

Islam and Human Rights An Approach in the Context of the Western Tradition of Human Rights

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1. Introduction

Islam is the revealed religion from Allah. It has been revealed to the last Prophet Muhammad (SAAS) in the final form for the guidance of the entire mankind. The dignity of man and his various freedoms termed commonly as rights and duties are duly enjoined in Islam. Rationality, justice and welfare are the chief characteristics of these rights. In the history of the West, the tradition of human rights is also traced and its culmination is found in the present United Nations Declaration of Human Rights (UNDHR) made in 1948. Now-a-days an ample debate has taken place among the scholars about the implications of this Declaration of Human Rights (DHR) and Islamic position of human rights.¹ The present paper attempts at the brief analysis of the evolution of human rights in the Western tradition of thought and the position of human rights in Islam. The normative sources of the two traditions are also elaborated in the light of the discourse of the contemporary scholars.

2. Evolution of Human Rights in the Western Tradition

Although the Greek thinkers emphasized on government, laws and justice but there is no mention of their any worthwhile concern with human rights. Their division of people into high and low types and calling the high class people only capable persons to rule suggest the absence of the basic rights of man in their

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system.² Moreover both Plato (428-347 BC) and Aristotle (384-322 BC) subordinate the good of an individual to that of state and no appeal is allowed beyond the *polis* (state). They thought that it was their natural right to debar slaves from the participation in the state and the rights of justice. The stoics, however, opened the door of participation in the *polis* and considered an individual a moral agent. They influenced greatly the Roman legal system and emphasized on the notion of 'freedom' and 'equality'.³ This is generally understood as the outcome of their relation to the stoic ideal of 'living agreeably to nature', implying that there is a natural order in the world at large which is governed by reason and the individuals can be benefited by discovering nature and living in conformity to its order. Cicero, the Roman legal thinker, calls the rules of such order natural rules of 'universal application, unchanging and everlasting . . . one eternal and unchangeable law . . . valid for all nations and all times.'⁴ This idea of equality of men on the basis of natural order and reason contributed much to the development of the theory of 'natural rights'- universal and rational stand of justice. However, some scholars describe Cicero's theory as more the outcome of his Christian faith -- faith in God's universal and absolute law rather than his own philosophy.⁵ The Magna Carta which was granted by king John of England to the English barons in 1215 as a result of the heavy taxation burden. The barons had protested against heavy taxes and were against the continuance of king John as their ruler unless they were not given the concessions in their rights. This led to the Magna Carta agreement that granted a number of rights to barons specially about the protection of land of property, no taxes be imposed without the agreement of the common council, no imprisonment without trial and the merchants could travel freely in and outside England. This also checked the absolutist power of the king.⁶

During the fourteenth to the sixteenth centuries the ideas of Machaville were the dominant influence upon the European political thought. It promoted the anarchy of the kings. It was, however, under the Renaissance that led to the emergence of the individual rights in Europe. In 1679 the British parliament passed the law which provided the citizens right to protection from illegal arrest. In 1640

the revolutionary army restricted the jurisdiction of the British Parliament. In 1689, this parliament passed a historic constitutional document, Bill of Rights, which was considered as the complement to the freedom of Britain.⁷ In this regard the ideas of the great legal thinkers of 18th century like John Locke (1632-1704) and Rousseau (1712-1778) became influential. Locke propounded that political authority was not a mere power but power and right. Political is vested in the individual's rights and any authority that over sides his right is to be resisted. State is the important agency of the realization of the rights. In his "social contract", Rousseau examines the ideas of Hobbes and Locke and tries to synthesise them. He, too, however, emphasizes the rights of an individual rather than the state.⁸ Immanuel Kant (1724-1804) is said to have influenced the evolution of the theory of individual rights in the West. To Kant reason is morality and hence it is possible for an individual to use his reason, independent of everything and create a just and adequate order.⁹

In June 12, 1776 George Freeman's written constitution was issued from Virginia, granting the freedom of press, faith and legal trial. Another document written by Thomas Jefferson was issued on the eve of the American freedom on 12th July, 1776. It was based on the ideas of John Locke. In 1789 American Congress, 4 years after implementing its constitution, incorporated some amendments in it which are known as the Laws of Rights. In the same year, the Assembly passed the bill called Declaration of the Rights of Man. In 1792, Thomas Paine published his book, *The Rights of Man*, which influenced much the ideas of the West and became an impetus to the move of human rights. The move, however, got strengthened more and more during the 19th and the 20th centuries. In 1868, the 14th amendment was made in the American constitution to the effect that subject to the disobedience of the constitution, nobody can be deprived of his right to live, freedom, property and equality before law.¹⁰

After the first World War in 1914, Germany and many other European countries incorporated the basic rights of man in their constitutions. H.G. Wells' book *New World Order* too popularized the movement and the signing of the

Atlantic charter in August, 1941 is described by Churchill as the preservation of human rights and the end of the World War. After the Second World War, the human rights became more prominent in the written constitutions of Europe. In 1946 France incorporated Declaration of the Rights of Man of 1789 in its constitution. In the same year Japan made the basic human rights as the part of its constitution. Owing to this necessity and popularity of human rights at the international level the United Nations Organization adopted the Universal Declaration of Human Rights (UDHR) 10th December, 1948, prepared and submitted by its constituted Commission of Human Rights. In the general Assembly it was passed by 48 votes and none was against it and eight members were absent.¹¹

The UDHR contains a Preamble and thirty articles. It guarantees all basic freedoms and rights to both men and women without any distinction of race, colour, sex, language, religion etc. It starts with the following words:

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.¹²

Some of its important articles reflecting its general objective are as following:

- Article 3. Everyone has the right to life, liberty and security of person.
- Article 4. No one shall be held in slavery or servitude, slavery and slave trade shall be prohibited in all their forms.
- Article 5. No one shall be subjected to torture, or to cruel, inhuman or degrading treatment or punishment.
- Article 6. Every one has the right to recognition everywhere as a person before law.
- Article 7. All are equal before law and are entitled without any discrimination to equal protection of the law.
- Article 8. Every one has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted by constitution or by law.

Article 12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attack upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13. Every one has the right of freedom of movement and residence within the border of each state. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14. Everyone has right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property.¹³

The charter contains many other rights treating the rights of other socio-economic domains of life like privacy, marriage, conscience, nationality, employment, health, motherland, childhood and education. The UDHR document is, therefore, the out come of Western liberal, democratic and empirical traditions of thought. It has its good ends to render the dignity of man to live in a society of human beings, share power, policy decisions, develop his personality and achieve prosperity. However, it depicts many flaws in terms of its liberal and secular character and the unbalanced commitment of the UN to it that affects the proper application of its charter in the world. In many respects these rights are comparable to the Islamic tradition of human rights and we are discussing the latter in the following section.

3. Human Rights in Islam

The concept of human rights in Islam, in its perfect form, starts with the advent of Prophet Muhammad (SAAS) as early as the 7th century (CE), more than a thousand years before the West developed this concept. The Prophet was revealed the guidance that is called Islam and he followed and preached it throughout his life. Dignity of man, his freedom, equality, justice, welfare vis-a-via Unity of Allah (*Tawhīd*) are the foundational principles of Islam. Human rights as such form one of the fundamental components of Islam. These human rights can, however, be analysed briefly here into two categories— the basic human rights and the rights of the citizens in an Islamic state.

(A) Basic Human Rights

Basic human rights are those rights which are granted to man for his being a human being. They are of general nature. Each human being enjoys them irrespective of his being a Muslim or a non-Muslim, living in the Muslim state or outside it. Each Muslim is bound to safeguard them to his possible extent. They are discussed as following:

(i) Right to Life. Human life is very sacred in Islam. Islam protects human life with its necessities. Neither an individual is allowed to take away the life of another individual nor shall the state destroy the life of a human being except if law permits.

The Qur'an instructs about this as following:

Do not take any human being's life (the life) which God declared to be sacred otherwise than (in the pursuit) of justice. ¹⁴

And the Prophet (SAAS) is reported to have said:

O people! Your lives are wholly forbidden to one another until the Day of Judgement. ¹⁵

Hence all forms of man slaughter, homicide, infanticide, etc. are declared as heinous crimes in Islam. This right is granted to each individual being irrespective of his tribe, nationality, colour and faith. Islam allows taking away the life of an individual only under five conditions:

a) to retaliate the deliberate killing of some person, b) to fight the enemy in war, c) to punish the rebels of an Islamic state, d) to punish the married man or woman on the commission of fornication, e) to punish on the commission of the high way robbery. Outside these conditions no killing is allowed in Islam and the life of a man is fully secured. The Prophet's sunnah and the precedence of his pious caliphs amplify it. In his farewell sermon, the Prophet (SAAS) declared:

Oh! People! Your blood, property and honour are as sacred to one another as is sacred this day, this sacred month (of Hajj) and this sacred city of Makkah. Beware! It should not be so that you kill one another after me and fall in the domain of infidelity (*kufir*). ¹⁶

In Islam not only life of an living being is secured but that of a child who is likely to take birth. The Prophet did not punish the woman named Ghamidia to

death on her accepting the crime of fornication and made her to wait till she delivered her child as well as fed him during the milky period. So life of the unborn and the newly born is secured justly.¹⁷

(ii) **Respect for Chastity of a Woman.** Islam respects as well as protects the chastity of a woman. It never allows any such practice that may affect or harm her chastity. Woman has her own dignity and sanctity in Islam. No promiscuous relationship is allowed to maintain with her irrespective of her status, religion, nationality, colour, race etc. In all cases of her willingness or unwillingness is forbidden in Islam. To ensure her chastity caution is given about the prohibition of the indecent acts leading to adultery in the Qur'an in the following words:

Do not approach (the bounds) of adultery.¹⁸

Not only this but the perpetrator of this crime is subject to punishment (had).

(iii) **Right to Financial Help.** Anyone who asks for help or suffers from the deprivation of the property or wealth is entitled to the help of the Muslims. There is no discrimination of his belonging to any country, race, colour and religion. Whenever the Muslims feel that a man is really in need of their financial help then it is their duty to help him. The Qur'an states:

And in their wealth and possession the right of him (needy) who asked and him who was prevented (from asking).¹⁹

The Prophet has said:

One who has no guardian Allah and His Prophet do care for him.²⁰

(iv) **Right to Freedom:** Islam forbids the capturing of freeman or making him a slave or selling him in the market. This kind of practice existed during the pre-Islamic times in Arabia. The Prophet Muhammad (SAAS) abolished this practice of slavery and his condemnation of it is expressed in the following words:

There were three categories of people against whom I shall myself be a plaintiff on the Day of Judgment. Of these one is he who enslaves a freeman, then sells him and eats his money.²¹

Islam is deeply concerned with liberating human beings from every kind of bondage and abolishes dictatorship and despotism in the society. The Qur'an

forbids the people not to make their Lord other than Allah. 'Judgement (as to what is right and what is wrong) rests with God alone'.²² The capturing of a free man or making him slave is forbidden in Islam. The Qur'an insists that the slaves should be treated humanely and justly. The height of the freedom of man is further understood by this fact that Islam never allows the Prophet the right to command absolute obedience for another human being and the formers' obedience is on the authority of Allah. How then arises the question of slavery and bondage in Islam?

Moreover, people were instructed by the Prophet (SAAS) to set slaves free in different ways. They can free them in expiation of some of their sins. This was considered an act of merit. As a result of this, by the time of the Khulafa al-Rashidun all the slaves in Arabia had been liberated.

(v) Right to Justice. It is also the basic right of an individual that he should avail justice. Justice is not restricted merely to the citizens of the Muslim country but is common to all human beings. Islam is, of course, meant to establish justice in the world by dealing the affairs sincerely and honestly. The principle of justice, which is called *qist* and '*adl*' in the Qur'anic terminology, checks selfish and wrong temptations of an individual and leads him to fear and love of Allah (*taqwa*). In the absence of justice corruption and tyranny will prevail. Its fundamental and obligatory nature in the Qur'an is expressed in the following verses:

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.²³

You who believe stand steadfast before God as witness for (truth) and fair play.²⁴

(vi) Right to Equality. Islam makes no distinction of colour, race or nationality. It recognizes equality of all human beings. Not only that, Islam makes the principle a reality. The Qur'an lays down this principle in the following verse:

O mankind, we have created you from a male and a female. And set you up all nations and tribes so that you may be able to recognize each other.²⁵

This shows that all the human beings are brothers of one another as they are

descendants of one father and one mother. Their common origin renders them equal status with equal privileges and their spreading among different tribes, groups, races and nations and speaking different languages is meant to recognize and acquaint with one another. There is, thus, no superiority of one over the other, if it is at all, it is on the basis of God-consciousness (*taqwa*). Still it does not entitle him to have more privileges than a common man or become the lord. The Prophet has illustrated this in his farewell Hajj address as following:

An Arab has no superiority over a non-Arab, nor does a non-Arab has any superiority over an Arab. Nor does a white man has any superiority over a black man, or the black man has any superiority over the white man except by virtue of piety. You are all the children of Adam, and Adam was created from clay.²⁶

(vii) Right to Co-operate and Not to Co-operate: Islam enjoins another general principle that any individual or community or nation can be given co-operation by the Muslims in virtuous deeds. Wherever the good and fair is found, it is to be encouraged as a moral value. Such support is not, however, for those who perpetrate acts of vices and aggression even if they come in close relation or neighbours to the Muslims. Thus it is the universal principle of Islam that the Muslims are the well wishers as well as supporters of those who do good deeds. They shun away from those who promote evil and wrong acts:

Co-operate with one another for virtue and heedfulness and don't cooperate with one another in vice and transgression.²⁷

(B) Rights of Citizens in an Islamic State.

The second category of rights is those rights to which a citizen is entitled in an Islam state. These rights are an extensive form of the preceding category. They are not different from the basic human rights in Islam. In fact it is an Islamic state that becomes the means of its guarantee and realisation in the society. So the state takes into consideration both the general nature of man as well as his specific situations. His being the citizen of an Islamic state grants him all the required rights

for his good living. As such a separate description of these rights will illustrate the Islamic position about human rights further:

1. Right to Protection of Life and Property. Each citizen is guaranteed the security of his life and property. The Prophet declares in his address on farewell haj in the following words:

Your lives and properties are forbidden to one another till you meet your Lord on the Day of Resurrection.²⁸

The killing of anybody as mentioned earlier is not allowed in Islam except that which is lawful (*al-haq*) and the lawful too is to be decided by the Islamic court of law. Who is a rebel and against whom a war is to be waged or such sensitive issues which are to be decided as per the justice of Shari'ah. Similarly securities are granted to that property which is earned lawfully. The government cannot interfere into ones legally earned property and the owner of it has the right of its utility. He can use it in business or transfer it to other person. The Qur'an states:

And do not eat up your property among yourselves for vanities.²⁹

When the Prophet selected a piece of land for Masjid Nabawwi in Madina that belonged to the two orphans, he provided them its compensation in spite of their willingness to donate it to the mosque. The full care and safeguard is maintained in respect of the protection of life and property of an individual being.

(2) Right to Protection of Honour: Islam protects the honour of every man and forbids his defamation and sarcasm. Nobody is allowed to call others by nicknames or speak ill of others. Having back biting and conjunctures about others is also prohibited. The Qur'an and Sunnah gives instruction about this as following:

O ye who believe! Let not some men among you laugh at the other by (offensive nick-name)...nor speak ill of each other behind their back.³⁰

In the farewell Hajj address the Prophet (SAAS) not only called life and property of others unlawful upon the Muslims but also the honour of the other as well. According to the Prophet, the worst excess is the unlawful defamation of one's honour. It is also worth to note here that unlike the Western law of defamation there is no need to provide evidences that a person enjoys public fame and

reputation. Here it is enough that the accused had spoken the words that damage the honour and reputation of the other person. This is applicable equally to the citizens of the state.

(3) Right to Privacy: Islam guarantees each person right to privacy. No body is allowed to interfere in the private life of others. Entering into the others houses without permission and salutation is not allowed. This is to generate good behaviour and social atmosphere:

O you who have attained the faith! Do not enter houses other than your own unless you have obtained permission and greeted their inmates. This is [enjoined upon you] for your own good, so that you might bear [your mutual rights] in mind.³¹

The Prophet (SAAS) even instructed his followers not to enter their own houses suddenly but indicate the dwellers of the house of their coming. Knowing the secrets of others and the spying are forbidden by the Qur'an in clear terms:

... and do not spy upon one another, and neither allow yourselves speak ill-will of one another behind your backs.³²

(4) Right to Personal Freedom: Islam lays down that no person will be deprived of his personal freedom to plead in case if there is any claim or complaint against him. No arrest can take place without the due process of law:

And when ye judge between man and man judge with justice.³³

If a wicked person comes to you with any news, ascertain the truth lest ye harm people unwillingly and afterwards become full of repentance for what ye have done.³⁴

Freedom of having open trail, defending himself and proper investigation are extended to each person to ensure justice. When the government suspects about any body's crime or he is likely to commit crime the latter is to be allowed to defend himself in an open court. Then alone it will be decided that whether the suspension was based on sound grounds. If so his detention will be made as per the circumstances otherwise he should not be victimized unreasonably.

(5) Right to Protest Against Tyranny: In Islamic state each citizen has the right to

raise his voice against the tyranny whosoever perpetrates tyranny (*zulm*)—any person, group or government—to protest against it is the right of the citizen:

God loveth not that evil should be noised abroad in public speech
except where injustice hath been done...³⁵

(6) Right to Freedom of Expression: Each individual is conferred the freedom of expressing his view-point or opinion regarding various issues. However this right is to be used for the spread of virtue rather than evil. No abusive language and wrong means are allowed that leads to corruption and wickedness. What is desirable that people be allowed to express their opinion, views and thoughts for building a proper and healthy society. The Prophet encouraged his companions to express the dissent, if they would have any, without hesitation. The Qur`anic instruction indicates this as following:

They enjoin what is proper and forbid what is improper.³⁶

The Prophet (SAAS) has stated about this as following:

... The people who endorse the wrong doings of the rulers are not my followers.³⁷

(7) Right to Freedom of Religion: Islam guarantees each person the right to faith, conscience and religion. Though Islam propounds itself the final and perfect religion from Allah yet it never compels anybody to accept or follow it. The Qur`an explicitly states:

Let there be no compulsion in religion.³⁸

The Prophet (SAAS) during his period of life followed this principle of freedom of conviction and religion. Whosoever embraced Islam, he did it due to his own understanding the message of truth (*al-haq*) and practical viability. There is tolerance and respect for other faiths and religions in Islam. The Qu`ran even goes to the extent that no abusive language be used against the deities of the other religions:

Do not abuse those whom they appeal to instead of God.³⁹

Conversion to Islam is not out of force but one's own choice and he is welcomed with equal rights in the community. However, if anybody does not accept Islam

there is no force and pressure upon him but his decision too is respected. People of other faiths have, therefore, full freedom to hold it and practice their rituals.

(8) Right to Freedom of Association: Islam also recognizes the freedom of association and formation of organization. But this is provided to people so long they spread good (*ma'rūf*) and not evil (*munkar*) or indulge in violence. This is illustrative through 'Ali's (the fourth caliph of Islam) advice when a group of Muslims called Kharijis used to abuse and threaten him and were arrested on this offense. He asked his officers to set them free on the ground that mere words of abuse or threat do not justify it. His orders are as following:

As long as they do not actually perpetrate offences against the state the mere use of abusive language or threat of the use of force are not such offences for which they can be imprisoned.⁴⁰

(9) Right to Equality in the Eyes of Law: Every citizen who enjoins faiths becomes a member of the believers' community and is equally protected by the state. The verse of the Qur'an that believers are brothers (to each other) declares that they can enjoy rights equally. The Prophet (SAAS) has said:

The life and blood of Muslims are equally precious.⁴¹

So far the non-Muslims are concerned they are also equal before law and the protection of their life and property is the sole responsibility of the state. They won't be deprived from the justice of law.

(10) Right to Participate in the State Affairs: In Islam *khilāfah* (state) is not the monopoly of a particular person or group, dynasty or party but it is entrusted upon the whole community. They are collectively responsible for its establishment and function. The Qur'an says:

God has promised to appoint those of you who believe and do good deeds as (His) representatives on earth.⁴²

The method of appointing these representatives of the state is *shūra*, mutual consultations in its affairs. Each citizen has, therefore, the right to give his suggestions for the good of state. In electing the head of state, his council or legislative assembly and running the other affairs of the state depends upon the support of the people.

This is laid down in the following verses of the Qur'an:

And their business is conducted through consultation among themselves.⁴³

(11) Right to Freedom of Movement: The Islamic state gives its citizens the right to live at any place in its limits freely and in normal circumstances move any where in and outside it. The Qur'an forbids the taking away people out from their homes:

And yet, it is you who slay one another and drive some of your own people from their homelands, aiding one another against them in sin and hatred; but if they come to you as captives, you ransom them— although the very act of driving them away has been made unlawful to you.⁴⁴

Similarly the migration (*hijrah*) to other places is also allowed in Islam:

And he who forsakes the domain of evil for the sake of God shall find on earth many a lonely road, as well as life abundant.⁴⁵

Yet such freedom is not to be used for realising the corrupt motives like bloodshed, rebellion and violence by the people. That is why 'Ali, the fourth kalifah of Islam, cautioned the Khawarij on their rebellious acts as following:

You are free to live wherever you want. However, the agreement between us and you is that you will not shed anybody's blood unlawfully. You will not create disorder nor do injustice with anybody. If you will commit any of these crimes then we shall start a war against you.⁴⁶

(12) Right of Compensation for Labour: In an Islamic state it is not allowed that labourers and workers will be exploited wrongly. They have the right of wages for their work and labour. Loss in terms of their body and property is to meet out duly. A labourer is not to be given such a heavy work that is beyond his capacity. At the same time good worker is described one who works with full energy and honesty:

... the best man that thou could hire is one who is [as] strong and worth of trust.⁴⁷

The Prophet (SAAS) has mentioned about the compensation of the labourer as following:

The labourer should be given food and dress as per the established custom. They should not be given the work-load beyond their strength.⁴⁸

(13) Right to Education: Education is also the right of each individual being in Islam. Every person is advised to educate himself. In fact, seeking of knowledge is made obligatory in Islam. The Prophet (SAAS) has said:

Of all that the father can give to his children the best is their good education and training.⁴⁹

4. The Normative Sources and the Current Discourse

In both the traditions human rights and its cause is of seminal importance. Individual's dignity and welfare is the objective and it is safeguarded to the possible extent. Of course, there are many commonalities in the traditions. That is why the Muslim nations and the various Muslim institutions gave recognition and support to the international human rights. However, at the deeper level a difference of normative sources between the two is found. The Western tradition is grounded on liberal humanism and it persuades secular democracy, universalism and market economy. The Islamic scheme on the other hand, operates from the Revealed source (Allah) and human reason plays a subsidiary role. Primacy is here to the revealed guidance, the Qur'an and the Sunnah. Basic spirit and morality is directed by the Divine source and reason is its operational mechanism. Islamic human rights have, therefore, both the spiritual and the material dimensions.

In Islam, the dignity and respect of man is of vital importance. In terms of his nature (*fitrah*) and facilities he ranks high among all the creatures.⁵⁰ Yet in all this Allah is centre and the final goal. He is the ethical and normative criterion of man rather than his own liberal thinking. All the bounties in the world came from Him to facilitate the rich and righteous living of man. This is possible through the eternal norms of freedom, equality, justice and co-operation. They are of universal import

and emancipate the whole mankind.⁵¹

Islamic position is that the rights are more duties than rights in their actual sense. Duties towards Allah (*haqūq al-Allah*), and duties towards human beings. (*haqūq al ibād*) The former's obligations are in the capacity of His being the sole Creator, Master and Sovereign of man and His rights belong exclusively to Him. Love and submission to Him is supreme and it governs the other dealings of man. Duties towards the human beings are again divinely guided which are to be fulfilled by man to live his social life with peace and prosperity and attain success (*falāḥ*) in the Hereafter.⁵² These duties operate in all his walks of life—family, economic, political and international domain—and constitute the morality of human beings. The humanistic spirit which these duties embody is typified emphatically in one of the Traditions of the Prophet (SAAS) wherein he says, "You are not the believers until you like the same thing for others which you like for yourself."⁵³

The divergence of the two schemes of the human rights are further amplified by the contemporary discourse of 'universalism' and 'relativism' of human rights. In the West both the attitudes are found among the scholars. It is held that universalism is a kind of conservatism that maintains the superiority of the particular culture and their scheme of human rights is described as universally applicable. Dancis Patrick Moynihan describes this stand of human rights by saying that 'the central conservative truth is that it is culture, not politics, that determines the success of a society. The central liberal truth is that politics can change a culture and save it from itself.'⁵⁴ Fukuyama's book *The End of History* wherein he propounds that liberal democracy is the final and the perfect political and social order of humanity and the human rights of it are to be propagated widely. Challenge to this stand comes from relativist group like Pollis and Schwah who make a severe criticism of a cultural ethnocentrism in determining the human rights. Theirs is contention that 'the western conception of human rights is not only inapplicable and of limited validity but it is also meaningless,'⁵⁵ to the non western nations. Legesse and Panikar too share some what similar contentions — the former holds that different societies formulate their conception of human rights in diverse cultural idioms. Panikar dealing

with the intercultural intelligibility of human rights raise the crucial question as to how from the topos of one culture help to understand contacts of another.⁵⁶

Notwithstanding these differences in the perceptions of human rights there is little scope of clash between the Western and Islamic conceptions. The end motive of the both is common—good of an individual as a human being. One conceives it in legal terms and the other in religious terms. Paradigms of 'universalism' and 'relativism' are tolerable so far they are not compelling and absolutist in their stand. Cross-cultural dialogue is one of the best means to understand the moral stand of the different human rights traditions. To this direction initiative has already been made by the contemporary scholars⁵⁷ and it to be promoted to explore the possibility of seeking compatibility between the perceptions of divergent cultures and groups for the wide operation and application of the human rights.

5. Conclusion

The above discussion, thus, brings out that the human rights as evolved in the Western tradition are human-centred where dignity of man, his freedom and welfare is sought within human standards. Rational and empirical methods play a dominant role in this tradition through liberal democracy and market economy. Islam enjoins human rights in their perfect form by elevating man with special honour, freedom and other guarantees of equality, livelihood and prosperity. Unlike the Western scheme, these rights are God-centred and He is the primary source of them and the ratio-empirical paradigm is its interpreting and applicational mode. That is why they are more duties than rights and have hardly any scope of compromise. In spite of the difference in the source-criterion of human rights of both the traditions, there is still much commonality in them in way of safeguarding the honour, life, property and the freedom of conscience, expression, association of an individual being. It is also of serious concern that the proper application of these rights is hampered by the monopoly of UN at the hands of the big powers and the violation of democratic and Islamic norms by some despotic regimes of the Muslim countries has become the result of the present clash and confrontation between the two

civilizations. This has created many misconceptions and misgivings about these civilizations which need to be clarified and the inter-civilizational dialogue is the good means to explore the possibility of proper and effective application of the human rights in the whole world.

References:

1. See Ann Elizabeth Mayer, *Islam and Human Rights: Traditions and Politics*, Wester View Press; USA, 1999; A. An-Na'im (ed.) *Human Rights in Cross Cultural Perspective*, University of Pennsylvania Press, Philadelphia, 1992, and "Humanitarian Intervention in International and Islamic Law", *American Journal of Islamic Social Sciences*, Vol. 20, No. 1, 2003, Herdon, USA.
2. Muhammad Salah al-Din, *Bunyādi Haqūq* (Fundamental Rights), Markazi Maktaba Islami, Delhi, 1979, p.22.
3. Omar Siddique, "Relativism vs Universalims, Islam and Human Rights Debate", *American Journal of Islamic Social Sciences*, Vol. 18, No.1 2001, Herdon VA, USA. p. 64.
4. Ibid.
5. Muhammad Salah al-Din, *op. cit.*, pp.35-36.
6. Dr. H.O. Agarwal, *International Law and Human Rights*, Central Law Publication, Allahabad, 2003, p. 680.
7. Muhammad Salah al-Din, *op. cit.*, pp. 35-36.
8. Ibid., p. 37.
9. Ibid, p. 37-38.
10. Omar Siddique, *op. cit.*, p. 66.
11. Muhammad Salah al-Din, *op. cit.*, pp 38.
12. Tahir Mahmood, ed. *Human Rights in Islamic Law*, Genuine Publications Pvt. Ltd. Nizamuddin West, Delhi, 1993, pp. 153.
13. Ibid., pp. 154-156.
14. *al-Qur'ān*, 6:151.
15. *Muslim*, cited in Tahir Mahmood, *op. cit.*, p.85.
16. *Bukhārī*., cited in *ibid*, p.71.
17. Vide Muhammad Salah al-Din, *op. cit.*, p. 241.
18. *al-Qur'ān*, 17:13.
19. *al-Qur'ān*, 70:24-25.
20. *Tirmidhī*, cited in Muhammad Salah al-Din, *op. cit.*, p.
21. *Bukhārī*, cited in Sayyid Abul Ala Maududi, *Human Rights in Islam*, Markazi Maktaba Islami Delhi, 1982, p.20.

22. *al-Qur'ān*, 12:40.
23. *al-Qur'ān*, 5:8.
24. *al-Qur'ān*, 4:135.
25. *al-Qur'ān*, 49:13.
26. *Supra*. No.16., and see for full text, Dr. Shaikh Showkat Hussain, *Human Rights in Islam*, Kitab Bhawan, Delhi, 1990, pp. 106-107.
27. *al-Qur'ān*, 5:2.
28. *Supra*, n. 26.
29. *al-Qur'ān*, 2:188.
30. *al-Qur'ān*, 49:11-12.
31. *al-Qur'ān*, 24:27.
32. *al-Qur'ān*, 49:12.
33. *al-Qur'ān*, 4:58.
34. *al-Qur'ān*, 49:6.
35. *al-Qur'ān*, 4:148.
36. *al-Qur'ān*, 9:17.
37. Nisa'i vide M. Salahuddin, *op. cit.*, p. 263.
38. *al-Qur'ān*, 2:256.
39. *al-Qur'ān*, 6:108.
40. Sayyid Abul 'Ala Maududi, *Islāmī Riyāsat (Islamic State)*, ed. Khurshid Ahmad, Islamic Publications Ltd. Lahore, 1982, p.569.
41. Abu Dawud cited in *supra* No.21, p.35.
42. *al-Qur'ān*, 24:55.
43. *al-Qur'ān*, 42:38.
44. *al-Qur'ān*, 2:85.
45. *al-Qur'ān*, 4:100.
46. Cited in M. Salahuddin, *op. cit.* 306.
47. *al-Qur'ān*, 28:26.
48. Imam Malik, *Mawṭi'a* cited in M. Salahuddin, *op. cit.*, pp. 304-05.
49. Tahir Mahmud, *op. cit.*, p. 83.

50. *al-Qur'an*:7:17.
51. See M. Sayyid Abul 'Ala Maududi, *Islāmī Tadhīb Kay Usūl Wa Mubādi* (*The Principles and the foundations of Islamic Civilization*) Markazi Maktaba, Delhi, 1977, Chap. 1-2 and Ismail Raji al-Faruqi, *Tawhīd: Its Implications on Islamic Thought*, The International Institute for Islamic Thought, Herdon, USA.
52. See S.M. Iqbal, *The Reconstruction of Religious Thought in Islam*, Institute of Islamic Culture, Lahore, 1996, Chapters 4-5.
53. *Bukhārī*, Kitab al Iman.
54. Cited in Ermin Sinovic, 'Humanitarian Intervention in International and Islamic Law', *American Journal of Islamic Social Sciences*, Vol. 20. No.1, 2003, Herden, USA, p. 94.]
55. Omar Siddiqui, op. cit., p. 82.
56. Ibid.
57. See M.I. Patwari, Human Rights in Islamic Law and International Law', Majid Ali Khan, The Universal Declaration of Human Rights and Rights in Islam: A Comperative Study in *Human Rights in Islamic Law* ed. Tahir Mahmood, Qazi Publishers and Distributors Pvt. Ltd. Nizamuddin West, New Delhi, Hemer Bielefedt, Muslim Voices in the Human Rights Debate' in *Human Rights Quarterly* 7, no. 3 1995 and Louy M. Safi, Human Rights and Cultural Reform in Contemporary Muslim Society From Hegemonic Discourse to Cross Cultural Dialogue, online at :www.iiv.edu.my/deed/articles/humans2.pdf.

