



HUMAN RIGHTS BETWEEN CONTEMPORARY ISLAMIC THOUGHT AND THE WESTERN VISION: A CRITICAL STUDY

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Abstract:

This research looks at how modern Islamic philosophy has critically engaged with the Western conception of human rights, especially in the years after the Universal Declaration of Human Rights (UDHR) was passed in 1948. It examines the main Islamic contention that the Western claim to precedent is challenged by Islam's establishment of a complete and divinely-sourced foundation for human rights more than fourteen centuries ago. The study examines the main objections made by Islamic scholars to the Western model, with particular attention to its individualistic and utilitarian tenets, its philosophical foundations in secular natural law, and the alleged fragility of its legal guarantees. The Islamic viewpoint, on the other hand, bases rights on divine revelation and presents them as holy obligations with strong internal (faith-based) and exterior (Sharia-based) guarantees. The internal contention within Islamic philosophy is also taken into account in the research, such as the belief that Western human rights ideas are a secularized form of Islamic teachings-"our merchandise returned to us." The main conflict that is brought to light is the essential distinction between a system that is created by man and one that is prescribed by God.

Key Words: Human Rights, Contemporary Islamic Thought, Western Vision, Law of Utility

1. Introduction:

Islamic criticism is linked to the period after the Universal Declaration of Human Rights in 1948, which paved the way for subsequent international and regional declarations on human rights. Islamic research has focused on critiquing the Western vision, attempting to clarify the intellectual and philosophical origins of human rights in Islam and the West. Since the 1980s, Islamic thinkers have shown growing interest in human rights due to intellectual, cognitive, political, and legal motives. This interest is driven by global concerns, violations of human rights, and the emergence of monitoring organizations.

2. Islamic Rebuttals to Western Human Rights Views:

When discussing the Western perspective on human rights, modern Islamic thought first concentrated on the Western suspicion that sought to deprive Islam of its concern for human rights. This suspicion was supported by the fact that the term "human rights" is not found in the Holy Qur'an or in the works of earlier Islamic scholars. In addition, by addressing certain Islamic historical periods marked by decadence, stagnation, and political and social decay, the author adopted a fragmentary historical perspective and extrapolated the conclusion that human rights have no place in Islamic practice to the remaining Islamic historical periods. The Western view suggests Islam is unsuitable for modern society, and Western human rights practices are more suitable for globalization. However, contemporary Islamic thought rejects this notion, arguing that Islam legislated human rights over fourteen centuries ago, with sufficient guarantees. The Islamic nation during the Prophet's era and the Rightly-Guided Caliphs followed it, and the current Western human rights practices are still outdated compared to Islamic practices [1]. Contemporary Islamic thought does not consider human rights issues as a contemporary issue, but rather based on the humanistic philosophy of Islam. While some eras of Islamic history have seen violations of human rights due to incorrect application of Sharia, these actions should not be attributed to Islam as a religion. Evaluating Islam's position on human rights requires comprehensive study of thought, systems, symbols, behavior, and application. The positive aspect is to stop at the shortcomings in the negative historical models, and the elements of construction and rooting in the positive models [2]. Islamic debate on human rights emphasizes the specificity of Islamic rights and warns against imitating Western standards. While Western human rights principles align with Islamic values, comparing them is not justified. Importing Western value systems based on philosophical foundations may lead to misunderstandings and misunderstandings. Civilizational openness is crucial for understanding these differences [3].

- Continued dependence on others, which leads to a state of cultural dependency.
- Social conflict and division that may be caused by the clash of values resulting from the adoption of the imported rights system and the attempt to internalize it in Islamic societies.
- Depriving Muslims of building their own system, on the one hand, and depriving the West of a civilizational beacon that they are in dire need of today as a result of the social disintegration it has reached, on the other hand Contemporary, and this is considered one of the most important challenges facing the jurisprudence of rights and freedoms in our time. It also does not miss diagnosing the reasons that led to the deterioration of the legal situation, whether at the level of research or reality.

These reasons are represented by the incorrect or incomplete interpretation of the spirit of Islam and its teachings, the incorrect application of those teachings, and the failure of Muslims to rise in thought and action to the humane teachings of Islam. This is in addition to the negative role played by authoritarian and closed-off governments, which stood in the way of free theorizing and aspiration for the better. All of this does not mean the emptiness or weakness of the Islamic system. In this regard, reference is made to what is included in the eternal Qur'anic texts, the hadiths of the Noble Prophetic Sunnah, the biography of the Messenger, may God bless him and his family, the biography of his pure family, and the biography of his venerable companions, to transform them into applications of the message with scientific experimental proof into an eternal argument for humanity and its practical applicability and its flexible movement with the development of time. If the Islamic library lacks writings that directly

address this field, this does not mean that the Islamic cultural heritage is devoid of books that contain chapters on jurisprudence in which terms and topics on human rights and freedoms are mentioned, sometimes in detail, and at other times in generalities, such as the book “Jawahir al-Kalam” by Sheikh Muhammad Hasan al-Najafi, “Al-Fiqh” by Sayyid Muhammad al-Shirazi, and “Al-Urwat al-Wuthqa” by Sayyid Kazim al-Yazdi, in addition to encyclopedias by some Sunni jurists that dealt with the subject of rights, such as “Al-Mabsut” by al-Sarakhsi and “The Theory of Objectives in Al-Muwafaqat” by al-Shatibi, and jurisprudential encyclopedias on rights that collected jurisprudential achievements in this field [4].

3. Western Criticisms of Human Rights:

The West's intellectual foundations for human rights differ from Islamic treatment, with rights often resulting in conflict and competition. Western legislation allowed individuals to practice their desires and rights without restrictions or conditions, such as sexual relations and atheism, despite potential consequences for society and individuals [5]. The Islamic view of human rights differs from the fundamentalist legal foundation, which focuses on clear and ambiguous provisions. Rights in Islam are not non-binding morality but rather legislation, with some details left to the Muslim community's development. The basis of permissibility and prohibition is man's interest, with individual rights and freedoms limited to those of others [6]. Contemporary Islamic thought raises many points that it considers to represent a conception in the Western vision of rights, including:

3.1 The Rule of the Law of Utility:

The Islamic and Western systems differ fundamentally in their approach to benefit, a central idea in the Western Renaissance project. Both seek a balance between individual and others' benefits in social and political relations, respecting each other's rights while ensuring their own. However, practical reality often favors individual benefit over rationality, as more rights align with contractual and legal character, leading to more individual benefits in relationships [7]. The Western Enlightenment project focuses on individualism and exploitation of law for personal gain, while Islamic law aims to create an ideal society balancing individual interests with societal interests. Comprehensive human rights in Islam guarantee individual, family, community, and state rights, addressing both theoretical and practical dilemmas.

3.2 The Ambiguity of Natural Rights:

Human rights, as outlined in the Universal Declaration of Human Rights, originated from philosophical doctrines in the seventeenth and eighteenth centuries. These doctrines focused on individual freedom, property, tranquility, and resistance to injustice. These rights were often linked to Westerner individual freedom, rather than the rights of all human beings. The individualist view prioritized political and civil rights over social and economic rights, leading to conflicts and violations of human rights. Islam emphasizes the interdependence and balance of rights and duties, establishing that rights are linked to duties, and that what is a right for one person is a binding duty for the benefit of the other [8]. Islam prioritizes limited rights in charters over bourgeois interpretations, ensuring continuity and treatment of various societal issues for all genders and age groups. This separation of rights is based on the human mind's inability to realize its true interests and psychological perfections, and complex social problems. However, this does not diminish human capacity and personality. Islam's basic pillar is the freedom of the individual, recognizing their ability to choose with full will without intermediaries or guardians, except in rare cases. This freedom establishes basic human rights, including expression, thought, research, and contemplation.

3.3 Weakness of Guarantees:

Islamic criticism of Western human rights is not limited to their philosophical foundations but also extends to their formality, claiming they are negative and formal, lacking practical applications and protection from oppression. The definition of rights is often abstract, lacking detailed techniques for implementation. The 1948 Declaration of Human Rights is a prime example of this criticism [9]. The lack of guarantees for human rights and freedoms makes them subject to subjective conditions based on state interests, rather than objective recognition. Despite international charters and covenants, double standards and law confiscation favor the strong, often in developing countries. Agreements are often violated, codified in legislative texts like emergency law and martial law, and used in human rights reports [10]. Islamic law prioritizes human rights through legislation and piety towards God Almighty. It establishes, implements, supports, and struggles for these rights, making them sacred duties. The state apparatus guarantees these rights through the penal code, jurisprudence, and the independence of Sharia courts. Violations of Sharia law, such as attacking sanctities or others' rights, are punished to prevent loss of rights. Recent developments in life have prompted a renewed vision for guaranteeing rights, with some researchers advocating for Islamic jurisprudence to establish and guarantee their credibility through constitutional oversight and national oversight of media. Rights in thought, religion, sect, and political orientation are necessary, combining rights, awareness, technology, human concern, training, and rationality [11].

4. The Difference between the Islamic and Western Formulations of Human Rights:

The Western vision of human rights is criticized for its focus on natural law, a positive philosophical foundation, and its legal adaptation. This differs from the Islamic perspective, which views human rights as a result of human nature, and is based on a more complex set of ethical principles [12]:

- Eternal natural rights are something that cannot be measured or their practical existence verified by abstract reason. Since man is social by nature, the existence of natural rights cannot be proven in isolation from social existence within the framework of the political community.
- The natural law on which Western rights are based is one of the vague philosophical foundations and an indefinite concept, which deprives these rights of the depth and strong motives for adhering to them.
- Since nature is the origin of human rights, the judgment in resolving the dispute when the natural rights of individuals or nations conflict is then the material power that the individual or nation possesses. Therefore, it is legitimate in capitalist societies for poverty, misery, and oppression to be concentrated among weak minorities in society.

In contrast, the establishment of rights in Islam is based on the belief in God Almighty, and in its depth, comprehensiveness, and permanence; it cannot be compared to the idea of natural law. The fact that rights are based on God Almighty and His law leads to human rights becoming a religion and belief for Muslims, the violation of which is forbidden. Islam did not leave the establishment of rights to man because he is driven by the achievement of his own interests and the

interests of his people, while rights are God's scale that does not oppress any race, group, or class. The Muslim must also adhere to these rights even if they contradict his individual interests and desires. These rights are established through the legitimate state, which has a positive, not a negative, goal. That is, its objectives are not only to prevent aggression from people against one another, to preserve people's freedom, and to defend the state, but rather its supreme goal becomes the system of social justice brought by the law. In terms of purpose, human rights in the Islamic perspective are linked to the ultimate purpose of Islamic legislation, which is to achieve the servitude of creation to God Almighty and to preserve the objectives of the Sharia. The purpose of the Western perspective, however, is linked to the achievement of Western goals and values, which are specific to certain classes or peoples. Furthermore, Western legislation has often neglected the rights of non-Western peoples, which makes human rights in Western democratic theory the rights of Western people only, and the rights of those with concentrated wealth and material power, and not universal rights for all people, even if Western theorists and thought claim otherwise [13]. Another objection that contemporary Islamic thought points to in the Western conception of human rights is that the sum of Western rights and freedoms is formal and negative, giving people theoretical capabilities without enabling them to attain them. There is no doubt that a right that its owner cannot enjoy is worthless, and it has no value if it does not have guarantees to protect it from violation. It is the right of the Western person to think, express himself, and possess, but in reality, he is unable to do so as long as power, wealth, and culture are held by a limited class of citizens, who are theoretically equal to him in those rights [14]. Moreover, Western theorizing about human rights is often limited to abstract general principles based on the concept of freedom, justice, equality, and brotherhood, without clarifying the detailed techniques that clarify these concepts. In other words, it suffers from a deficiency and ambiguity in its foundations and concepts, while rights in Islam are detailed with utmost clarity. The legal texts in the Holy Quran and the Sunnah of the Prophet specify rights and prohibit their transgression and violation, such as the prohibition of killing to preserve human life, the obligation of jihad to eliminate tyranny and the enslavement of man to man, the prohibition of slander to protect honor and dignity, and the prohibition of usury and monopoly to ensure the exercise of the right to lawful earnings. In terms of characteristics, the Islamic concept of rights differs from the Western concept, which has neglected a large part of the individual's duties to his society, due to its focus on individual rights. Islam, on the other hand, makes the rights of the individual part of the duties of others on both the individual and societal levels. In Islam, man is God's representative, and within the covenant of representativeness, all his rights and duties are granted, and there is a correlation and reconciliation between individual rights and the public interest, as every individual right includes a right for the group, with priority given to the group's right whenever a clash occurs. This balance is the missing link that deprives the Western world of the spirit of truly applying human rights at all levels. In addition to the above, rights in Islam simultaneously become costs borne by Muslims. For example, there is a link between the right to express an opinion and what a Muslim must do in terms of enjoining good and forbidding evil when he senses that something is contrary to Islamic law. Compared to the Western understanding of freedom of opinion, it is closely linked to personal freedom, which prompts a person to adopt or reject it [15]. On the other hand, even if most Western constitutions stipulate that freedom of opinion is guaranteed for the citizen, this freedom is restricted in reality by two restrictions:

The first is the control of major capitalist monopolies over the media and their ability to direct the media and control the sources of news and information.

The second relates to the restrictions imposed by the state under the pretext of not violating the freedoms of others and maintaining internal security, which are often used as a pretext to limit the ability of individuals to express their opinions. These differences do not negate other views in Islamic thought that see the Western view of human rights as no different from the Islamic perspective: there is a similarity between the two sides, even if the names differ. The natural rights based on natural law in the West are the same as the legitimate rights in Islam. "What the West calls natural law does not differ from the content of Islam, the permanent law of God for all of humanity, which is supreme over all else" [16]

Some researchers offer an explanation for this similarity based on what is called in anthropology "cultural contact." The Crusades were the crossing point for the transmission of human rights principles in Islam to Christian Europe, as they prompted thinkers, researchers, and even some churchmen to call for the empowerment of human rights in European societies at a time when they were groaning under the yoke of the unjust Triple Alliance: the throne, feudalism, and the clergy [17]. One researcher speculates that natural law jurists borrowed its content from Muslims during their cultural and civilizational interactions in Andalusia [18]. Those who hold this view did not overlook the fact that Western rights are based on a secular foundation and are not based on human servitude to God Almighty, nor do they adhere to the values and teachings of the prophets and messengers, especially the teachings of the religion of Islam. Nevertheless, these rights remain similar to human rights in Islam. We do not see a new right brought by the Universal Declaration of Human Rights in addition to what Islam brought, with the distinction of Islamic practice as a wonderful practice that can constitute a human model to be emulated in this field. According to the proponents of this view, Islam does not conflict with the Western vision of human rights, except that it is based on a secular foundation in its practical behavior. Therefore, it represents an Islamic image that has returned to us through a Western invitation, or it is "our merchandise returned to us." Some believe that the establishment of human rights, which was carried out by European philosophers in the modern era, transcends cultural particularities, and that establishment returns human rights to the beginning, to before every civilization or culture, and then reaches the universality of human rights, the universality of the Universal Declaration, which represents another cultural point of view [19]. It is clear from the above that contemporary Islamic thought believes in the precedence of Islam over other intellectual schools of thought in establishing human rights and freedoms. It is also characterized by realism and practicality, as it does not leave these rights to the desires of individuals and governments, but rather makes them obligations that fall within the framework of divine obligations, and imposes religious and otherworldly responsibilities on them. It also believes that these rights differ from rights in the Western concept in that the latter are the product of the human mind, while rights in the Islamic concept have a sacred, divine nature.

5. Conclusion:

The debate between modern Islamic philosophy and the Western understanding of human rights is essentially a discussion of the concepts' beginnings, philosophies, and ultimate goals. The idea that human rights are a recent, Western

invention is mainly rejected by Islamic scholarship, which maintains that Islam gave these rights a deeper, more permanent basis that is based on divine scripture. The criticism goes beyond historical precedent and touches on the core principles of the rights. Because of its secularism, which creates an individualistic, conflict-oriented society where rights lack final sanction and are subject to manipulation by the powerful, the Western framework, which is based on natural law, is viewed as fundamentally defective. The Islamic perspective, on the other hand, proposes a system in which rights are inextricably linked to obligations and are bestowed by God, rendering their observance a form of worship and their infringement a sin against the Almighty. This elevates human rights to a level of permanence and power that cannot be attained by laws created by humans. The prevailing perspective highlights the necessity of an authentic system that avoids cultural dependency and achieves the total justice envisioned by Sharia, while some scholars find a bridge in the possible historical transmission of these ideals from the Islamic world to the West. In order to create a society in which human dignity is not merely a negotiated social contract but rather a divinely granted honor that is safeguarded by both faith and the law, modern Islamic philosophy ultimately demands for a revitalized confidence in its own legacy.

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