

# International Law, Islam and the Universality of Human Rights Perspective: an Iranian Perspective

Mahmood Jalali\*  
Safoura Bani-Najarian\*\*

## Abstract

From the beginning of human life on earth, human needs have been crystallized in their relationship and interaction with each other. As a result of such an inter-relationship and interaction, it has been necessary for a body of law to exist that would specify humans' duties and obligations towards each other. Even though different regulations concerning human rights have been codified, human beings have not taken benefit from these rights on an equal basis. In fact, we see that throughout history, the oppressed have fought oppressors. In these protracted struggles, human beings continued to seek transcendental rights; rights they wanted to enjoy regardless of power and wealth, skin color and race. Based on this argument, if we look at the objectives and activities related to human rights, we can suggest that monotheistic religions also played a crucial part in promoting human rights. According to the findings of this research, although international law and Islamic international law both believe in the universality of human rights, without any doubt their nature and foundation differ. Nonetheless, there are numerous shared grounds and points between the two aforementioned bodies of law for whose study and utilization international human resources have to be used to forge unity and to protect world peace and security.

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\* Associate Professor of Law at Isfahan University (dm\_jalali@yahoo.com)

\*\* Researcher in International Relations

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### **Introduction**

Human rights have emerged simultaneously with the genesis of human beings; hence, these rights cannot be restricted within the framework of a specific civilization. Religions and denominations have played a critical role in the formation of human thoughts, traditions and ways of life. Because it possesses such a place and status, international law and particularly the international system of human rights in various universal and regional instruments, has recognized religion as one of the inalienable rights. From among such instruments the following can be mentioned: Universal Declaration of Human Rights, Article 18; International Covenant on Civil and Political Rights, Article 18; International Covenant on Economic, Social and Cultural Rights, Article 3, Paragraphs 1 and 3; Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief; American Convention on Human Rights, Article 12; African Charter on Human and Peoples' Rights, Article 8; 1990 Cairo Declaration on Human Rights in Islam, Section 4 of the Preamble and Section A, Article 18; and Final Act of Helsinki Conference, Part V.

Given its strong influence on human beliefs and behavioral systems, the implementation of international human rights regulations in every society demands codified and documented religious provisions, regardless of the relevant formal descriptions between religion and state in every society. A distinction should be made between two meanings of human rights. In a sense, the expression of human rights refers to the historical struggles for



freedom and social justice. This general meaning of the expression has generally not been useful for analyzing the consistency between human rights and religion, politics or particular customs. The expression of human rights here is part of freedom and social justice that have been enumerated in articles of the 1948 Universal Declaration of Human Rights. Human rights reflect the global ideal of justice and a society in which every human being becomes able to enjoy a dignified life along with peace, security and welfare. In examining and adapting Islam's perspective concerning human rights and the articles of the Universal Declaration of Human Rights, a group believes in conflict and divergence, whereas another group sees it as absolutely consistent and convergent. What is apparent is a clear similarity between the articles of the Declaration and the Koranic verses and the Prophet Muhammad's sayings and tradition. For this reason, in this article, Islam's perspective towards human rights and its universality is studied as one of the most important monotheistic religions.

### **I- Religion and International Law**

Many centuries have passed since the time when human life and humans' individual and social relations began in the world. Throughout history, human beings have addressed the nature of life, material world and nature, gaining new findings every day. Various sciences have achieved new inventions and discoveries. Human beings have discovered various skills and techniques, and numerous scientific and philosophical personalities have sought to guide humankind to reach tranquility and perfection. Nonetheless, humans have distanced themselves from attaining those transcendental objectives day by day, though we have made utmost efforts in this regard. Although we have achieved new inventions in every period of time, enabling us to respond to the vast area of our material and spiritual needs, we have learnt the illusive and incorrect nature of our inventions for meeting our needs. Thus, a question



that is posed to the human mind is what an astray human can do in order to reach true perfection and tranquility. To answer the question, it should be reiterated that humans are bound to have correct beliefs, moral obligations, practical duties and transcendental human thoughts without whose observation, fulfilled social life and even individual life will be impossible to sustain. Furthermore, the struggles of various political systems including the Communist, Fascist and Imperialist ones attest to this fact that human cannot attain absolute spiritual and material perfection alone. As a result, humans have to resort to something beyond themselves and their material world, enabling them to relieve themselves of these anxieties and conflicts. This is provided by monotheistic religions and following the words of prophets who have shown the way to attain absolute perfection and permanent tranquility, because religion is consistent with human nature including a set of laws and directions. These have been provided by individuals who themselves have enjoyed ideational and practical qualifications and superiority originating from divine sources. Jean Jacques Rousseau's words point to this fact adequately: "In order to explore the best laws for the nations, an absolute reason is needed that sees all human lusts, but he himself does not feel anything, is not related to the nature at all, helps us attain happiness; indeed what is called absolute reason is not anybody other than the sacred existence of God". Overall, a human has to practice a religion, since it is religion that nurtures internal human potentials according to correct principles and codifies all-out laws that meet all of his material and spiritual needs; teaches him the proper way of living and finally makes him a fully fulfilled human being.

Even though monotheistic religions were able to resolve problems faced by humanity and represented the only solution for humanity, this seemingly civilized human again failed to make proper use of this instrument. Instead of properly using religion as a means for removing disputes and attaining world unity, humans



went to a wrong way concerning religion, entangled in religious prejudices and struggles. The followers of every cult attacked the followers of other religions and cults with the excuse that they oppose their beliefs and have a separate religion and cult, leading to disgraceful bloodshed and catastrophes. This provided a motive for the kings and emperors to engage in violent acts to eradicate religions, their followers and their religious works, entirely depriving them of religious freedom. The incidence of these catastrophes arising from incorrect religious prejudices led such European thinkers as John Locke, Jean Jacques Rousseau, Voltaire and Montesquieu to come up with the idea of religious coexistence. At last the French Great Revolution occurred in 1789 and in Article 10 of the Declaration of the Rights of Man and of the Citizen it was provided that “No one shall be disquieted on account of his opinions, including his religious views, provided their manifestation does not disturb the public order established by law.”

International law holds a superior place and status for human enjoyment of free thought and subsequently enjoyment of free belief and religion. It has been mentioned in numerous instruments.

Freedom of religion is one of the types and forms of freedom of speech and generally freedom of thought and conscience. Freedom of conscience means the possibility of joining a thought, faith or religion entirely freely as it is manifested in the mirror of one's conscience. Every religion includes two elements: first, belief in a type of worldview regarding the creation and the relationship between the individual and God. The other is to carry out some religious ceremonies and duties, implementing the Sharia commandments and its propagation. These are the commandments that usually correspond to the relations among the individuals, going beyond the contours of freedom of speech and including the entire societal order; hence, proclamation of freedom of speech for the individual contains two freedoms: freedom of having or adopting a religion as well as freedom of manifesting a religion or beliefs and



performing religious ceremonies and duties (Tabatabaei Motameni, 1991: 94-95).

Article 18 of the Universal Declaration of Human Rights distinguishes freedom of thought, conscience and religion and the freedom to manifest a religion and belief. As it is enshrined in the International Covenant on Civil and Political Rights, Article 2, Section 2, the right to enjoy freedom of thought, conscience and religion is protected unconditionally and is not cancelled under emergency circumstances. The Committee on Human Rights maintains that the right to have or adopt a religion or belief involves the right to adopt a religion or converting or remaining a follower of a religion as well.<sup>1</sup> The International Covenant on Civil and Political Rights, Article 18, Paragraph 2 bans coercion on accepting or having a religion and this coercion includes physical and indirect pressure as well. The Committee stipulates that exercise of any method that puts people under duress or has a coercive result will be forbidden.<sup>2</sup> Freedom to manifest a religion and belief covers both individuals acting alone or in a community with others and in public and private. Manifestations can include worship, observing and acting out some particular conducts, use of certain signs and symbols, respecting the holidays, wearing special clothes, wearing particular head cover, speaking a particular language and teaching religion. Enjoyment of freedom of speech and manifestation of belief is not an absolute right, because it might conflict with others' rights or might lead to dangers for the individual or the community.

According to the International Covenant on the Civil and Political Rights, Article 18, Paragraph 3, freedom of expression of religion and belief is subject to certain limitations, which have to be stipulated by law and should not be acted in such a way that denies what is considered as a right in Article 18 of the Covenant; to be implemented under a specific title and goal including public safety, order, health, and the fundamental freedoms and rights; and restrictive measures have to be necessary for the attainment of the



goal.

The issue of discrimination according to religion is a phenomenon that has been persistently seen in human societies. All forms of intolerance and discrimination are born in the human mind and cultural education matters a lot in this regard.<sup>3</sup> The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief was adopted in 1981 by the UN General Assembly in Resolution 36/55 in order to promote and spread understanding, tolerance and friendship among all religions and beliefs including the theistic, non-theistic, and atheistic beliefs.

The Preamble of this 8-article Declaration, which relies upon the provisions of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, pays attention to the issue of religion as the fundamental factor in understanding life, peace and justice. In this Declaration, the following items have been emphasized: freedom of religion, conscience and thought (Article 1), ban on religious discrimination and intolerance (Articles 2-3), and to prevent it (Article 4), freedom of educating religion (Article 5) and possession of facilities necessary for worship and observing religious ceremonies (Article 6), complying with the regulations necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others (Hashemi, 2005: 334-335).

Considering the important place that religion occupies in peoples' lives, it is necessary to study the status of religion in the Universal Declaration of Human Rights, which provides the main basis of human rights in modern international law. Therefore, here we examine the relationship between religion and the articles of the Universal Declaration of Human Rights which reveal the universality perspective of human rights.

In the Universal Declaration of Human Rights, which has been designed to protect the fundamental rights of human beings, the



basic freedoms and rights of people concerning belief and faith have been considered in several points. Wherever freedom, equality and brotherhood of human beings are discussed, attention has been paid to the issue of religious freedom and non-discrimination and superiority of individuals over each other in religious terms. These cases include as follows. In the Preamble, it is indicated: "... the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people ...". In another part, the Preamble reads: "... Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms ...".

As it is seen, in the Preamble, freedom of speech and belief has been introduced as the highest aspiration of humankind which constitutes one of the basic grounds on which the rights and freedoms of other people have been based throughout this charter. The freedom of speech and belief itself has been stated in a general form that includes any belief whether religious or non-religious. In one way or another, this part of the Declaration, which has generally articulated freedom of speech and belief, has considered freedom of religious belief and speech for individuals as well so that people can attain high human goals and freedoms without any form of religious and ideological discrimination. Furthermore, respecting rights and freedoms in this part of the Preamble has been attended to as a duty among the member states.

Article 1 of the Declaration provides: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." One of the duties considered for human beings in this Article is that they have to treat one another in a spirit of brotherhood. Since this spirit of brotherhood includes all areas, it will include religious brotherhood as well, though they might have



essential differences in religious terms. Moreover, no human being is superior to anyone else in terms of dignity and rights. The second part of Article 2 stipulates: "... no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs...." On this basis, no discrimination can be enforced against anyone according to the fact that he belongs to a territory whose political, judicial or administrative status is based on a specific religion. Article 3 of the Declaration also indicates: "Everyone has the right to life, liberty and security of person." Consequently, nobody can be deprived of the right to life, freedom and security on the basis that one has particular beliefs and faith. Article 7 also acknowledges that "All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection." This article provides for equality and non-discrimination and enjoyment of rights equally for all human beings regardless of religious and ideational differences. These rights have to be upheld for everybody on an equal basis. Article 10 has recognized full equality for all people in lodging a complaint, stating that "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him."

Moreover, Articles 12, 13, 15, 16, 17, 19, 20, 21, 22, 23, 26, 27 and 28 indicate that nobody can be denied his fundamental rights because he has a particular religious belief. Article 18 of the Declaration represents the peak of the recognition of religious rights for the individuals, which explicitly considers freedom of thought, conscience and religion for all individuals without any limitation. It states: "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."



Even though the freedom to adopt a religion has been provided for by international instruments, the freedom to manifest religion is subject to certain limitations, albeit only limitations that are determined by the law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and general welfare. According to Article 29 of the Declaration, which generally includes the exercise of all rights and freedoms, each of these freedoms must not contradict the conditions and requirements of public order and other conditions.

## **II- Religion and Universality of Human Rights**

Today, sufficient attention is not being paid to moral development and nurturing of the religious beliefs of people in order to promote respect for human rights, recognizing human dignity and observing other rights and freedoms. On the contrary, efforts are made at undermining religious feelings in order to preclude religious discriminations under the rubric of religious tolerance. This is the case while much attention to intrinsic human dignity and fundamental rights is seen in divine religious schools. Most of religious directions are intended to remove oppression, encroachment and violation of human rights. Educating people about divine religious teachings - including self-control, distancing oneself from sin, believing in the source of being with the description of absolute perfection, absolute justice and feeling of servitude towards God, freedom from others and freedom from bodily lusts, self-interest and worldly belongings - can best serve to promote and strengthen observance of human rights in its true sense. Although some social regulations and commandments of certain religions seem inconsistent with the principles of human rights, with fundamental human freedoms and reasonable equality of all people, those regulations are subject to examination and explanation and possibly subject to interpretation according to the



requirements of the time and place. Mere religious conviction and spiritual morale, however, can provide the most adequate means for observing human rights. Nonetheless, throughout history, myopic religious prejudices have gained support on numerous occasions, leading to the violation of human rights of many human beings with the excuse of religion. As the reports on the war in Bosnia and Herzegovina show, in a Western and European country, an unprecedented massacre of Muslims took place at the hands of the Serbs in which religious and ethnic prejudice played a crucial part. If instead of myopic religious prejudices, efforts were made to properly reinforce and explain religion, promote the idea of religious tolerance and tolerating others as enshrined in some verses of the Koran, the situation would be better and the inherent human rights would have been further respected. A paradox is seen today in principles related to human rights and particularly the type of interpretation of those principles. On the one hand, almost unlimited human freedom in all aspects is emphasized, and on the other hand, calls are made for adopting resolutions and conventions and imposition of sanctions against those who commit crimes in order to prevent the crimes arising from this unlimited freedom and its abuse. Simple resolutions and conventions cannot have much practical effect. If efforts were made at purifying religious thought from superstitions, myopic improper prejudices and intolerance towards others while promoting and explaining morals and obvious religious beliefs on a global scale, perhaps all these humanitarian catastrophes would not happen at all.

It can be suggested that one of the problems found in the way of the United Nations' success in implementing human rights instruments is inattention and oblivion towards moral and religious values. Some of the general principles of the Universal Declaration of Human Rights mostly do not contravene the religious teachings of great monotheistic religions as such concepts as justice, human liberty, equality before the law and the court, principle of innocence,



conducting fair trials, ban on torture, equality of human value of man and woman in religious teachings have been widely considered and are part of the religious beliefs of followers of divine religions. Nevertheless, policies pursued by the human rights agencies of the United Nations, explanation and interpretation of the provisions of the Universal Declaration of Human Rights, and treatment of religious laws and regulations and of the states enforcing them have been in such a way that signifies inattention to religion and oblivion to correct moral concepts; leading to suspicion and negative positions among religious people. Individual freedom has been seemingly considered and supported to a large extent and has much support with regard to religious limitations. Limiting individual freedom under the name of conflict and inconsistency with public order and societal security are easily understood and accepted. But limiting it according to law because of its conflict with moral and religious requirements is not acceptable and is condemned by some. In the Universal Declaration of Human Rights, the legitimacy of such a limitation has been enshrined.

International Covenant on Civil and Political Rights, Article 19, Paragraph 3 limits freedom of speech for preserving public morality; thus states are allowed to intervene in freedom of speech and limit it, within the legal regulations, to protect public morality. Two issues of propagating and releasing pornography and heretic statements are considered as examples of acts against morality and public order for which freedom of speech can be limited. Thus, if a state imposes limitations concerning the release of material contravening public decency and heretic propaganda against religious beliefs, punishing the offenders, it has not acted against the human rights standards *per se*. Nonetheless, it is seen that most often those who break these laws are supported and the state that prosecutes the offenders is portrayed as a violator of human rights; hence this state is never praised and supported. Certainly if there is a spirit of scientific discussion and critique and search for the best way



to respect and guarantee people's human rights, these discussions can yield positive results. For example, violence against women in a variety of forms, discrimination and human-made offenses are undertaken in the name of religion, religious carelessness and spreading corruption, which result in impairing the health of human society, are among the same category which has to be prevented. At last we see that the Preamble of the Universal Declaration of Human Rights provides: "...Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women ...". Now what kind of faith in the rights is the faith mentioned above? Although in a part of the Declaration, it is stated that all people have faith in the fundamental human rights, what is the common criteria for recognizing these rights commonly and uniformly among all humans? Should all humans' perception of these rights be the same in order for human rights to be respected? In other words, are human rights universal or relative?

### III- Islam-Universality of Human Rights

At a time when human beings were deprived of their basic rights, thinking that they have been created in order to be exploited - and while a number of philosophers and scientists had recognized this deprivation - the Prophet of Islam spoke of human rights and their equality in the Koran. The principles the Prophet talked about in his revealed book concerning human rights are numerous, some of which will be mentioned as follows: 1- Abolition of ethnic and tribal concessions and general equality. "O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the most noble of you in the sight of Allah is the most righteous of you. Indeed, Allah is Knowing and Acquainted" (Sura Hujurat, Verse 13). 2- Government and statesmanship belongs to the people; "Then (after their



annihilation) We made you to succeed after them, that We may see how you act” (Sura Yunus, Verse 14). 3- Preserving human dignity and respecting anybody’s reputation and way of life; “O ye who believe! Let not some men among you laugh at others: It may be that the (latter) are better than the (former): Nor let some women laugh at others: It may be that the (latter are better than the(former): Nor defame nor be sarcastic to each other, nor call each other by(offensive) nicknames: Ill-seeming is a name connoting wickedness, (to be used of one) after he has believed: And those who do not desist are(indeed) doing wrong. O ye who believe! Avoid suspicion as much (as possible): for suspicion in some cases is a sin: And spy not on each other behind their backs. Would any of you like to eat the flesh of his dead brother? Nay, ye would abhor it...But fear Allah: For Allah is Oft-Returning, Most Merciful” (Sura Hujurat, Verses 11-12). 4- Protecting people’s lives and security; “And come not near to the unlawful sexual intercourse. Verily, it is a Fahishah [i.e. anything that transgresses its limits (a great sin)], and an evil way” (Sura Isra, Verse 32). 5- Security of the house; “O you who have believed, do not enter houses other than your own houses until you ascertain welcome and greet their inhabitants. That is best for you; perhaps you will be reminded. And if you do not find anyone therein, do not enter them until permission has been given you. And if it is said to you, ‘Go back’, then go back; it is purer for you. And Allah is Knowing of what you do” (Sura Nour, Verses 27-28). 6- Security of properties and the right to enjoy ownership based on labor; “And do not consume one another's wealth unjustly or send it [in bribery] to the rulers in order that [they might aid] you [to] consume a portion of the wealth of the people in sin, while you know [it is unlawful]” (Sura Baqara, Verse 188). 7- Freedom of belief; “There shall be no compulsion in [acceptance of] the religion. The right course has become clear from the wrong. So whoever disbelieves in Taghut and believes in Allah has grasped the most trustworthy handhold with no break in it. And Allah is Hearing and



Knowing” (Sura Baqara, Verse 25). 8- Recognizing the rights of other religions; “Allah does not forbid you from those who do not fight you because of religion and do not expel you from your homes - from being righteous toward them and acting justly toward them. Indeed, Allah loves those who act justly” (Sura Mumtahana, Verse 8). 9- Others should be treated within the framework of wisdom in a proper way; “Invite to the way of your Lord with wisdom and good instruction, and argue with them in a way that is best. Indeed, your Lord is most knowing of who has strayed from His way, and He is most knowing of who is [rightly] guided” (Sura Nahl, Verse 125).

The enumerated rights are intrinsic to every human being with whose birth these rights accompany him. These rights are the same thing some Western thinkers see themselves as having invented and pioneered, enshrined in the 1948 Universal Declaration of Human Rights. The important point here is that the Prophet’s words contained teachings that the UN General Assembly has used in the text of the Declaration. The significant principles in the Declaration include: 1- All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. 2- Everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. 3- All are equal before the law and are entitled without any discrimination to equal protection of the law. 4- Everyone has the right to life, liberty and security of person. 5- No distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs. 7- Everyone has the right to own property alone as well as in association with others. 8- No one shall be held in slavery or servitude. 9- No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. 10- Everyone has the



right to freedom of opinion and expression; this right includes freedom to hold opinions without interference.

As it is seen, what the Prophet has brought in the Koran corresponds to what is called human rights today in international law. Therefore, if the Prophet is said to be a pioneer of freedom and human rights, the truth has been told.

In addition to the aforementioned Koranic verses, there are also some sayings (Hadith) by the Prophets and Imams that display the same principles and have been followed by those religious leaders. These sayings include: 1- All of you are Adam's children and he was created from soil (al-Musnad al-Ahmad, Hadith No. 411). 2- Muslims are brothers and their blood is equal. They collaborate with one another and they have to make efforts for one another's security (Prophet's Message, 839, Hadith 875). 4- People are equal like the teeth of a comb; the principle of equality. 5- Everyone who has taken refuge in you, grant him asylum; right to seeking asylum (Heaven and the World, 60, Hadith 52). 6- Everyone who sees the penalty for his sins, he will not face penalty in the other world; God is just enough not to punish a human twice (Nasayeh, 27, Chapter 3). 7- Everybody who seeks knowledge, God will provide his subsistence (Shahab al-Akhbar with translation, 545, Chapter 2). 8- The scholar and student of knowledge are partners in the good; the right to seek knowledge (Nasayeh, 20, Chapter 1). 9- He has a good time the one who has legitimate subsistence, a purified soul and good looking, and refrains from doing bad to the people; recognizing the right to freedom and security for others (Nasayeh, 29, Chapter 4). 10- Anybody who looks at another person's writing, it is like as if he has looked at fire; the right to privacy (Nasayeh, 25, Chapter 3). 11- Unemployment causes hard-heartedness; the right to have a business (Nasayeh, 20, Chapter 1). 12- You have to know that poverty is a catastrophe and worse than poverty is a weak body; protection against unemployment (Nasayeh, 21, Chapter 2). 13- Marry kind women who can bring children; the right to marriage



(Nasayeh, 33, Chapter 4). 14- The world is sweet and God has made you successors to the predecessors to see what you do; the right to life (Nasayeh, 40, Chapter 6). 15- You all are Adam's children and Adam has been created from soil; an Arab is not superior to a non-Arab or vice versa, a white is not superior to a black or vice versa except because of piety (Ibn Hesham's Sireh, and the Universal Declaration of Human Rights, Article 2). 16- Your predecessors were demolished because they did not rule equally; whenever an elite member stole something, they condoned it, but when an ordinary person stole something, they punished him (Bukhari 4 and Muslem 44); the right to equality of all people before the law (Universal Declaration of Human Rights, Article 3). 17- The worst people are those who sell human beings; the right to life (Universal Declaration of Human Rights, Article 4). 18- God will punish those who torture people in the world (Prophet's saying, Muslem 44); Universal Declaration of Human Rights, Article 5. 19- Every Muslim is protected by the law and he should not be flogged except according to the law (Prophet's saying, Muslem 24); Universal Declaration of Human Rights, Article 5. 20- Everyone who bothers a non-Muslim under the protection of Islam, it is like he has bothered me (Prophet's saying, Ibn Haytham 43); Universal Declaration of Human Rights, Article 5. 21- The best holy war is telling the truth before a ruthless ruler (Khorramshahi, 1999; 348 and Universal Declaration of Human Rights, Article 19). 22- Someone who does not follow God's commandments should not be obeyed. Obeying the rulers is obligatory, if they rule according to the law (Harrani, 2010: 313 and Universal Declaration of Human Rights, Article 30). 23- It is not allowed in law that somebody harms others ab initio or as an act of reciprocity (Universal Declaration of Human Rights, Article 22).

Apart from these sayings, there are other sayings ascribed to the Prophet that addressed humanity, speaking about the basic principles of human rights. The Prophet of Islam also held lectures



on numerous sermons, which have become eternal. He talked about fundamental human rights in these sermons, including a sermon after the conquest of Mecca: “When the Prophet entered Mecca victoriously in 630, he did not act like the world conquerors that engaged in massacre and looting after they conquered a city,” (Bastehnegar, 2001: 25) the Prophet talked about brotherhood, equality and justice. In another sermon in the last Hajj pilgrimage, the Prophet spoke about the people’s social rights including the respect for life, reputation and deposits, abolition of pre-Islamic revenge, right to human life, women’s rights, brotherhood and equality rights, right to inheritance, and protecting the rights and identity of children. The Prophet spoke about fundamental principles in another sermon in Khaif mosque in Mina: advising the rulers, purity for God, obligation to social system, brotherhood, solidarity and the right to participation. In his sermon, the Prophet also observed: love the Muslim community, respect your elders, have mercy for the miserable, do not harm the people, and do not make the people suffer from poverty. In his meeting with the people when he was seriously ill, his speech was replete with thoughtful and fair advice. All these sayings relate to people’s rights, social regulation, equality of all before the law and enhancing cultural rationality; that is to say that no authority in the society should be assumed beyond the law, unaccountable, and having a mythical image with absolute sanctity.

#### **IV- Islamic Law and International Law**

What is known as Sharia is indispensable for regulating Muslim people’s lives. For this reason, a number of scholars of Islamic studies have recently explained that although Sharia has a divine source, its actual interpretation is a human thing and its results are stated as the human understanding of the divine laws. That is to say that law has not been prepared and sent from heaven, but this is a human understanding of the law. An explanation is needed about



the difference between Sharia as the divine rulings on the one hand and human efforts to discover its meaning on the other. It is clear that today's Islam plays a crucial role in Muslims' lives, but changes in social, economic and political conditions in Muslim societies all around the world would require an understanding of the Sharia, which emerged 1400 years ago for dealing with the practical problems of human society. Nonetheless, revision in the Sharia regulations by human beings cannot be considered as divine.

Human rights are rights that every person enjoys because of the fact that he or she is a human being. This author argues that since all human beings are identical in terms of humanity, they enjoy fundamental rights of equality which is not related to the holding of religious and other beliefs. The reason for human equality, in the Universal Declaration of Human Rights, is regarded as dignity and conscience. On this basis, human beings are equal in terms of intrinsic value and dignity and in legal terms. The rights of human beings are closely related to their dignity and nature, and since human nature is the same, nobody can deprive himself of it or transfer it to another person. From the Islamic perspective, as a number of Koranic verses including Sura Baqara, Verse 29 indicate, all human beings regardless of religion, denomination, convictions, actions and behavior are identical in their humanity, enjoying equal rights (intrinsic dignity). Islam's cult of mercy and affection always looks at improving the human condition and protecting human rights and values from a divine perspective, paying special attention to it. Islam has often sought to get moral goods to its perfection as evidenced vividly by Koranic sources. In the Universal Declaration of Human Rights, the human is referred to as a being whose nature and substance precedes his religion, race, skin color and alike. That is to say that a human is first a human and then he adopts his religion, cult, convictions, beliefs and way of life. This does not contradict religion and religiosity, because human beings have not become human due to the relationship they have with the sacred. Humans were, at the beginning, human and then they adopted their



religion and relationship with the sacred. Human rights are the rights of humankind regardless of his religion. In studying human rights from an Islamic perspective, simply Koranic verses and Prophet's sayings implying Muslim duties in Muslim society and dignity of believers should not be incited as evidence of human rights from an Islamic perspective. By referring to the Islamic texts, i.e. Koranic verses and Prophet's sayings, we learn that these are identical with human rights achievements (Jalali and Behzadi, 2009: 141-161).

Undoubtedly, there are differences between the Islamic outlook on the issue of human rights and the perspective of international law in this regard. However as a solution for further interaction between the two legal systems, it is suggested that maximum attempts by the international community and Muslim countries be focused upon the commonalities rather than points of difference through various ways including political, cultural and legal ways, because today's world needs unity rather division more than any other time.

### **Conclusion**

Human rights, which are considered as the natural and fundamental rights of every human being, have historically hinged mostly upon civil and political rights. However in the contemporary age, their range has spread to include economic, social and cultural rights. Rights that were traditionally guaranteed for citizens through countries' constitutions are complemented in the modern age by international efforts largely through the United Nations and regional organizations. Since the end of the Second World War, human rights have been among the issues that have created concerns and world sensitivity. Attention to this issue has existed since a long time ago, efforts have been made in this respect and it has been referred to in the United Nations Charter in different forms. But the recent action in this regard has been the codification and adoption of the Universal Declaration of Human Rights by the UN General



Assembly.

From the Islamic point of view, human beings are also valuable and inherently deserve respect. Humanity's duty is to express the truth, establish justice, and to promote mercy and affection on God's earth. In line of fulfilling this objective, holy books and great prophets have been sent in order to guide humankind so that the divine design of creating humans will become complete and the world will become a utopia under the shadow of justice and security. The Koran in principle views all human beings (both women and men) as identical in the essence of humanity and intrinsic dignity. Islam has paid particular attention to human freedom, respect for intrinsic rights and dignity and to avoid including such accidental factors as skin color, race, language, nationality and so on in the reputation and privilege for human beings. The only criterion for gaining privilege before God is piety.

With such an outlook on human beings, Islam has set forth rights and duties for humans. Almost all that has been enshrined in the Universal Declaration of Human Rights as fundamental rights have been fully considered in the Islamic legal system, because natural human rights including the right to life, right to dignity, right to education, right to responsible freedom and right to equality are documented in the original Islamic sources.

Overall, human rights in Islam firmly relate to faith in God and Sharia. Everyone who recognize God as the one that is worshiped will know and observe his/her rights, rising up if necessary to secure them. Such a person will understand and observe the rights of God's servants, because he/she believes that God is the creator of human beings and they are God's creatures, enjoying equal rights. Every human is obliged to fulfill these rights. Such characteristics as skin color, gender and nationality represent a means for identification and cooperation among human beings rather than being a criterion for superiority and arrogance.

## Notes

1. For example, concluding comments on Jordan (1994) UN doc. CCPR/C/79/Add.53  
Para 103 concluding comments on Islamic Republic of Iran (1993) UN doc.  
CCPR/C/79/Add.25 Para .16. Concluding comments on Nepal (1994) UN doc.  
CCPR/C/79/Add.42 Para 11 concluding comments on Libyan Arab Jamahiriya  
(1994) UN doc. CCPR/C/79/Add.45 Para 13 concluding comments on Morocco  
(1994) UN doc. CCPR/C/79/Add.44 Para 14.
2. M. Nowak, CCPR Commentary (N. P. Engel, kehl, 1993), 318.
3. Kevin Boyle and Juliet sheen, Freedom of religion and belief, (London and New York:  
Routledge, 1997), XV.

## References

- Hanbal, Ahmad ben Mohammad ben. 2000. *al-Musnad Ahmad in the Prophet's Sayings*, Cairo, Egypt.
- American Convention on Human Rights. 1969. OAS, NO, 36.
- Comments of Saudi Arabia. 1948.U.N, G AOR. C, UN. DOC A/C.3/SR.127.
- Comments of Iran. 1993. U.N, DOC. CCPR/C/79/Add 25.
- Comments of Jordan. 1994. U.N, DOC. CCPR/C/79/Add 53.
- Comments of Libyan Arab Jamahiriya. 1994. U.N, DOC. CCPR /C /79/ Add 45.
- Comments of Morocco. 1994. U.N, DOC. CCPR/C/79/Add 44.
- Comments of Nepal. 1994. U.N, DOC. CCPR/C/79/Add 42.
- Declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief, V N. 1981.
- Encyclopedia of Human Rights, Edward Lawson, Tallor and Francis. 1996.
- Final Act of the conference on security and cooperation in Europe. 1975.
- Boyle, Kevin and Juliet Sheen. 1997. Freedom of religion and Belief, London and New York: Routledge.
- Freedom of religion in the Practice of the European commission and court of Human 50. 1986. Rights, Jochen Abr. Frowein, www.zaoerv.de, Max Planck Institute.
- Freedom of religion under the European convention on human Rights. 2001. Carolyn Evans, New York: Oxford University Press.



- International Covenant on civil and Political Rights. 1966. 999 UNTS 171.
- International Covenant on Economic, Social and Cultural Rights. 1966. 993 UNTS  
Kjeldsen and others, ECHR, VOL, 23.
- Janis M.W. et al. 1988. "Religion and International Law", Proceedings of the Annual  
Meeting (American Society of International Law), Vol. 82, pp. 195-220.
- The International Covenant on Civil and Political Rights, Cases and Materials and  
Commentary, Sarah Joseph, Jenny Schultz and Melissa, Castan, 2000, Oxford  
University Press in New York.
- Traer R. 2012. "Religion" in International Law, at [http://religionhumanrights.com/  
Research/religion.intlaw.htm](http://religionhumanrights.com/Research/religion.intlaw.htm).
- United Nations Human Rights Committee, General Comment, NO. 22(48), UN.  
DOC.CCPR/C/21/Rev.1/Add.4. (1993).
- Universal Declaration of Human Rights, 10 December 1948. GA Res. 212A (III).
- African Charter on Human and Peoples' Rights, 26 June 1981, O.A.U. DOC.  
CAB/LEG/67/3.
- Decisions and Reports (DR) 19.5 – 26,92 – 22,27.

