



A COMPARATIVE STUDY OF HUMAN RIGHTS IN ISLAM AND UNIVERSAL DECLARATION OF HUMAN RIGHTS

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Abstract

The present paper examines Human Rights in the light of western and Islamic thought. Western concepts; particularly the Universal Declaration of Human Rights, is analyzed in comparison with Islamic perspective. It is done by examining the historical documents of west and religious scriptures of Islam. The aim of the paper is to highlight the relevance and importance of human rights in the contemporary global society.

Keywords: Universal declaration, Magna Carta, *Hajjat-ul-Wida*, humanity

1. Introduction

The history of the civilizations explicates the fact that the concept of human rights has always received attention among the societies of the world. The issue has always been elaborated by intellectuals and propagated by the champions of human rights. Prophets, Sages and philosophers had discussed the matter at great length, and each one of them has left a code or a manifesto, which determinists' 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 in detail. Islam, as a religion of peace and tolerance has always advocated the importance of human rights, brotherhood, freedom, equality and fraternity.

From centuries after Islam, the west proceeded 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. Hence forth, it accelerated the developmental process and evolved in 1948 as "Universal Declaration of Human Rights."

Human rights echoes as the *weltanschauung* of the contemporary era. Innumerable works had been done, and hundreds and thousands of traditional and modern scholars, both from east and west, are addressing this issue. Yet, academically, more attention is needed to present this subject properly.





2. 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 does not provide any concrete evidence to support this claim. Undoubtedly, the earliest testimony in this direction would be in the edicts of Republican Rome, which gave its citizens the right to participate in law-making and to elect public officials. In England, the petition of rights 1628, and the bill of rights 1689 are land mark documents. However, they are failed to provide any elaborated system of human rights. The idea is commenced from the comprehensive philosophy *droitsde’ 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 Barbons of France known as “French Revolution,” emerge with full of tremendous political and intellectual fermentation, which 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 were evident in every act of the government. This was the era, during which people got awareness of political injustice and economic inequities. But, unfortunately very soon the hopes of these revolutionaries 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. Its political failure, however, did not mean the end of its intellectual and moral triumphs. Infact, 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 was embodied in an historic document called “Declaration of the Rights of Man and of Citizens” adopted by the French National Assembly.¹

It was the influence of all these occurrences, which happened during the aforementioned period, which gave birth to an unending debate; and 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 which often had acrimonious debates for example, the famous debate between Burke²

¹Tahir al-Qadri, *Human Rights in Islam* (Urdu), (Delhi, Adbi Dunya, 2007), 93.

²Edmund Burke who ranked very high among the greatest English statesmen-philosophers during the later 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



and Paine.³ Moreover, rapid 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,⁴ Metternich,⁵ and Karl Marx discussed the dignity of human beings portrayed according to their respective ideologies.

However, all these ideologues and their ideological doctrines lacked the hope, which was necessary for the welfare of humanity. Even the establishment of the United Nations could not provide any solid solution, because it is believed that the charter does not conclusively elucidate the human rights and fundamental freedoms. In order to fill this gap, 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. It is encouraged, that every individual and every organ of society must keep this declaration in mind. Similarly, they shall strive to promote these rights and freedoms, by progressive national and international measures to secure their universal and effective recognition and observance -both among the peoples of the Members states, and among peoples of territories under their jurisdiction.⁶

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights; it consists of thirty articles, and is drafted by the representatives with different legal and cultural backgrounds from all regions of the world. With the passage of time, it managed to achieve 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

Colonies. [See also: Parveen Shaukat Ali, *Human Rights in Islam* (Delhi: Adam Publishers and Distributors, 1995), 20]

³Thomas 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: Parveen Shaukat Ali, *Human Rights in Islam*, 22-23]

⁴He was the great utilitarian philosopher who seriously questioned the concept of natural law and natural rights.

⁵He emerged as the leading Austrian statesman of Europe, after Waterloo. 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: Parveen Shaukat Ali, *Human Rights in Islam*, 26-7]

⁶Hans Kelsen, *The Law of the United Nations* (New York: Frederick A Praeger, 1996), 34.





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.”⁷

3. Human Rights in Islam

The history of Islamic civilization manifests that the concept of human rights has always been an essential issue- even in the primitive Islamic societies. The inter-tribal hostilities among the pre-Islamic ‘Arabs (*Ayyam-al-‘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 *Jahiliyya* Period, swank the provenance of humanity in ‘Arabia. Before the birth of Prophet Muhammad (SAW), Arabia was considered as the most degraded nation in the world. Islam, the sole factor and Muhammad the last messenger, the only preacher of Islam, elevated human entity and provided them the due status in the whole world. From the proclamation of Prophet-hood in 610 C.E., in the short span of 23 years, 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, after *Hijrah* in 622 C.E, Prophet Muhammad (SAW) framed the first written Constitution in Medina known in the annals of Islamic history as “the Constitution of Medina” (*Mithaq-i-Medina*).⁸ 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 announced it for the whole community and for all times to come.

While proceeding ahead through the *Seerah*⁹ of Prophet Muhammad (SAW), his address on the Conquest of Makkah (*Fath-i-Makkah*)¹⁰ declared the three important historical rights that later on, were enunciated as the parts of UN’s Universal Declaration. These three are as following:

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

⁷Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting and Intent* (Philadelphia: University of Pennsylvania Press, 1999), 20.

⁸It is the first written constitution in the recorded historical consciousness of the world. This was actually a covenant between Muslims of Medina, both *Anasar* (Helpers) and *Muhajireen*, (Migrants) and Jews of the same place. This can be also label as shortest but comprehensive written constitution in the history of world.

⁹The *seerah* is the authentic detailed life history of the Prophet (SAW) documented in the correct chronological order. It includes his life before and after his proclamation of prophethood.

¹⁰The 8th year of *Hijrah*, when Muslims conquered *Makkah* is known as *Fath-i-Makkah*.



The last sermon of Prophet Muhammad (SAW), delivered at *Makkah*, during the Farewell Pilgrimage known as *Hajjat-ul-Widda* is, in the real sense, the universal declaration of human rights, which has still an appeal and relevance in the contemporary times- as it's not just confined to Muslim world only. So, in a way, this is more comprehensive than the modern United Nations Universal Declaration.

Islam appreciates fulfillment of rights instead of demand of rights.¹¹ 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) acknowledged 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.¹²

It is the basic teaching of Islam to establish the rights of others. While mentioning *Haquq al-'Ibad*,¹³ Islam, crosses the boundary of justice and goes up to the level of *Ihsan*. the Qur'an portrays this as; “indeed, Allah (SWT) orders justice (*Adl*) and good conduct (*Ihsan*)”¹⁴ Islam—the advocate of human rights, left no field of human affairs to retreat or rebuild human life on best ideals and pattern.

¹¹Islam preaches fulfillment of rights rather than demand of rights. The basic teaching of Islam is that every person is under obligation to realize the rights of others in every possible way. The society will become an ideal society where duty of one individual is the right of other. When people are engaged in the fulfillment of their rights with this consciousness, such societies become the paragon of respect for rule of law and human rights. See *Al-Qur'an*, an-Nisa 04:36

¹²Alexander Hmailton Gibb, *Whither Islam* (London, 1932), 379.

¹³This is the more important and crucial category of rights in Islam. It means to perform the rights of human beings which have been laid upon by creator. Islam enforces to perform the rights of others instead of demanding the rights. Everyone is entitled with rights towards others. Allah (SWT) mentioned the rights of one towards other human beings as; “And worship Allah (SWT), and do not associate anyone with Him and do good to parents, and to relatives and to orphans, and the needy, and the near neighbour and the distant neighbour and the companion of your side and the wayfarer and to your male and female servants. Undoubtedly, Allah (SWT) loves not the proud, boastful.” (an-Nisa: 04:36)

¹⁴*Al-Qur'an*, an-Nahl, 16: 90.





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

The western world, preceded from 12th century, took the concept of human rights-the most critical dimension of the organized life of societies- into consideration very late. It had taken centuries to commence from Magna Carta¹⁵ to the Universal Declaration of Human Rights. Prior to the waves of human rights, western world was drowned in the 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. Whereas, 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 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. However, Islam, in the modern times, is wrongly portrayed by western media as the religion of terrorism and violence, by highlighting some anti-religious elements within Muslim world. The in depth study of Islam and the concept of human rights will 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 change with the passage of time and according to new requirements. 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. They do so, by taking the socio-cultural, political and economic needs into consideration. Thus, there are dynamic in nature and needs amendments with the passage of time. Therefore, are not universal and suitable for humanity in all times to come. As we see, at the time when the Universal Declaration of Human Rights was adopted, United Nations hoped 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.¹⁶

¹⁵It is considered as the foundational stone in the progress of freedom of Britain citizens.

¹⁶One 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.



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. Many Muslim countries do not fully accept the Declaration and considers some of its articles antagonistic with the Muslim creed and against the human dignity.

From the beginning 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. 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.”¹⁷

Islamic laws are divine in nature, Allah (*SWT*) the all-knowing has bestowed us a book of rules and regulations (*Al-Qur’ān*) which contains universal laws for the betterment of humanity irrespective of any discrimination. Allah (*SWT*) says in Quran 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.”¹⁸

Besides, Islam guarantees the practical implementation of laws in the world without any force and army. The believers obey the laws of Allah (*SWT*) by themselves, an integral part of religion, and follow their rights without transgressing the rights of others. Every Muslim or administrators, who claim to be Muslim, will have to accept, recognize and enforce these rights. 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*).”¹⁹ The following verse also proclaims, “They are the wrong-doers (*zalimun*)”²⁰ while a third verse in the same chapter says, “They are the evil-livers (*fasiqun*).”²¹

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. Nevertheless, if they regard God's commands as right but intentionally reject them and enforce their own decisions against God's, and then they are the

¹⁷Human Rights in the EU, HC Library

¹⁸al-Qur’ān, al-Isra, 17 : 70.

¹⁹al-Maida, 05: 44.

²⁰al-Maida, 05: 45

²¹Ibid., 05: 47.





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.

Universal Declaration needs force for its enforcement, because so far it is just a ‘Solemn 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, not with-standing 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.²²

It is important to note, that the westerners do not firmly find it suitable for themselves either. 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.”²³

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.”²⁴

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 (SAW) - the final messenger of God at the time of *Hajjat-ul-Wida,*’ so is it criticized by Muslim scholars as well. Centuries before the emergence of western liberal thought, Islam had laid the concept of human rights on very solid ethical grounds.

²²Majid Khadduri, *The Islamic Conception of Justice* (Baltimore and London: The Johns Hopkins University Press, 1984), 238.

²³*The Vienna Declaration 1993* (UN, NY, 1995), 30.

²⁴*Human Rights in the EU: The Charter of Fundamental Rights* (House of Commons Library, Research Paper 00/32, 20 March)



5. Conclusion

Undoubtedly, Both Islam and west promotes fundamental freedom and human rights. Yet, both use different perspectives. Islam perceives it from the perspective of humanity as the servants of God, whereas 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 (*SWT*) and His laws as the supreme, the man as the representative of God on earth. On the contrary, in western secular democracy, the subjects are considered as whole authority and the devised laws of their representatives are considered as supreme laws of country. Furthermore, western world is not yet succeeded to produce concrete and comprehensive policy of human rights as Islam had produced in the form of the last sermon of Prophet of Islam (*SAW*)—*Hajjat-ul-Wida.*'



BIBLIOGRAPHY

- Ali, Parveen Showkat. *Human Rights in Islam*. Delhi: Adam Publishers and Distributors, 1995.
- Al-Sheha, Abdul-Rahman. *Human Rights in Islam and Common Misconceptions*. Edited by Abu Ayoub Jerome Boulter Abdul Rahamn Murad, Revised Edition. <http://hrlibrary.umn.edu/research/Egypt/HumanRightsinI-slam.pdf>
- Arnold, T.W. *The Preaching of Islam*. London: 1913
- Baxi. Upendra. *The Future of Human Rights*. ed. 2nd, 2006
- Bhat, Ali Muhammad. "Individual and Property Rights from the Islamic Perspective." In *The Journal of Rotterdam Islamic and Social Sciences*, Vol. 4, No. 1, 2013.
- Dehlavi, Abdul Haq Muhadith, *As'at-ul-Lam'aat Sharh-i-Mishkat*. (Urdu Trans). By Abdul Hakeem Sharf Qadri. Delhi: Ateqad Publishing House, 2009.
- Gibb, Hamilton Alexander Roskeen, *Whither Islam: a Survey of Modern Movements in the Moslem World*. London: Routledge, 1932.
- Hitti, P.K., *History of the Arabs*. London: Macmillan Education Limited, 2003.
- Human Rights in the EU: The Charter of Fundamental Rights*. House of Commons Library, Research Paper 00/32, 20 March
- Kelsen, Hans. *The Law of the United Nations*. New York: Frederick A Praeger, 1996.
- Khadduri, Majid. *The Islamic Conception of Justice*. London: The Johns Hopkins University Press, 1984.
- Levine, Andrew. *Human Rights and Freedom, the Philosophy of Human Rights*. ed. S. Rosenbaum. London: Aldwych Press, 1988.
- Morsink, Johannes. *The Universal Declaration of Human Rights: Origins, Drafting and Intent*. Philadelphia: University of Pennsylvania Press, 1999, 20.
- Sanajaoba, N. *Human Rights in the New Millennium*. Texas: Manas Publications, 2002.
- Seighart, Paul. *The International Law of Human Rights*. Oxford: Clarendon Press, 1985.
- Tahir al-Qadri, Dr. *Human Rights in Islam*. (Urdu). Delhi: Adbi Dunya, 2007.
- Tahir al-Qadri, Dr. *Islam in Various Perspective*. Delhi: Ateqad Publishing House: 2009.
- The Vienna Declaration*. New York: United Nations, 1995.
- Whelan, Daniel J. *Indivisible Human Rights: A History*. New York: University of Pennsylvania Press, 2010.