

# Universal versus Islamic Human Rights: A Philosophical Study

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## Abstract

Human rights are those rights which applied to every single person simply because he/she is human being. It applies to everyone; everywhere without exception i.e. equal to everyone regardless race, culture, gender, age, color, social orientation etc. But, it is unfortunate that every human right is not a legal right. It depends upon the will of the state to convert into legal right. Islam declared about human rights in 6<sup>th</sup> century, while UNO issue universal declaration in 1948. The UNO charter basically classifies human rights in three dimensions. 1. Classical, political and civil liberty rights, 2. Economic, cultural and social human rights, 3. Rights of groups. The holy Qur'an declares that all human beings are progeny of Adam. Therefore, all humans, irrespective of their gender and color, are declared essentially equal. The key terms used by the holy Qur'an is huquq al-Allah and huquq al-'ibad, the rights due towards the Creator and the Sustainer and the rights of Allah's servants, i.e., human beings. The researcher makes an effort to understand the philosophy of human rights in Islam and UNO. The paper also attempts to summarize some of basic human rights given by the Qur'an and UNO. The paper especially focuses on a comparison of human rights between Islamic declaration and universal declaration and shortcomings in universal declaration thereafter.

**Keywords:** Human rights, Islamic view, Universal declaration

## 1. Introduction

Since the inception of civilization violation, torture, humiliation, cruelty, inhumanity, outrage, crime and exploitation etc. is in full swing. Even today, when we talk about human values, good governance and quality services to its citizen, violation of human rights could not be controlled. At global level, UNO has failed to effect a realization of human rights, while it has shown its double standards and ineffectiveness. In the presence of one or another charter or declaration – such outrageous violations of human rights keep taking place. But more often the rights which are given on paper are not actually given to the people in real life. Even in India, various Human Rights departments and agencies are working, but do they really grant justice to common people, probably no. Since a year, it is a funny that we are entangling in deciding cut of age of delinquency after Delhi case. While Islam has clearly declared that the age of maturity of a boy is 15 years. Since in Islamic human rights have been conferred by God, no legislative assembly in the world, or any government on earth has the right or authority to make any amendment or change in the rights conferred by God.

While addressing the people in his last sermon, Prophet Mohammad (saw) emphasized

**All mankind is from Adam and Eve, an Arab has no superiority over a non-Arab nor a non-Arab has any superiority over an Arab; also a white has no superiority over a black, nor does a black have any superiority over a white- except by piety and good action.**

The recent human rights abuses at individual and state level at Abu Ghuraib prison in Iraq; Afghanistan; as well as in the US detention centers in the Indian Ocean; the Island of Diego Garcia; al-Jafer prison in Jordan; in Charleston, South Carolina; and even in Pakistan, present glaring instances of the UN's failure in implementing its charter and conventions.

Irrespective of the legal definition of torture, humiliation, cruelty and inhumanity, the utter disregard for human rights in Iraq, Afghanistan, Palestine, Occupied Kashmir, Myanmar as well as in France and Australia by denial of cultural, religious, social, political and economic rights of the citizens, calls for a serious rethinking on the very concept of human rights in the world.

## 2. The Western Approach

The evolution of human rights in the West is often traced back to the Magna Carta of 1215, a contract between the Barons and the King of Great Britain – which allowed the protection of some rights to the Barons. The British Parliament passed a law in 1355 under which no one could be deprived of his life, liberty or land without following a prescribed procedure. In 1948, after another two centuries, Europe came up with the idea of the Universal Declaration of Human Rights under the aegis of the United Nations. On December 16, 1966, certain provisions of the Declaration were incorporated in the international Convention adopted by the UN General Assembly.

Though, the Magna Carta itself came into existence six hundred years after the advent of Islam, But the truth of the matter is that until the seventeenth century no one even knew that the Magna Carta contained the principles of Trial by Jury; Habeas Corpus, and the Control of Parliament on the Right of Taxation. If the people who had drafted the Magna Carta were living today they would have been greatly surprised if they were told that

their document also contained all these ideals and principles.

In the presence of one or another charter or declaration – such outrageous violations of human rights keep taking place. Another crucial issue is how to realize and implement human rights in the unstable world we live in today.

The major problem is dichotomy between the rights of the individual and the rights of a people continued to be a major problem in many countries even after their political independence the rise of individualism and focus on rights of the individual also helped in building the capitalistic system. Emphasis on individual liberty also reduced religion to a “personal matter” and ethics and morality to cultural relativism. The concept of individual rights and liberty was regarded as a symbol of enlightenment and a major achievement of the post-Christianity secular European mind. A holistic view of human rights, to a great extent, was yet to be comprehended.

The Westerners had no concept of human rights and civic rights before the seventeenth century. Even after the seventeenth century the philosophers and the thinkers on jurisprudence though presented these ideas, the practical proof and demonstration of these concepts can only be found at the end of the eighteenth century in the proclamations and constitutions of America and France. After this there appeared a reference to the basic human rights in the constitutions of different countries. But more often the rights which were given on paper were not actually given to the people in real life.

### 3. The Universal Declaration

The general assembly of UNO proclaims 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 freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of territories under their jurisdiction.

The Universal declaration has been endorsed as a statement of supreme common objectives of the human community rather than a binding law.

It is a statement of a group of rights strongly connected to man, and their implementation is wanted in the world". Thus, at the most this declaration, with all that entails remained a mere legal document.

The UNO charter basically classifies human rights in three dimensions.

#### 1. *Classical, political and civil liberty rights*

- Right to life and physical integrity
- Prevention against torture and discrimination
- Right to vote
- Religious freedom
- Ban on slavery

#### 2. *Economic, cultural and social human right*

- Right to work and freedom of living in a decent way
- Decent standard of life eg food, cloth and minimum standard of living
- Right to participating in cultural life
- Right of equality between man and woman
- Right of physical and mental health

#### 3. *Rights of groups*

- Right of development
- Right of clean environment
- Right to peace

### 4. The Islamic Approach

At the very outset, human rights have been granted by God; they have not been granted by any king or by any legislative assembly. The rights granted by the kings or the legislative assemblies, can also be withdrawn in the same manner in which they are conferred. The same is the case with the rights accepted and recognized by the dictators. They can confer them when they please and withdraw them when they wish; and they can openly violate them when they like. But since in Islam human rights have been conferred by God, no legislative assembly in the world, or any government on earth has the right or authority to make any amendment or change in the rights conferred by God.

The major contribution of Islam is a paradigm shift towards human rights. The key terms used by the Qur'an is *huquq Allah* and *huquq al-'ibad*, the rights due towards the Creator and the Sustainer and the rights of Allah's servants, i.e., human beings.

In the Islamic world view, rights are not subject to any class struggle or a favors by authorities, but a

matter of one's own fulfillment. These rights are not determined in view of the social status or the politics of majority and minority; nor are they linked to any racial or gender considerations. The Qur'an declare all human beings as the progeny of Adam. Therefore, all humans, irrespective of their gender and color, are declared essentially equal.

The Prophet, according to the Qur'an, is sent to the whole of humanity. The universal Islamic call for the unity of mankind is also based on these non-variables. The rights and obligations of an individual help in the social construction of reality on the principles of justice and equity.

## 5. Islamic Human Rights

*Every man whether he belongs to this country or that, whether he is a believer or unbeliever, whether he lives in some forest or is found in some desert, whatever be the case, he has some basic human rights simply because he is a human being.*

- ***The Right to Justice***

This is a very important and valuable right which Islam has given to man as a human being. The Holy Quran has laid down: "Do not let your hatred of a people incite you to aggression" (5:2). "And do not let ill-will towards any folk incite you so that you swerve from dealing justly. Be just; that is nearest to heedfulness" (5:8).

- ***Equality of Human Beings***

Islam not only recognizes absolute equality between men irrespective of any distinction of colour, race or nationality, but makes it an important and significant principle, a reality. The Almighty God has laid down in the Holy Quran: "O mankind, we have created you from a male and female." In other words all human beings are brothers to one another. They all are the descendants from one father and one mother. "And we set you up as nations and tribes so that you may be able to recognize each other" (49:13). This means that the division of human beings into nations, races, groups and tribes is for the sake of distinction, so that people of one race or tribe may meet and be acquainted with the people belonging to another race or tribe and cooperate with one another.

- ***The Right to Co-operate and Not to Co-operate***

Islam has prescribed a general principle of paramount importance and universal application saying: "Co-operate with one another for virtue and heedfulness and do not co-operate with one another for the purpose of vice and aggression" (5:2). This means that the man who undertakes a noble and righteous work, irrespective of the fact whether he is living at the North Pole or the South Pole, has the right to expect support and active co-operation from the Muslims. On the contrary he who perpetrates deeds of vice and aggression, even if he is our closest relation or neighbour, does not have the right to win our support and help in the name of race, country, language or nationality, nor should he have the expectation that followers will co-operate with him or support him.

- ***The Right to Life***

The first and the foremost basic right is the right to live and respect human life. The Holy Quran lays down: Whosoever kills a human being without (any reason like) man slaughter, or corruption on earth, it is as though he had killed all mankind ... (5:32)

- ***The Right to the Safety of Life***

The verse of the Holy Quran which has been mentioned in connection with the right to life, God has said: "And whoever saves a life it is as though he had saved the lives of all mankind" (5:32).

- ***Respect for the Chastity of Women***

The third important thing that we find in the Charter of Human Rights granted by Islam is that a woman's chastity has to be respected and protected under all circumstances, whether she belongs to our own nation or to the nation of an enemy, whether we find her in the wild forest or in a conquered city; whether she is our co-religionist or belongs to some other religion or has no religion at all. All promiscuous relationship has been forbidden to him, irrespective of the status or position of the woman, whether the woman is a willing or an unwilling partner to the act. The words of the Holy Quran in this respect are: "Do not approach (the bounds of) adultery" (17:32). Heavy punishment has been prescribed for this crime.

- ***The Right to a Basic Standard of Life***

*Speaking about the economic rights the Holy Quran enjoins upon its followers: And in their wealth there is acknowledged right for the needy and destitute. (51:19)*

- ***Individual's Right to Freedom***

Islam has clearly and categorically forbidden the primitive practice of capturing a free man, to make him a slave or to sell him into slavery.

## 6. Differences between Islamic and Universal Declarations

- ***Lacking in differentiating between original human dignity and dignity acquired***

The Islamic declaration distinguishes between the original dignity and the dignity acquired by him during his progress on the course of moral development and his good deeds in service of people. This is an important point which the Universal declaration failed to perceive.

- ***Sanctity of human dead***

Islam emphasis on the sanctity of the human dead which should be shown due respect and not to be arbitrarily subjected to post mortem examination without proper legal authorization. This again has been ignored in the Universal Declaration.

- ***Ethics covering conflicts and war***

Islam suggests the most wonderful regulations unprecedented in human history. Life is protected to the ultimate extent and the sanctity of human dignity is preserved even after death, as mutilation is prohibited even of a rapacious dog. And taking of prisoners of war has its ethical rules framed with full sympathy; it is also stipulated that farm lands and other civil establishments are to be preserved.

- Islamic declaration confirms respect for humanity, which is also confirmed by the Universal Declaration, but here it is extended to after death, including protecting the body and it's burial.

- The Islamic declaration declares that marriage is the basis for universal constitution, while the universal Declaration makes no reference to it.

- ***Rights of women***

The universal Declaration grants equal rights to men and women, covering even such matters as alimony, marriage portion, divorce and the like, but the Islamic declaration elaborates these aspects stating that a women has rights equal to her obligations, has her civil status, independent financial responsibilities, and the right to retain her name and lineage, whereas the responsibility for maintaining the family and their expenses rests on man.

- ***Islamic objective of education and training***

In the field of training and education we find that the Islamic declaration makes it incumbent upon the society and the state without limits and at all stages, whereas the Universal Declaration confirms that only primary level education should be compulsory and free, thereafter proposing equal opportunity for all the latter stages.

- According to Islamic declaration, the objectives of education have been summarized as: attaining perfection and balance in personality growth, strengthening belief in Allah and respecting rights and obligation and protecting them, by universal declaration differs from it.

- Islamic position declares that man is naturally born free, and rejects his being enslaved, exploited and humiliated, and regards his freedom as a consequence of his servitude to Allah, the exalted.

- ***Rejection of Imperialism***

Islamic declaration is its rejection of imperialism in all its guises, condemning it altogether, and giving the peoples the right to strive for liberty and self-determination.

- ***Concept of Globalized citizen***

Islamic declaration is that it makes no reference to the question of the right of holding a nationality.

- ***Right to work***

Islamic declaration confirms the right to work provided that it be lawful, which gives us to understand that there exist unlawful occupations such as holding monopoly, cheating, pursuit harmful to oneself and others, as it also strongly prohibits usury, whereas the Universal Declaration does not touch on these matters.

- One of the characteristics of the Islamic declaration is its rejection of subjecting man to medical and scientific experimentation, except on two conditions: consent and safety.

- Islam rejects framing of emergency laws that permit subjecting man to torture, humiliation, cruelty and degradation, or subjecting him to experiments and the like. It is an idea worthy of consideration, but universal declaration did not touch it.

- ***Concept of absolute freedom***

Universal declaration grants absolute freedom of expression and speech, but we declare it to be inappropriate because no speech could be allowed to create morally destructive effects, or to distort truth and insult other's sanctities.

- ***Enjoin good and forbid evil***

Another distinction of the Islamic declaration is granting man the right to "enjoin good and forbid evil", which stresses the responsibility of the individual in preventing violations of the ethics on the one hand and raising the moral values of the society, on the other.

- The Islamic declaration incorporates a noteworthy fact that authority is a trust not to be misused.

## 7. Drawbacks in the Universal Declaration

It may be summarized that the shortcomings in the universal declaration can be noted as follows:

- Separating the socio-legal question from the philosophical one.
- Failing to differentiate between the original human dignity and the dignity acquired through piety and good deeds.
- Failing to cover all related aspects of vital human rights such as man's life, sanctity of the dead, and the question of the annihilation of the foundation of human race.
- Ignoring the question of morality in settling disputes.
- Certain issues have been categorized as absolute, whereas those should be qualified and restricted, such as the rights of the married couples which are always taken to be equal in all respects of marriage; as also the question of changing one's faith.
- Not including the rights of parents and relatives.
- Not referring to the question of condemning imperialism in all forms.
- Not mentioning the individual's right to be provided with a moral environment.
- Tenth: granting absolute freedom of expression, which could be destructive.

## 8. Conclusion

Apart from UNO declaration, there are so many regional human rights bodies, which are in existence like European convention, African charter, Amnesty international and American convention on human rights, but situation of violence, torture, exploitation are not changing much. Western countries are accused of being violating human rights on pretext of war on justification of terrorism. Thus the investigator reached at the conclusion that there is a difference between manmade human rights and God made human rights. God made rules of human rights remain stable i.e. it does not change as per time, situation or geographical change, while manmade rules of human rights (made by any state, country or UNO) remain instable. It changes according to circumstances. So the query is, if Islamic human rights laws are ready to serve the human beings, why do not we take help from Islamic shariyat.

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