, p.358. M. Sharif Chaudhary, *Human Rights in Islam*, Kluwer Law International, London, 1994, pp.1-5.

²-Mohammad H. Kamali, *Fundamental Rights of the Individual: An Analysis of Haqq in Islamic Law*, The Association of Muslim Social Scientists and the International Institute of Islamic Thought, Washington DC, Kuala Lumpur, Islamabad, p. 356.

³-S.M Haider, *Islamic Concept of Human Rights*, the Book House, Lahore, 1978, p.50.

it receives from the individual. Thus, the Islamic society is not a separate conflicting entity with the individual; it is not a mere system, but the highest form of integral and integrated collectivity wherein each individual is both a member and a leader. There can be no social classes, and any member of the community who is asked to be a leader or to be ready for leadership must also act at all times with the same degree of social responsibility as if he were in fact the leader rather than the follower.¹

Islamic concept of human rights is essentially based on the idea of human dignity and equality of mankind. The dignity of a person is considered very important and basic right of the individuals in Islam law.² Human rights in Islam are concerned with the right of the individual, the level of self-esteem that secures personal identity and promotes human community. While the pursuit of human dignity is universal, its forms are designed by the cultures of people.³ Islam regards human rights as an integral part of faith. A man cannot be considered religious in the true sense of the word, if he does not take care of the rights of his fellowmen. The measure

¹-M. Cherif Bassiouni, *The Individual Human Rights and Habeas Corpus in Islam*, *The Voice of Islam*, Vol.20, No.10, Jamiyatul Falah Publications, Karachi. July 1972, pp.547- 548.

²-Muhammad Sharif Chaudry, *Human Rights in Islam*, All Pakistan Islamic Education Congress, Lahore, 1st Edition, 1993 p.11-13, Farida Khanam, *Life and Teachings of the Prophet Muhammad (SAW)*, Goodword Book Ltd., New Delhi, 2003, pp.119-121.

³-Abdul Aziz Said, *Human Rights in Islamic Perspectives*, in *Human Rights: Cultural and Ideological Perspective*, (eds.) Adamantia Pollis and Peter Schwab, Praeger Publishers, New York, 1979, p. 86

of judging a man's religiosity is how he deals with people; not how much he prays. ¹In Islamic jurisprudence human rights are to some extent more than the ordinary civil rights, they are based on the Principles of Adl, *Ihsan* and *Istihsan*. All the rights determined by the *Qur'an* and the *Sunnah* shall be deemed fundamental rights for the Muslims.² The *Qur'an* gives us a clear concept of the human rights and it demands that the rights be safeguarded in such a way that not only the individual gets his rights but along with the individual the society should also evolve, become better, a more civilized.³ The concept of human right receives clear exposition in the *Qur'an* which says: "*Verily we have honoured the children of Adam. We carry them on the land and the sea, and have made provision of the good things for them, and have preferred them above many of those whom we created with a marked preferment*"⁴

The human history is evident of it that the Holy Messenger Muhammad (SAW) for the first time bestowed all those fundamental rights to man which were necessary to elevate him on the highest pedestal of humanity. He "granted humanity that Charter of liberty, fraternity, equality, justice, dignity, peace, and

¹-Rashid Ahmad Jullundhri,. Human Rights and Islam, in Understanding Human Rights: An Interdisciplinary and Interfaith Study, ed. Alan D. Falconer, Irish School of Ecumenics, Dublin, 1980, p.35.

²-S.M. Haider, Islamic Concept of Human Rights, The Book House, Lahore, 1978, p.107.

³-The Holy Quran: 17:70.

⁴-Opcit; Islamic Concept of Human Rights, p.17, Mumtaz Ahmad Farooqi, Anecdotes from the Life of Prophet Muhammad (SAW), 1st Edition, Dar ul Kutab AlKutab Al Islamia Ahmadia Buildings, Lahore, 1962, pp. 23-24.

what not, which lent grace, politeness and beauty to the life of man.¹ Human rights granted by Islam are *“not confined to citizens of any one state. They are to be enjoyed by the Muslims as well as non-Muslims all over the world without any discrimination”*. *“Islam does not restrict these rights and privileges to the geographical limits of its own state or to the people of its own faith. It has a universal concept of fundamental rights which is for the whole mankind irrespective of color, race, territory, language, and even creed”*. Every man, whether he belongs to this country or that, whether he is a believer or unbeliever, whether he lives in a forest or in desert, has certain basic human rights simply because he is a human being. These rights have been given to all without any distinction of caste, creed or color.²

In his first official speech, the first Caliph, Hazrat Abu Bakr (RA) said: *“O People: I have been appointed ruler upon you, while I am not the best of you. If you see me with truth, help me, and if with falseness set me right. The strong among you, in my opinion, is weak until I snatch the right from him and the weaker among you, in my view, is the strong, unless I redress his wrong.”*³ Abu Bakr (RA) policy was continued by his successor the second Caliph Hazrat Umar, (RA) the second

¹-Farida Khanam, Life and Teachings of the Prophet Muhammad (SAW), Goodword Book Ltd., New Delhi, 2003, p.119-121; A.K. Brohi, A Faith to Live, National Hijra Council, Barqsons Printers, 1st Edition, p. 69.

²-Opcit; Life and Teachings of the Prophet Muhammad, pp.119-121.

³-Abdul Aziz Said, and Jamil Nasser, The Use and Abuse of Democracy in Islam, International Human Rights Contemporary Issues, (eds.) Jack L. Nelson, and M. Green Vera, Human Rights Publishing Group, Stanford Ville, New York: Earl M. Coleman, 1980, pp.76-77.

Caliph of Islam. Once, the Governor of Egypt incarcerated a citizen unjustly. The injured managed to escape from prison. He went from Egypt to Madina where he complained to Hazrat Umar, (RA). Hazrat Umar, (RA) summoned the Governor of Egypt and said: *"Since when have you taken upon yourself to make people slaves who are born free"?*¹ In an Islamic culture the state has the responsibility of enforcing these rights of the individuals based on principles of *Adland Ihsan*, guaranteed by Shariah. The purpose of an Islamic state is not merely to protect its citizens but also to achieve social justice. In Islamic Shariah, it is the legal obligation and duty of the people in power to look after and protect the rights of the people. If they fail to enforce them, and start denying the rights that have been guaranteed by God or make amendments and changes in them, or practically violate them while paying lip-service to them, they are sinful. In many ayat of the Holy Quran warning has been issued against those who are involved in persecution and violations of human dignity. They are reminded again and again to implement the laws of Shariah and to observe justice by dealing with others. Thus, in conclusion we may quote *Joseph Schacht*, who argues that *"Islamic law is the epitome of Islamic thought, the most typical manifestation of the Islamic way of life, the core and kernel of Islam itself."*²

All great religions of the world, have preached, promoted and striven for peace, tolerance, brotherhood and co-existence

¹-Abu'l A'la Mawdudi, Human Rights in Islam, Da'wah Academy, IIU, Islamabad, Pakistan, 2nd Edition, 1999, p. 14.

²- Joseph Schacht, An Introduction to Islamic Law, 1 (1964), Clarendon Press, Oxford, p.304.

contributing in their own ways to the advancement of human civilization. *Islam, a faith, stands for peaceful co-existence and does not admit and permit any kind of coercion and persecution.*¹Peaceful coexistence is now more than an aspiration, it's a necessity. Peace in the world is the manifestation of peace within the individual. Peace within the individual, in turn, is the product of a combination of favorable external circumstances and effective internal self-discipline and education... Any ideology which purports to solve our problems today must, therefore, provide the external conditions as well as internal techniques necessary for the production of the individual who is at peace within himself, and, consequently, capable of being at peace with others.

The word 'Islam' comes from the Arabic root 'Salama, which connotes 'Peace'. It derived from a root, which means "*Peace and Submission*". It is interpreted as meaning *the attainment of peace through submission to the will of God, or peaceful submission to the will of God without resistance*, that is, through conformity to Divine law and guidance. In the Islamic concept, Divine law includes all law governing and regulating the Universe. Peace and order are deemed essential for material, moral & spiritual progress.² The common salutation in Islam is 'Al-SalamuAlaikum' or 'peace be

1- Akhtarul Wasey: Islamic Response to Contemporary Challenges, Shipra Publications, Delhi, 2008, p. 51.

2-Khan, Muhammad Zafrullah: Islam, its meaning & Modern Man, Sleep hatch Lane, London, 1980, p. 289. Khan, Masood Ali & Iqbal, Sheikh Azhar: Encyclopedia of Islam, Commonwealth Publishers, New Delhi, 2005, p. 1. Tayyebulla, M: Islam and Non-Violence, Kitabistan, Karachi, 1959, p. 15.

upon you' and the return greeting 'Wa-alaikum-as-salam' denotes the same 'peace be upon you, too'. Both are self-explanatory. Peace has been proclaimed as a supreme virtue for personal behavior also. The Qur'an mentions that, "*the (faithful) slaves of the Beneficent are they who walk upon the earth modestly and when the foolish ones address them their answer is peace.*"¹ Such repeated insistence on peace, mercy, tolerance and beneficence underlines the essential defining character of Islamic messages as well as the kind of human attitude and behavior, Islam essentialises for its believers.²

The community (*Umma*) that the Prophet established in Medina comprised of not only Muslims but also the Jews who lived in Medina. The Prophet himself articulated and implemented the Qur'anic demand of peaceful coexistence with *non-Muslims*. One of the earliest Prophetic documents, that are extant, is the *Constitution of Medina*.³ In this document, the Prophet envisions the Jews as being an important component of the Medina community and outlines the rights and obligation of the Jews of Medina. The constitution states, "Whoever of Jews follows us has the same help and support (as the believers), as long as they are not wronged by him and he does not help (*others*) against them." The constitution also states, "The Jews of Banu 'Aware a community (*Umma*) along with the believers. To the Jews their religion and to the Muslims

¹-Pichthall, M.M: 'The Meaning of the Glorious Qur'an', (trans.) Delhi, 1996, p. 263.

²-Ibid; Islamic Response to Contemporary Challenges, p. 65

³-The New Encyclopedia Britannica, Vol. 22, 2007, USA, p. 1.

their religion, (*This applies*) both to their clients and to themselves, with the exception of anyone who has done wrong or acted treacherously; he brings evil only on himself and on his household," Another article of the document states that," between the Jews and Muslims is sincere friendship and honorable dealing, not treachery. There is help for the person wronged.¹Such terms indicate the basis of a pluralistic society that the Prophet envisioned, a society that fully implemented the Qur'anic pronouncement of peaceful coexistence with non-Muslims.

In his last and departing Haj sermon (*AakhriKhutba*), which stands as the *charter of universal humanism*, enunciated about 1400 years back, the Prophet (PBUH) emphatically stresses; "*No Arab has any superiority over a non-Arab, nor any Ajam enjoys any exaltedness over any Arab; neither a black is superior to a white nor a white is exalted over a black, except the one who earns superiority through fear of God*".² According to the Qur'an, "*all mankind is a single Ummah or community*"³ and the differences that divide them are there so that and may be 'recognized'.⁴ The Qur'an declares; "*This day I have perfected your religion for you and completed My favour unto you and chosen for you as religionAl-Islam*".⁵This Idea of human existence, freedom, perfection and peace to all has been extended to its logical

¹-Watt, W. Montgomery: 'Muhammad at Medina', Oxford University Press, Oxford, 1977, pp. 221-24.

²-Op; cit, *Islamic Response to Contemporary Challenges*, pp. 66-67.

³-The Holy Qur'an: 2:213.

⁴-Ibid; 49:13.

⁵-Ibid; 5:3.

culmination by the Qur'anic insistence on tolerance and peaceful co-existence.

The Fourth Pious Caliph **Ali-bin-Abi-Talib** stressed the same principles by saying, *"Do not reject any kind of peace and pact of co-existence to which your enemy invites you and in which there is Allah's satisfaction. If you conclude an agreement with your enemy or undertake an obligation, be faithful to your pact and carry out your commitments in full honesty and make your life a guarantee for the protection of your obligations."*¹

The Iranian spiritual & political leader, **Ayatollah Ruhollah Khomeini**, brilliantly articulated his viewpoint on Islamic world-view thus, *"In an Islamic Govt. one should be afraid of oneself, not of the Govt. God has promised that the weak will be triumphant over the powerful. The weak will assume the leadership over all. God's promised will be fulfilled and the downtrodden will supplant the rich. In an Islamic republic there is no oppression and injustice, there are no poor and rich, everyone will have equal rights, and all the layers of society, all religions, all races, and communities will have equal rights."*²

When the Prophet (PBUH) was spreading the divine message of Islam revealed to him in Mecca, he did not quarrel with them. Instead, he was just asked to state what precisely the difference between him and them was and what each was enlisted to his was: I do not want to force you to give up yours, you should not force me to give up mine. The Qur'an enjoins, *"Say, you who rejects faith, I*

¹-Op; cit, Islamic Response to Contemporary Challenges, p. 79.

²-Malise Ruthven; Islam in the World, Harmonds Worth, 1984, p. 344.

worship not that which you worship, nor will you worship that which I worship. And I will not worship that which you have been wont to worship. Nor will you worship that I worship. To you your way and to me mine.”¹And “Let there be no compulsion in religion. Truth stands out clear from error. He who rejects evil and believes in God has grasped the strong branch (of grace) which cannot break. Remember, God hears and knows all things”.²Thus, the coexistence of all faith has been accepted in Islam.

Thus, this is the agenda Islam has set for ‘**Peaceful Co-existence**’ in a pluralistic society. ³ Indeed, the world will become a much more civilized and cultural place to live if we ever choose to act upon it. But will we? Such a view of Islam can help the global society to initiate a discourse on positive lines with other great religions of the world for securing peaceful co-existence. During the current scenario, there is a great need to study and analyze the Islamic spirit, its cultural legacy and value-system based on tolerance and peace to all. Moreover, only with such a study of Islam and its teachings South Asia can convey a message to the West that a truly global dialogue from an Islamic perspective and the spirit of human rights in it can help bring world peace and South Asia is the best ground for such beginning since it is a labyrinth of the world’s major religions. God said in Quran that believers are nothing less than brothers to one another and Prophet Muhammad constantly

¹-Ibid; 109:1-6.

²-Ibid; 2:256.

³-Akhtarul Wasey; Islamic Response to Contemporary Challenges, Shipra Publications, Delhi, 2008, pp. 80-81.

reinforced the necessity of maintaining the ties of brotherhood. He said that no person would attain true piety until he wished for his brother (or sister) what he wished for himself.¹

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¹-The Holy Qur'an: 49:10.

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Human Rights in Islam and Rights of Women

Moulood Nasseripour¹

ABSTRACT:

Islam gave true and due rights to women 1400 years ago when there was ignorance and darkness. If we go back in the history and analyzed different civilizations, we found that: -

In Babylonian civilization, if man committed murder then instead of punishing him, his wife was sentenced to death. When we read the history of Greeks, Greeks considered a woman a cause of evil and in fortune in the society. A man is even permitted to kill his wife. In Egyptian civilization, they considered women a sign of a devil. In Arab civilization, very often when female child was born, she was buried alive. In some parts of the Eastern Europe and in India, if husband was died, his wife either killed or burn alive together with the dead body of her husband. In Egypt, India and all European countries during the dark ages, women were treated worse than slaves. They were not regarded as human beings but as sort of sub-species between humans and animals.

After the revelation of Quran and teaching of Prophet (PBUH), Islam uplifted the status of the women in a society.

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“And for women are rights over men, similar to those of men over women. “Qur’an 2:228

Men and women all descended from a single person – the Prophet (peace be upon him). Islam does not accept for either of them anything but justice and kind treatment.

Key words: Islam, Rights, Women, Muslim, Non-Muslim, Human.

Equal Reward & Equal Accountability in Islam

Men and women worship Allah in the same way, meaning they worship the same God (Allah), perform the same acts of worship, follow the same scripture, and hold the same beliefs. Allah (the Arabic word for the One true God of all creation), judges all human beings fairly and equitably. Allah emphasizes the just treatment and reward due to both men and women in many verses of the Qur’an:

“Allah has promised to the believers, men and women, gardens under which rivers flow, to dwell therein, and beautiful mansions in gardens of everlasting bliss.¹

“Never will I allow the loss of the work of any worker amongst you, male or female; you are of one another.²

These verses show that reward is dependent upon one’s actions and not one’s gender. Gender does not play any part in how a person is rewarded and judged.

¹ - Qur’an 9:72

² -Qur’an 3:195

If we compare Islam to other religions, we see that it offers justice between the sexes. For example, Islam dismisses the idea that Eve is more to blame than Adam for eating from the forbidden tree. According to Islam, Adam and Eve both sinned, they both repented and God forgave them both.

There are more than 1.5 billion Muslims living in this world. Muslim today are approximately 20-25% of the world population. Some Muslim societies are close to Islam and some are far from Islam. Unfortunately, there is no Muslim society in the world at present time which is 100% according to Islam. If anyone wants to judge the women's right in Islam, he should not judge according to what Muslims do and what Muslim societies do. The women's right in Islam should be based on the authentic sources of Islam and the authentic sources are only the Quran and authentic Hadiths.

Equal Right to Knowledge in Islam

Allah says in Quran:

*الَّذِي عَلَّمَ بِالْقَلَمِ *اقْرَأْ وَرَبُّكَ الْأَكْرَمُ *خَلَقَ الْإِنْسَانَ مِنْ عَلَقٍ *اقْرَأْ بِاسْمِ رَبِّكَ الَّذِي خَلَقَ
عَلَّمَ الْإِنْسَانَ مَا لَمْ يَعْلَمْ

The first guidance revealed by Allah to all of human kind "It was Iqra", "It was to read". Prophet (PBUH) said, "It is obligatory on every Muslim to acquire knowledge". The Prophet (PBUH) specially told the parents to educate their children specially their daughters. It is duty of husband to give education to his wife

especially religious education. We have examples of many women 1400 years ago who were highly educated, learned and scholars in both religious and worldly knowledge. With the advent of Islam, the darkness of that era vanished and Allah enjoined kindness, love and compassion towards girls. Prophet (PBUH) also said, "Anyone who up-brings two daughters with love and affection, and also did not favor his sons over daughters, he shall enter into Jannah".

The spiritual Rights of Women:

In Islam spiritually both men and women are equal. It is duty of all men and women to seek the pleasure of Allah and get Jannah. Allah says in Surrah Al-Nisa verse 124. 4

وَمَنْ يَعْمَلْ مِنَ الصَّالِحَاتِ مِنْ ذَكَرٍ أَوْ أُنْثَىٰ وَهُوَ مُؤْمِنٌ فَأُولَٰئِكَ يَدْخُلُونَ الْجَنَّةَ وَلَا يُظْلَمُونَ نَقِيرًا

But who does good deeds, whether male or female, and is a believer, such people shall enter into Heaven? There are certain non-Islamic religions like Christianity that put the blame only on mother Havva (Alaihis Salaam), who forced Adam to eat the forbidden fruits in Jannah and according to Christianity all human beings are born in sins because of Mother Havva. But you cannot find any single verse in Quran which could blame only on Havva. Quran put the blame of eating forbidden fruits equally on man and woman, on Adam as well as on Havva. And if we read Surrah Al-A'raf verse 19-27, Allah said both of them made mistake. Both of them repented and both of them were forgiven. There is no single verse exclusively in Quran which says that mother Havva is responsible for such a big sin.

Furthermore, when we read the Bible, it is written in Bible that God says, "I will multiply the pain during conception and women will give the birth in pain and sorrow and your Husband will rule over you". So according to the Bible, all pains and sufferings during pregnancy is a curse for a woman; it is a punishment from God to the women because of the sin which Havva (Alaihis Salaam) made in Jannah.

Equal Right to Choose a Spouse in Islam

Islam has honored women by giving them the right to choose a spouse and keep their original family name once married. Additionally, many have the impression that parents force their daughters into marriage. This is a cultural practice, and has no basis in Islam. In fact, it is prohibited.

At the time of Prophet Muhammad (peace be upon him), a woman came to him and said, "My father has married me to my cousin to raise his social standing and I was forced into it." The Prophet sent for the girl's father and then in his presence gave the girl the option of remaining married or nullifying the marriage. She responded, "O Messenger of Allah, I have accepted what my father did, but I wanted to show other women (that they could not be forced into a marriage)."

Equal yet Different

If we read Quran as a whole and Hadith, we found that Men and Women in Islam are equal but they are not identical. Depending upon the biological makeup of the man and women, depending upon their physiology, depending upon their psychology, depending upon their physical makeup, Almighty Allah has given different roles to men and women. Our creator knows what is best for us. While men and women have equal rights as a general principle, the specific rights and responsibilities granted to them are not identical. Men and women have complementary rights and responsibilities. Aside from external and internal anatomical differences, scientists know there are many other subtle differences in the way the brains of men and women process language, information and emotion, just to mention a few. A socio-biology expert, Edward O. Wilson of Harvard University, said that females tend to be higher than males in verbal skills, empathy and social skills, among other things, while men tend to be higher in independence, dominance, spatial and mathematical skills, rank-related aggression, and other characteristics. It would be foolish to treat both genders the same and to ignore their differences. Islam teaches that men and women have complementary, yet different, roles because it is best suited to their nature. God says:

“And the male is not like the female.”¹

“Does not the one who created, know? And He is the Most Kind, the All Aware.”¹

¹ - Qur'an 3:36

The social rights of women in Islam:

With the advent of Islam, the darkness of that era vanished and Allah enjoined kindness, love and compassion towards girls. Islam prohibited any killings of female children. Allah says in Surrah Al-An'am verse 151 and in Surrah Bani-Israil verse 31

وَلَا تَقْتُلُوا أَوْلَادَكُمْ خَشْيَةَ إِمْلَاقٍ ۖ نَحْنُ نَرْزُقُهُمْ وَإِيَّاكُمْ ۚ إِنَّ قَتْلَهُمْ كَانَ خِطْئًا كَبِيرًا ۖ

Kill not your children for fear of poverty. It is Allah who provide for them and for you. Surely, the killing of them is a great sin.

There was a program on BBC named "Let her die". It was reported in the program that in India there are more than 3000 fetuses which are being aborted in India every-day after the parents came to know that expected baby is a girl. This means every year more than million girls are being killed in the wombs of their mothers even only in India. It is advertised on the boards that spend 500 Rs and save 500,000 Rs. Means do the ultrasound and if the child is female then abort her and save 500,000 Rs which parents have to spend in the form of dowry for marriage.

Allah does not only prohibit the killing of female children, Allah even rebuked and badly criticized the thought of a person who is becoming sad at the news of the birth of a female child. All says in Surrah Al-Nahl³.

¹ - Qur'an 67:14

² -Qur'an 17: 31

³ -Surrah Al-Nahl,verse 58-59

And when to one of them is conveyed the tidings (news) of the birth of a female, his face become darkens, while he suppresses his inward grief. He hides himself from the people because of the bad news he has had: 'Shall he keep it in spite of disgrace or bury it in the dust?' Verily, evil is that which they think.

Unfortunately, this attitude is also common in our societies. People arranged feasts, distributed sweets and celebrated the birth of son but if girl is born then they became sad. Even in-laws of woman blame her that she is responsible for giving birth to girl. Parents of man forced their son to divorce her wife because she is giving birth to girl. It is common in our societies.

Quran criticizes even the thoughts of becoming sad at the birth of a female child. Islam considered girls as blessing of Allah and shield of person against the fire of hell. Prophet (PBUH) said, "That anyone who up-brings two daughters with love and affection will be as close to me as these two fingers on the Day of Judgment". Prophet (PBUH) also said, "Anyone who up-brings two daughters with love and affection, and also did not favor his sons over daughters, he shall enter into Jannah".

The economic rights of women in Islam:

Islam gave economic rights to women 1400 years ago, 1300 years before the Western world. In Islam, any adult women whether married or un-married, she was allowed to own or dis-own her property without the permission of anyone else. If we read the history, the first times the Western world gave rights to married women to own or dis-own the property without the permission of

her husband in 1870 in England under the "special married women property act". Imagine Islam gave this right 1400 years ago. In Islam, a woman is financially well secured. Before she is married, it is duty of her father and brother and after she is married, its duty of her husband and son to look after her financially, lodging, clothing, and boarding everything. She needs not to work for providing the necessities of life. It is duty of the man in the house to earn for living. Islam has put financial burden on the shoulders of a man.

But if both ends don't meet and if a woman wants to work, she can work as long as it is within the preview of Islamic Sharia. She maintains the hijab and can adopt many noble professions e.g. teaching and medicine, where modesty is protected and hijab is maintained. It is a need of Islamic societies that women should become teachers, doctors, nurses, lawyers and traders. If women work by following the Islamic Sharia then whatever she earns, she need not to spend on her family. She can keep all of her earning for herself. That is her right and no one can force her to give anything to the family. In Islam during marriage, women are also on the receiving end. The Quran says in Surrah Nisa

وَأَتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً

And give the women their dowries willingly.

In Islam, Mahr (Dowry) is compulsory for a man to give it to woman. Unfortunately, in our Indian-Pakistani culture it is opposite, the woman gives dowry to her husband. In Islam to demand dowry from your wife is Haram, demanding directly or

¹ - Surrah Nisa verse 4

in-directly both are haram. Unfortunately, custom of receiving dowry from parents of women is common even in religious families. Even religious people in our Indo-Pak societies do not try to stop this humiliating, shameful and non-Islamic custom. According to Islam women are on receiving end during marriage. Furthermore, if woman is very rich, even then its duty of her husband to provide everything for new life.

The Family Unit in Islam

God created men and women to be different, with unique roles, skills and responsibilities. These differences are not viewed as evidences of superiority or inferiority, but of specialization. In Islam, the family is of central importance. The man is responsible for the financial wellbeing of the family while the woman contributes to the family's physical, educational and emotional wellbeing. This encourages cooperation rather than competition. By fulfilling their mutual responsibilities, strong families are created and hence strong societies. Also, emotionally, neither men nor women live a happy life without one another. Allah describes this beautifully by saying: "They are clothing for you and you are clothing for them. "Qur'an 2:187 Clothing provides comfort, warmth and security as well as making one look good – this is how the relationship between the husband and wife is defined in Islam.

Love & Mercy in Spousal Relations in Islam

Most of the other religions besides Islam consider women as an instrument of devil but Quran refers women as a "Mohsina" means a fortress against devil. Because the pious woman keeps the

husband on "right path" on Siratul-Mustaqeem and stops him for deviating to wrong paths. Therefore, she is called a "Mohsina" in Islam. Allah says in surrah Al-Rum verse 21

And one of His Signs is this, that He has created wives for you from among yourselves that you may find peace of mind in them, and He has put love and tenderness between you. In that surely are Signs for a people who reflect.

Prophet (PBUH) also said, anyone who married, he completes half his religion 16

Islam does not allow marrying the girls without their permission. Taking permission from the woman is very important. Allah says in SurrahNisa

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا يَحِلُّ لَكُمْ أَنْ تَرِثُوا النِّسَاءَ كَرِهًا¹

O ye who believe! It is not lawful for you to inherit women against their will;

Women's rights in west

Non-Islamic world spread lots of misconception about the Islam and they mainly criticized the Women rights situations in Muslim countries where in-fact their supported rulers are sitting whether it is Pakistan, Afghanistan, and Egypt and even in Saudi-Arabia.

Some glimpse of Women condition in USA. In USA, more than 1,000 women were killed by their partners only in one year. US Justice Department reported that there were 1 Million sexual

¹ - Surrah Nisa verse 19

assaults committed against women in 2008. The projected number of violent crimes committed by intimate partners were almost half million in only one year.

Some statements of newly converted Muslims women. **Yvonne Ridley** is a British journalist. Ridley came to prominence on 28 September 2001, when she was captured by the Taliban in Afghanistan whilst working for the *Sunday Express*. She entered on 26 September and spent 2 days undercover in Afghanistan. It was on her return, traveling with her guides, that she was captured by Taliban. The British high commissioner to Pakistan, met the Taliban ambassador in Islamabad, and opened negotiations for her release. On 8 October she was released and was handed over to the Pakistani authorities. During her captivity she was asked by one of Taliban to convert to Islam; she refused, but gave her word she would read the Quran after her release. Once freed, she kept this promise and read the Quran. She decided to accept Islam by saying, "the Koran makes it clear that women are equal in spirituality, worth and education. What everyone forgets is that Islam is perfect; but people are not." She converted to Islam in the summer of 2003.

US Navy petty officer, Heather Ramaha accepted Islam after September 11. She says "Islam gives Elevation to women; not Degradation" Another newly converter human right activist says that in my Women's Studies courses I had read about Muslim women who were not allowed to leave their homes and were forced to cover their heads. Of course, I saw hijab as an oppressive tool imposed by men rather than as an expression of self-respect

and dignity. But Islam actually liberates the women, given them rights in the 6th century that we have only gained in this century in this country: the right to own property and wealth and to maintain her original name after marriage; the right to vote; and the right to divorce." Islam promised women respect, honor and safety before and more than any other religion, civilization and moderation. Islam gave women all rights before 15 centuries which any one can expect in today's highly modern world. American new Muslim Khaled Yaseen explained it by beautiful example. He said that every person can be a father; but if a father does not turn out to be a good father then it's not fatherhood that we would blame. Similarly, Islam is a rule and order. If a Muslim who does not act according to that rule and order then by all means it's not Islam that should carry the blame. Prophet (PHUB) said, "Among you the most respectable is the one who respects women and the most disrespect is the one who disrespect the women.

Conclusion

Before Islam, women were considered shameful, female children were buried alive, prostitution was rampant, divorce was only in the hands of the husband, inheritance was only for the strong, and oppression was widespread. Islam came and abolished these practices. Even now, in "developed countries", women are not granted respect, dignity and honor, let alone equal pay for equal work. Islam, however, regards women as precious and valuable, not to be disrespected or disgraced. The mistreatment of women in some Middle-Eastern countries or Muslim families is due to cultural factors that some Muslims wrongly follow, not because of

Islam. Why would many women around the world willingly enter Islam if it is an oppressive religion?

We end with the words of our Lord and your Lord, the Creator and Sustainer of all men and women: "Surely the men who submit and the women who submit, and the believing men and the believing women, and the obedient men and the obedient women, and the truthful men and the truthful women, and the patient men and the patient women, and the humble men and the humble women... Allah has prepared for them forgiveness and a great reward. "¹.May Allah give us wisdom and courage to truly act upon our religion, May Allah give us courage to show the beauty of our religion to the western societies, May Allah give us courage to give rights to all those who are being oppressed everywhere in the world.

¹ - Qur'an 33:35

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Human Rights in the Light of Nahjul Balagha

Dr. Sanaullah Mir¹

Abstract:

The Human Rights Discourse in the west became all the more dominant in post-world war II era, a war in which millions of innocent people lost their lives and millions suffered the insufferable. The world-view and value-system of Islam advanced a fully-fledged human rights mission in early seventh century A.D. through the revelations of the Quran and *Sunnah* of the prophet. The Quran declares all human beings to be the creation of One Allah, One in their origin and destiny, having equal rights and responsibilities; various nations and tribes signifying nothing but various identification marks and different colours and languages being nothing but symbols of Allah. The prophet of Islam exhorted us that no Arab has any superiority over a non-Arab and vice versa and no white man has a superiority over a black man and vice versa; we are children of Adam and Adam was created from clay; the most honourable in the eyes of Allah is one who is most pious.

Nahj al-Balaghah, through creative hermeneutical fidelity, brings out a detailed account of human rights, emphasising especially on commitment of rulers to the rights of people in their respective jurisdictions. The present paper will take the following points et al

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with a view to exploring the perspective of **Nahj al-Balaghah** on human rights:

(1) They must be treated mercifully, kindly and affectionately. (2) The government should not operate like a greedy beast feeling satisfied by devouring the people. (3) People can commit mistakes. They may act wrongly or wilfully. The rulers have to extend to them forgiveness and pardon without any discrimination on caste, creed or colour. Brothers in religion can have no special rights or privileges for every human being as a creature of Allah is entitled to equal mercy, kindness, affection and dignity. (4) The rulers have to be just to the people even if the execution of such a justice goes against them, their near ones and their loved ones. For denial of justice signifies oppression of the creatures of Allah and oppressors of the creatures of Allah are open enemies of Allah. (5) The rulers should extend good behaviour to the people. They should lighten their hardships and avoid putting them to unbearable troubles. (6) The rulers should adopt a course of action that is in accord with what people agree upon. The agreement of the common people sweeps away the argument of the chief ones. (7) While engaging in war is unavoidable, right to life is the most sacred and inviolate of all rights. In view of the same, it is incumbent on rulers to strive for peace even in the midst of war. The shedding of blood without justification is most abominable in the eyes of Allah and invites greatest Divine retribution. (8) The people have a right to privacy and it is incumbent on rulers not to violate their right to privacy. The duty of the ruler is to rectify what is manifestly wrong. Whatever is hidden from the rulers should not be sought to be

disclosed; it is for Allah to deal with whatever is hidden from you. (9) The rights of the poorest of the poor, the destitute, the penniless and the disabled should be taken special care of by the rulers. It is the duty of the rulers to take care of those who cannot approach them because of the lowness of their status or because of their unsightly appearance. They should be put in charge of the trustworthy and God-fearing officers and who can deal with them with the deep sense of responsibility to Allah. Taking care of orphans and aged people is all the more incumbent upon the rulers. The rights of the handicapped should also be the foremost concern of the rulers. (10) The lowest, the needy, and the destitute have a right to be looked after by the rulers. Each one of them has a right on the ruler according to his needs and conditions. The ruler cannot acquit himself of the obligations laid on him by Allah in this matter except by striving and seeking help from Allah and by accustoming himself to adhere to the right and by enduring on that account all that is light or hard. (11) With a view to discharging their duties and protecting the rights of the people, it is incumbent on rulers to check the activities of the officers. Mechanisms of such secret supervision would ensure the probity of the officers and their commitment to public welfare. Any misappropriation or corruption on the part of officers should invite proportionate punishment to them. (12) While taxation is unavoidable for the collection of revenue, yet people have the right to be taxed judiciously out of production from cultivable land. In case production suffers due to flood or drought or people face adverse conditions due to diseases etc. they deserve remission in taxes with

a view to improving their position. (13) The people have a right on the time and energy of the rulers. The rulers should make themselves available to people to the maximum possible extent. If the rulers become inaccessible to the people, misunderstandings, confusions, falsehoods and rumors have a field day. In view of the same, it is the duty of the rulers to communicate with the people as frequently as it is administratively possible. (14) It is the right of the people to be directed by noble and honest officers. It is the duty of the rulers to devise mechanism or formulate strategies that become instrumental in appointment of military commanders, administrators, bureaucrats, judges, ministers, consultants, advisors etc. of highest possible intellectual distinction and moral perfection. The statecraft is the most responsible job and rulers are accountable to God in this regard on the Day of Judgment. These officers or executives should be appointed through appropriate tests and not out of partiality or favoritism for such practice amounts to injustice and unfairness.

Key-Words: Qur'ān, Human Rights, Nahj -ul-Balaghah, Hermeneutical, Mechanisms, Justice, Forgiveness, Muhammad, 'Ali, *Sunnah*, Co-existence.

1. Introduction

The Human Rights Discourse in the West became all the more dominant in post-world war II era, a war in which millions of innocent people lost their lives and millions suffered the insufferable. The world-view and value-system of Islam advanced a fully-fledged human rights mission in early seventh century A.D.

through the revelations of the Quran and Sunnah of the prophet. The Quran declares all human beings to be the creation of One Allah, one in their origin and destiny, having equal rights and responsibilities; various nations and tribes signifying nothing but various identification marks and different colours and languages being nothing but symbols of Allah. "O Mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other. Verily the most honoured of you in the sight of Allah is the most righteous of you"¹

The Quran repeatedly emphasises on uniqueness or unicity of Allah and oneness or unity of mankind. All human beings are equal in the eyes of Allah, regardless of their community, nation, language, colour or culture. There is no divine sanction to privileging any community, race or nation over any other community, race or nation. Throughout history, people out of their own ignorance, prejudices, presuppositions, presumptions, assumptions and predilections have been dividing themselves on the basis of race, community, customs, nation, religion, culture etc. without any divine sanction human beings across the globe and history divided themselves on various pretexts and wallowed into long drawn-out isolations, alienations and pointless confrontations. The Quran accepts all the scriptures. It specifically instructs its believers not to make any distinction between various prophets. This religious pluralism is a revolutionary breakthrough in the annals of human history. The prophet of Islam exhorted us that no Arab has any superiority over a non-Arab and vice versa and no

¹ - Quran,49:13

white man has a superiority over a black man and vice versa; we are children of Adam and Adam was created from clay; the most honourable in the eyes of Allah is one who is most pious. Thus, the Prophet of Islam demolished all the walls of discrimination by succinctly outlining the charter of human rights in 632 A.D. All human beings irrespective of their colour, ethnicity, language or culture are equal for they have originated from the same source.

2. NahjulBalagha;

Nahjul Balagha, through creative hermeneutical fidelity, brings out a detailed account of human rights, emphasising especially on commitment of rulers to the rights of people in their respective jurisdictions. People have rights on their government. It is the duty of the governments to relentlessly exert themselves to fulfilling their obligations to the people.¹ They must be treated mercifully, kindly and affectionately. The government should not operate like a greedy beast feeling satisfied by devouring the people.² People can commit mistakes. They may act wrongly or wilfully. The rulers have to extend to them forgiveness and pardon without any discrimination on caste, creed or colour. Brothers in religion can have no special rights or privileges for every human being as a creature of Allah is entitled to equal mercy, kindness, affection and dignity.³ The rulers have to be just to the people even if the execution of such a justice goes against them, their near ones and their loved ones. For denial of justice signifies oppression of the

¹ - Nahjul Balagha, Ansarian Publication, 1981 A.D. Qum, Iran. P.456

² -(ibid, p.456

³ - ibid, p.456

creatures of Allah and oppressors of the creatures of Allah are open enemies of Allah.¹ The rulers should extend good behaviour to the people. They should lighten their hardships and avoid putting them to unbearable troubles.² The rulers should adopt a course of action that is in accord with what people agree upon. The agreement of the common people sweeps away the argument of the chief ones.³

While engaging in war is unavoidable, right to life is the most sacred and inviolate of all rights. In view of the same, it is incumbent on rulers to strive for peace even in the midst of war. The shedding of blood without justification is most abominable in the eyes of Allah and invites greatest Divine retribution.⁴ The people have a right to privacy and it is incumbent on rulers not to violate their right to privacy. The duty of the ruler is to rectify what is manifestly wrong. Whatever is hidden from the rulers should not be sought to be disclosed; it is for Allah to deal with whatever is hidden from you.⁵

The rights of the poorest of the poor, the destitute, the penniless and the disabled should be taken special care of by the rulers. It is the duty of the rulers to take care of those who cannot approach them because of the lowness of their status or because of their unsightly appearance. They should be put in charge of the

¹ - *ibid*, p.457

² - *ibid*, p.459

³ - *ibid*, p.457

⁴ - *ibid*, p.468

⁵ - *ibid*, p.458

trustworthy and God-fearing officers and who can deal with them with the deep sense of responsibility to Allah. Taking care of orphans and aged people is all the more incumbent upon the rulers. The rights of the handicapped should also be the foremost concern of the rulers.¹ The lowest, the needy, and the destitute have a right to be looked after by the rulers. Each one of them has a right on the ruler according to his needs and conditions. The ruler cannot acquit himself of the obligations laid on him by Allah in this matter except by striving and seeking help from Allah and by accustoming himself to adhere to the right and by enduring on that account all that is light or hard.²

With a view to discharging their duties and protecting the rights of the people, it is incumbent on rulers to check the activities of the officers. Mechanisms of such secret supervision would ensure the probity of the officers and their commitment to public welfare. Any misappropriation or corruption on the part of officers should invite proportionate punishment to them.³

While taxation is unavoidable for the collection of revenue, yet people have the right to be taxed judiciously out of production from cultivable land. In case production suffers due to flood or drought or people face adverse conditions due to diseases etc. they deserve remission in taxes with a view to improving their position.⁴

¹ - *ibid*, p.465

² - *ibid*, p.460

³ - *ibid*, p.462

⁴ - *ibid*, p.463

The people have a right on the time and energy of the rulers. The rulers should make themselves available to people to the maximum possible extent. If the rulers become inaccessible to the people, misunderstandings, confusions, falsehoods and rumours have a field day. In view of the same it is the duty of the rulers to communicate with the people as frequently as it is administratively possible.¹

It is the right of the people to be directed by noble and honest officers. It is the duty of the rulers to devise mechanisms or formulate strategies that become instrumental in the appointment of military commanders, administrators, bureaucrats, judges, ministers, consultants, advisors etc. of highest possible intellectual distinction and moral perfection. The statecraft is the most responsible job and rulers are accountable to God in this regard on the Day of Judgment. These officers or executives should be appointed through appropriate tests and not out of partiality or favouritism for such practices constitute sources of injustice and unfairness.²

3. Human Rights in Islam and the West

Of course, the contemporary human rights discussion has its origin in the beginning of post-world war II era. The basic arguments, principles and propositions pertaining to human rights have been worked out in Western Europe and Northern America. The Human Rights movement has now assumed a global character. Now, it is

¹ - *ibid*, p.467

² - *ibid*, p.461-64

globally recognized that all human beings are equally entitled to certain inviolate rights without any regard to religion, race, caste, colour, language, culture, gender, class etc. These rights are beyond ideology, culture or civilization. These rights have no national boundaries. They are globally or universally recognized to be stemming from the sacredness or holiness of life. Each human being is entitled to certain fundamental and inalienable human rights. There have got to be limits to violation of certain fundamental human rights. Violation of certain human rights remains unjustifiable whatever the arguments advanced by way of defence. All human beings are entitled to certain social, political, economic, cultural and educational rights. They are entitled to liberty, equality, dignity, safety, property, solidarity rights. Twentieth Century is the first century in which locus of human rights became the humanity of man rather than his history, geography, social status, economic standing, political position or cultural tag. Despite two World Wars and extensive colonial exploitation, twentieth century was also a century of liberation, deliverance, freedom and decolonization. It became a century of liberation from prejudices, injustice, exploitations and enslavements of varying hues and colours.

These human rights in the West took a long-drawn-out historical struggle for acceptance and implementation. The struggle was largely political, humanist, liberalist and secularist. However, the rights outlined in the Quran, exemplified by the Prophet and sanctified in the sermons and letters of Amirul Momineen, are vouchsafed to us through revelations in the Islamic world-view

and value-system. The human rights as enshrined in NahjulBalagha stem not from social, political, economic or cultural struggle put up by humans across centuries but from the relentless spiritual struggle put up by countless Prophets for millennia culminating into the manifest revelations encapsulated in the Quran. They are divinely sanctioned or ordained values or norms revealed as guidelines for carrying out social, political and economic operations across interminable frames of reference throughout history upon the globe. The contemporary human rights are arrived at, through historically bitterly fought and won Euro-American consensus. The Human rights outlined in the Nahjul Balagha are promulgated against the backdrop of Quranic revelations in which all de-facto power vests with God and only some de-jure power is delegated to human viceregency. This power too needs to be exercised within the divinely ordained guidelines. The logic of human rights advanced by West is teleological. We need to abide by the human rights because such a course of action is beneficial to mankind; international, inter-cultural and inter-religious respect for human rights can lead to greatest happiness of the greatest number of people across the globe. The logic of the human rights outlined in NahjulBalagha is deontological. We need to implement human rights because doing so is divinely ordained moral law. We have to implement human rights out of a sense of duty. Implementation of human rights is a categorical imperative. Doing so is not our choice; it is a call of the duty. We need to implement human rights, come what may, hell or high-water, without any regard to profit or loss, pleasure or pain, honour or

dishonour, power or loss of power etc. Respect for human rights in Islamic context must well up from our ultimate depth which is the locus of our divinity rather than from teleological or utilitarian considerations.

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