

Survey Of The Similarities And Differences Of Human Rights In Islam And In The West

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Necessity of the Discussion

Disregarding the difference between the two terms Human Rights in Islam and Human Rights in the West¹ the article attempts to look for the similarities and differences between human rights in Islam and the so-called human rights in the West as reflected in the Universal Declaration of Human Rights and the annexed conventions. After all, the article concentrates its focus on the similarities and the differences shall be briefly dealt with.

What induces us to concentrate on the similarities rather than the differences is that man is in need of the message of peace among religions and nations in this age as in all other ages. The proof for this claim is that dialogue among religions, specially the dialogue between Islam and Christianity has been in vogue during the recent years and the gatherings towards this end have played an incontrovertible role in bringing the Muslims and the Christians closer, and in creating ties between Muslim and Christian philosophers and scholars.

Furthermore, the message given by Sayyid Muhammad Khatami, the Iranian President, to the American people and the issue of "Dialogue among Civilizations" brought up by him which was fortunately welcomed by the universal community, requires the thinkers to contemplate and converse more on the linking bonds between international rights through conferences and meetings.

Another factor which makes the necessity of this discussion even clearer is the fact that despite the passage of a span of twenty years after the advent of the Islamic Revolution and despite the clear and inspiring messages of the Founder of the Islamic Republic of Iran, Hazrat Imam Khomeini, and the sayings of the Present Leader of the Revolution, Hazrat Ayatullah Khamene'i in respect to the common points among religions and civilizations and specially what was announced to the world in the recent one

and a half years by the President, a number of the world's super-powers and politicians are, however, trying to distort the face of the Revolution and the Islamic Republic.

They are incapable of enduring Iran's claim for freedom and independence, which is, accompanied by calling for observance of the rights of the oppressed people throughout the world specially the rights of the Palestinians. They try to render the minds of the nations rebellious to us especially to our ideological principles with a view to satisfying their domineering interests. Thus, it is incumbent upon us, and the seekers of truth and of happiness for man and the true advocates of universal peace and mutual understanding of the religions and the dialogue among civilizations to identify the linking bonds of world's religions, civilizations and cultures, promote friendship and love between human beings throughout the world and shield against anti-human and hostile propaganda of international Zionism and Imperialism who see their existence in the dissension and hostility among nations.

Approaches

The comparative study of Islamic human rights and Western human rights has long prevailed in the Islamic societies and a great bulk of books and essays have been written on this subject. The Western and Islamic scholars generally adopt three approaches toward this issue:

1. The first approach is total acceptance or rejection; in other words, they either accept one or reject the other without any reservation. Some Muslim thinkers reject the principles set forth in the Universal Declaration of Human Rights and seek after such rights only in Islam and assume the aforementioned Declaration as originating from human desires and even atheism. As opposed to their stance, some advocates of western human rights hold that the Islamic instructions are insufficient and even unjust. They question the origin of Islam, believing that such issues in Islam have been bound to time and place.
2. The second approach pertains to those drawn in by the western civilization. They know no other issue as this except in the Universal Declaration of Human Rights. After all, some believe in a religion like Islam, and see human rights as something outside the realm of religion; if they regard a worldly mission for religion, they consider it a phenomenon not as valid now as at the advent of religions. Therefore, if religions, which claim to express the divine knowledge, have stated anything on this subject, it has been only applicable for their own time and they may never be generalized for all times including our age. Deciding on this matter has been delegated to man by God.

When we come to the question of politics, this approach demonstrates the view that religion should be isolated from politics. According to this view, this separation is not a defect but the sign of religion's perfection. They hold that religion is in many ways superior to worldly affairs. However, what makes things difficult are the occasional contradictions between the Universal Declaration of Human Rights and the Holy Qur'an or other religious writings. This point will be briefly clarified at the end of this article.

3. The third approach is an intermediate one, which finds many similarities and connections between the sources, foundations and the materials of Islamic and Western human rights. The article attempts to display the point that similarities exceed the differences.

The Approach of this Article

This article adopts a similar approach and intends to show that the previously mentioned rights are similar even in respect to source, i.e. the ideological and general theoretic infrastructures. It is noteworthy that Ayatullah Javadi Amuli believes that sources should be identified first, then legal fundamentals be extracted from those sources and then legal texts be compiled in order to extract legal rules. For example, one of the articles of the Universal Declaration of Human Rights is that all people are equal before the law. The basis for this article is justice. Justice also originates from public and ideological approaches.

4-Public and Common Sources of Islamic and Western Rights

The origins of rights differ in materialistic and divine schools. Lawyers, who do not recognize a divine origin for rights, believe its source to be the human conscience and wisdom, which differentiates between good and the evil in individual and social areas. In Emile, for example, Jean Jacques Rousseau describes conscience as divine immortal instinct, celestial voice, virtuous and benevolent judge of the good and the evil. However, the disciples of the prophets believe that the prophets have informed people of such rights upon divine command. It seems that these two views are not contradictory and in fact complete one another. On human nature, the Holy Qur'an says:

“By the soul, and that which shaped it, and inspired it to lewdness and god-fearing.” (Surah as-Shams 91:7-8)

This verse clearly tells of divine inspirations granted to everyone and the path of goodness and evil has been shown to everyone. Therefore, in Qur'anic view, human nature, conscience and wisdom can distinguish right and wrong based on divine inspiration. On the other hand, revelation is a superb quality, manifested only in exalted spirits and wisdom. In other words, revelation and prophecy are the peaks of human wisdom and only suit those who have exalted spirit and superior wisdom. This is why our scholars regard the holy Prophet (P.B.U.H.) as the Absolute Wisdom.

Therefore, it is better to find the linking bond between these two, which is in fact focusing on human wisdom and conscience instead of causing opposition, only with the difference that in divine schools, this human spirit and wisdom have exceptionally evolved in the better men who are the prophets so as to make them capable of receiving divine revelations. In fact, scholastic theologians rely on human wisdom, but the wisdom, which has enabled them to fully perceive the truth with the aid of divine revelation. While in the works of other scholars, even philosophers, lawyers, and thinkers who have helped give shape to new schools, the likelihood of error and mistake may always be seen.

It is interesting that evidence for this view is clearly discernible in the works of western pioneers. For instance, somewhere in his work Rousseau says, “In order to discover the best rules and laws for the people, a total wisdom is required to see all human desires but not sense any of them, have any relation with nature but know it thoroughly: his happiness is not relevant to or dependent on ours, but is ready to help promote our happiness.”²

It must be added that this total wisdom as described by Rousseau is crystallized in divine prophets, although Rousseau’s indications show that he meant God.

Common Foundations

Unity Of Mankind

The original infrastructure of the first Universal Declaration of Human rights is the unity of mankind. This view is not only compatible with religious approach but it directly or indirectly arises from that, as, except when addressed generally for which terms like “O People”, “O Men”, “O Mankind” and are used, it is clear that in Qur’anic insight all men are equal. The sacred verse of

“O Mankind. We have created you male and female, and appointed you races and tribes, that you may know one another,” (Surah al-Hujurat 49: 13)

verifies this view. Furthermore, what is received from the oral and practical traditions of the holy Prophet and our religious leaders indicate the same approach.

In this regard, the holy Prophet states, “You are all the descendents of Adam and Adam came from dust.”

The provisions of the Universal Declaration of Human Rights also originate from a public and ideological approach governing at the time of formulating this Declaration, i.e. after the end of the Second World War, the formulators of the Declaration of the Human Rights believed that human family was a single entity with common gains and losses. This foundation per se originated from their ideology, which made them see external reality as this. Thus, the notion of man’s unity is based on the reality of the existence. Here, we also reach the linking bond of Islamic and Western human rights systems, as in the Islamic approach, the human family is one unit with common gains and losses.

As Sa’di, the outstanding Persian poet, says:

“The sons of Adam are the limbs of each other
Having been created of one essence
When the calamity of time afflicts one limb
The other limbs cannot remain at rest
If thou hast no sympathy for others

Thou are unworthy to be called by the name of a man.”

Man's Natural Value

The other common element between the human rights in Islam and the western human rights is the natural value and respect for man.

The Holy Qur'an states, "The best among you is the most upright one," and the preamble to the Universal Declaration of Human Rights talks of the recognition of the innate value of all members of the human family; it comes to our mind that this declaration has been, directly to indirectly, influenced by that Qur'anic instruction or at least both of them are compatible with supreme reason and man's wisdom. The deep difference between these two is believed to be the one that originates directly from revelation and the other relates to the divine revelation by some intermediate factors.

The Individual And The Society

Another linking bond between the Islamic and the Western human rights systems is the issue of individual and the society and man's individual and social dignity. Disregarding the theoretic and philosophical discussions related to individualism and socialism, in both legal systems, the interests of society are prevailing on the individuals. Means and instruments have been devised to protect the interests of each against the other.

The interesting point is that the conflict of the interests of the individuals and the society with the individual may be removed only by social institutions. This deeprooted experience has made mankind establish the government in order to regulate the relations of individuals with one another and with the society and give power and legitimacy to this institution. In this area, there may be seen many similarities between the statutory laws of man and the provisions of the Holy Qur'an and the tradition of the prophet.

Common Provisions

Besides the parts in which we discussed the fundamentals and sources of human rights, the similarities may be identified in the articles and principles of human rights as well. Here, we shall give some instances

- A) Life
- B) Freedom
- C) Justice

Life

Some Muslim scientists have divided life into two parts: material and spiritual. The attention to spiritual

aspects in Islam and its deletion from the Universal Declaration of Human Rights is the priority of Islamic human rights over the western one.³ In Islamic and Western Human Rights System, by material life we mean that man is born one day and dies another day and paying attention to this very life (or the material life) is another common point and a linking bond of these two systems. “Blood Shed and murder” is so vile and condemned in Islam that killing one person is regarded equal to killing all mankind and the verse

“He who kills one man it is as if he has killed all mankind,” (Surah al-Ma’idah 5:32)

is certainly about the common meaning we have in mind of “murder.” Of course, a more general interpretation might be derived from the context of the verse as well.

Freedom

Concerning the sublime value of freedom which serves as another link between the two law systems involved, it is to be stated that the fact that in this area, the mystical and religious concepts of freedom which is freedom from carnal desires and slavery by everybody but by God should not be mixed with the common meaning of the word in the concept of human rights.

By freedom, we mean the same concept given in the Universal Declaration of Human Rights implying that man is born free, slavery is banned and that everybody is entitled to live free and secure.

It is worth mentioning that man’s responsibility originates from his freedom. Man is by nature a free being. As he is wise, he himself regards restrains for his individual and social life based on wisdom and reason. These rational limits take a pure and real face in the process of mystical illumination and through divine revelation.

As suggested at the outset, human wisdom when exalted from the ordinary restrains and elevated to the superior state becomes capable of achieving the truth and human laws and rules of life through revelation. Therefore, as a reasonable being, man puts curbs on his natural and innate freedoms in individual and social life. Any man with a religion or belief in a school of thought has limits and regulations as well.

If some differences are observed in the Islamic and Western Human Rights with respect to the limits of freedom, this does not impair the rational and fundamental freedoms.

In other words, the Islamic and the Western human rights have set limits for man’s inherent freedom. From epicurist view, the limits and restraints on sexual freedom are much less than divine value-oriented approach, but even in the same western view, there are limits for this freedom such as the ban on rape and overt sexual activities. In other words, even in the freest of societies, human reason has not stopped working; it has restrained freedom though on a very small scale.

In order to remove any misconception, the basis of western view toward sexual freedom is a mixture of feeling and desire and if it has any rational basis it is mixed with irrational and diverted extravagances and with a reaction against sexual ban and guilt feeling concerning the sacred issue of marriage as sermonized by Church authorities. At any rate, this approach is condemned in Islam.

Justice

In the preamble to the Universal Declaration of Human Rights, it is expressed that lack of recognition of human rights has led to barbarous acts which have in turn made human souls revolt and in general, the rights of people should be protected by law enforcement so that man may not be urged to revolt against injustice and cruelty as a last resort. The following points may be seen in the articles provided in this declaration:

Prohibition of slavery (Art. 4), prohibition of torture, inhuman or degrading treatment or punishment (Art. 5), Equality of everyone before the law (Art. 7), the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted by the law (Art. 8), prohibition of arbitrary arrest, detention or exile (Art. 9), the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense (Article 11, paragraph 1), holding anyone guilty of any penal offense under national or international law at the time when it was committed (Article 11, paragraph 2), prohibition of arbitrary interference with people's privacy, family, correspondence, or attacks upon his honor and reputation (Art. 12), prohibition of arbitrarily depriving others of their property (Article 17, paragraph 1.)

These provisions are in fact evidence for enforcement of justice and removing injustice and the links of Islamic and Western human rights systems are quite firm and stable in them. The concept of justice in the Islamic teachings is so extensive which is an attribute of the highest rank of existence (God) and this attribute, like other attributes of God, is His nature.

What is stated is enough to show the superiority and the elevation of this issue, but the problem does not end here and the realm of justice has covered all the universe and all particles of the existence are covered by this general overwhelming issue so as it is said "The universe is made stable by Justice."

On the other hand, man with any religion, seek justice by virtue of reason and wisdom and hate cruelty and injustice and pressure in religious, social and economical domains. Therefore, what we see in the Declaration of Human Rights is a proper manifestation of man's wishes. Man strives to actualize and realize in his individual and social life what originates from the Creator of the World and what is current in the existence and what is the cause of its strength as instructed by his reason and wisdom.

In other words, man tries to make a model of the real external sample of justice, prevalent in the universe, deriving a value from an objective real affair.[4](#)

The Holy Qur'an states,

“Be believers, be you securers of justice, witnesses for God. Let not detestation for a people move you not to be equitable; be equitable—that is nearer to god-fearing” (Surah al-Ma’idah 5:8)

and

“And when you speak, be just even if it should be to a near kinsman.” (Surah al-An’am 6: 152)

These verses and similar verses show the esteemed position of Justice in the Qur’anic instructions. Whatever mentioned on the aforementioned issue in the Declaration of Human Rights is a direct or indirect reflection of the sacred teachings of Islam and other divine religions believed by man and cherished by man.

Differences

Let us now look at some parts of the Universal Declaration for Human rights, which are different from the Islamic approach and call the western and Islamic thinkers for dialogue and discussion on these parts:

1. All members of the human family have equal rights (introduction). It seems that Islam has a different view of the rights of non-Muslims.
2. All men are equal in dignity and rights (Art. 1)
3. The followers of any religion are entitled to all rights and freedoms mentioned in the Declaration (Art. 2)
4. Men and women of full age, without any limitation due to race, nationality or religion have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution (Art. 6).
5. Everybody has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship; and observance (Art. 18).
6. Everybody has the right to freedom of opinion and expression (Art. 19)
7. All children whether born in or out of wedlock shall enjoy the same social protection (Article 25, paragraph 2).

These cases should be studied in comparison with the Islamic rights.

At the end, we shall touch upon a pithy and noble point derived from the sublime teaching of Islam and can be counted as the striking differences between these two declarations. Although this case may be beyond the scope of our discussion according to some philosophers, lawyers, and politician, we deem it

proper to bring it up as this article deals with the similarities and differences between the western and the Islamic rights.

The point involved is the right of God and His will. This right is the basis of all human rights as viewed by Islam. As mentioned earlier, human wisdom and reason are the gifts of God but the point is that the knowledge of God is only His sacred nature. In this regard let us consider a saying by Imam Zain al-‘Abidin, ‘Ali Ibn Husayn (P.B.U.H.) who believes that all movements and actions are surrounded by divine rights and that it is incumbent on man to fulfill them; then he says, “The most important right of God is the right that God has set for Himself. The right, which is the origin of all rights and all rights, originate from it, from head to toe. And the greater right of God is to worship Him and take nothing as His partner.”

1. This mistake is due to the fact that many of the articles set forth in the Universal Declaration of Human Rights are based upon the principles of all religions and sects such as the right to property, security, ownership etc. on the one hand and on the other what is called the Islamic human rights enumerated in the Cairo Declaration of Human Rights are common readings of the Islamic teachings which allow no marring. It is safe to say we Muslims should not attribute our personal reading and interpretation to Islam.

2. Jean Jacques Rousseau, Social Contract, p.81

3. The idea of corporeal life is not free from mistake for life belongs to the soul and the soul is abstract.

4. Ayatullah Javadi Amuli’s words have been used.

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