

Charter of Medina and Farewell Sermon of Prophet (SAW) : A Contribution to Universal Declaration of Human Rights

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Abstract

The central point of this study is to assess and disclose the provision of human rights in Islamic perspective by defining the concept of human right and its characteristics in both Islamic and western perspectives, studying various documents and events in Islamic history with a view to extracting the human rights and freedoms contained therein. To this effect, we have also examined the distinction between human rights in Islam and contemporary views of human rights propagated by the westerner ideology. We have discussed some specific rights granted by Islam to mankind irrespective of religion, race and gender. Finally, the mechanism for enforcement of human rights in Islam is explored.

Keywords : Islam, Human Rights, Charter of Medina and UDHR.

Introduction

Islam is a complete code of life bestowed by Almighty Allah for mankind which covers all aspects of human rights. Islam prescribes some rights for human beings for peaceful enjoyment. Islam has laid down some universal fundamental rights for humanity as a whole, which are to be observed and respected under all circumstances. These basic rights are associated with Islamic faith and belief because they are divinely ordained. Thus, human rights in Islam are religious obligations.

In the contemporary world, human rights have become dominant ideology as it received almost universal recognition by all societies and people of all creeds (Al-Faruque, 2012). However, the issue of human rights was raised in the western world by the thinkers of the post-Renaissance period and finally these rights are established after the adoption of Universal Declaration of Human Rights (UDHR) in 1948. The western jurists who do not have an idea about Islam or who are ideologically opposed to Islam try to overlook the contribution made by Islam towards the development of the concepts of human rights and fundamental freedoms in the international spheres. The Holy Quran and the Sunnah have made in several occasions references to rights of the different sections of the people of a society. These rights are extended to the enjoyment of the non-Muslims in an Islamic State. In other words, Islam has granted a full-fledged Bill of Rights which is to be accepted throughout the world by the Muslims as well as by the non-Muslims (Patwari, 1995). Islam

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was the first religion to recognize basic human rights and almost 14 centuries ago it set up guarantees and safeguards that have only recently been incorporated in UDHR which we will prove in our paper.

Understanding Human Rights : The Basic Concept

The Western human rights theory is a product of a peculiar set of political, religious and economic circumstances that have focused the history of the Western civilization. Broadly speaking human rights may be regarded as those fundamental and inalienable rights which are essential for life as human being (Kapoor, 2006). Human rights are commonly understood as being those rights which are inherent to the human being. The concept of human rights acknowledges that every single human being is entitled to enjoy his or her human rights without distinction as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Human rights are legally guaranteed by human rights law, protecting individuals and groups against actions which interfere with fundamental freedoms and human dignity (OHCHR, 2000). As per traditional view, the Charter of the United Nations for the first time internationalized human right in 1945. Before its establishment, *Magna Carta* (1215), the Petition of Right (1628), the Bill of Rights (1688), the Act of Settlement (1701), the American Declaration of Independence (1776), the American Bill of Rights (1791), the French Declaration of Rights of Man and of Children (1789) were milestone in the road in which the individual acquired protection against the capricious acts of kings and despots and the right to lead a free life in a free society (Patwari, 1995). At present, the foundation documents of human rights law are the Universal Declaration of Human Rights (UDHR, 1948), the International Covenant on Civil and Political Rights (ICCPR, 1966) and its Optional Protocol, and the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966 (Flowers, 2000). Known collectively as the International Bill of Human Rights, these four documents were followed by more than twenty human rights conventions—treaties that become binding law in those countries that ratify them. When a UN member state ratifies a convention, it agrees to abide by its provisions, to change the laws of the country to conform to the convention, and to report on its progress in doing so.

Modern Human Rights and Islam

The conception of human rights in Islamic doctrines is different from many conventional western, socialist, and secular concepts of human rights. The main indicator of the success and failure of the western and secular concepts of human rights is material achievement, while spiritual salvation is the prime concern of the Islamic concepts of human rights. In material terms, a state or society may be rich; but its humane character may be awfully poor because of its weak moral, ethical, and spiritual foundation. Without some minimum economic emancipation, no society can hope to maintain its desired moral fabric. A rich humane character and strong moral foundation of a society can be regarded as the goal of Islamic human rights, while material advancement is the means to achieve that goal (Khan, 2003).

Human rights in Islam have been granted by Allah (SWT), and no individual or legislative assembly has the right to amend, change, or withdraw them. That why we can say it is a

divine concept. Unlike the Western and contemporary concept of human rights, human rights in Islam was not the result of any development in human thought. This is why it was the divine arrangement that was a Messenger of Allah with divine guidance. And this divine guidance was completed with the revelation of the Quran. The source of human rights in Islam is the Holy Quran and *Sunnah* and it is guaranteed by the Holy Quran which is the Constitution of the Muslim *Ummah* (Razzaq, 2004). Besides the primary source of human rights that is the Holy Quran and *Sunnah*, the secondary sources are the Constitution or Charter of Medina, historic judgments of Prophet (SAW), and practices of rightly guided caliphs, *Ijma* and *Qiyas*. In fact, Islam promoted the universality of the human experience over thirteen hundred years before the United Nations declared it to exist. In this regards Professor Briffault rightly remarks, “*The ideals of freedom for all human beings, of human brotherhood, of the equality of all men before the law, of democratic government by consultation and universal suffrage, the ideals that inspired the French Revolution and the Declaration of Rights that guided the framing of the American Constitution and inflamed the struggle for independence in the Latin American countries were not inventions of the West. They find their ultimate inspiration and source in the Holy Quran. They are the quintessence of what the intelligentsia of Mediaeval Europe acquired from Islam over a period of centuries through the various channels of Muslim Spain, Sicily, the crusaders and of the ideals propagated by the various societies that developed in Europe in the wake of the Crusades intimidation of the brotherhood association of Islam*” (Bari, 1994). However, it is noteworthy that many human rights recognized in modern human right theory can be found in the Islamic system (Khadduri, 1984; Qadri, 1981) i.e., modern human rights is the outcome of Islam.

Islamic View in Universal Declaration of Human Rights

The General Assembly had since 1948 proclaimed the Universal Declaration of Human Rights (UDHR) as a common standard of achievement for all people and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

A substantial number of human rights have been found similar with the teachings of Islam, these social human rights and freedoms include the entitlement of equality among people in dignity, freedoms and rights, entitlement of the right and freedom to life, liberty and security of person, prohibition of subjecting one to torture or cruel, inhuman or degrading treatment or punishment, entitlement of right to freedom of movement and residence within the borders of each state, entitlement of the right to leave any country, at whatever time intended, including his own and to return to his country also at whatever time, entitlement of the right to marry and to establish a family without mere coercion, among others.

However, dissimilarities between the two perspectives in respect of such rights have been found to exist, such rights include absence of some vital aspects of human rights in the UDHR, these missing vital aspects include the right of receiving dowry by the bride from her groom, the right to alimony, the right to seek for divorce for a cogent reason and the right for

kindness among couples, while a times it legislates a number of rights that are inconsistent with the teachings of Islam such as non consideration of religion in the establishment of family ties and the legislation of freedom to change religion at whatever time (Usman, 2012).

Badar Battle and Human Rights

In the first *hijrah* in 623 seventy pagan defeated soldiers of the battle of *Badar* fell in the hands of the Prophet (SAW), among them were almost all of their ring leaders. They deserved capital punishment with death even under customary law existed during those days. But beyond expectation the Prophet (SAW) released them with a minimum as well as honorable amount of ransom for which the Prophet (SAW) could put 'Islam' as a condition of their release. According to Tabari, *"The prisoners of war of Badar were given the best food to eat in a condition when the captors (the Muslims) themselves were taking only plain dates"* (Tabari, 1977; Shibli Numani, 1983). They were those people who, for last 14 years, had been the cruelest, unjust and who did not leave any stone unthrown against Muslims. One of them said, *"Blessings be on the people of Medina, because they rode us ride, while they themselves walked, they gave us wheat bread to eat when there was little of it, contenting themselves with dates"* (Ibn Hisham, 1971).

Human Rights : The Charter of Medina

The Charter or Constitution of Medina is a written covenant between Islamic state of *Yathrib* (later known as Medina) and its citizens, particularly non-Muslim. It constituted a formal agreement between Muhammad (SAW) and all of the significant tribes and families of Medina, including Muslims, Jews, Christians (Serjeant, 1978) and pagans (Firestone, 1999; Watt and Serjeant, 1964). The Prophet (SAW) promulgated it, in 624 A.D. more than thirteen hundred years before the Universal Declaration of Human Rights (1948) had established, on his capacity as the head of the state soon after his arrival at Medina. He declared the equality of all men, irrespective of race, color or creed. No other religion or prophet spoke of equality of men in such unequivocal terms before him. Professor Muhammad Hamidullah considered it as the first written constitution of the World (Hamidullah, 1981). The sole objectives of the promulgation were to guarantee the rights, duties and obligations of state and citizens towards each other. As Forrest G.A. wrote (Forrest, 1967), *"The Messenger of Allah (SWT) began to practice human rights when, as early as 624, he promulgated the Charter of Constitution of Medina"* (Hamidullah, 1981). Many historians praised it and considered it one of the prides of Islamic civilization and a hallmark of its political and humane glory. The Medina Charter consisted of 47 clauses; but Professor Muhammad Hamidullah and Roman historian Gorgio counts it to be 52 (Guillaume, 1955) which are aimed mainly to organize the relationship among all the sects and groups living in al-Medina at the time, especially the emigrants, Ansar, and Jewish parties. Roman historian Gorgio wrote that *"this Charter contained fifty-two articles formulated by Prophet Muhammad (SAW) himself: twenty-five were related to Muslims' affairs and twenty-seven were related the relation between Muslims and others, especially the Jews and idolaters. This Charter was drawn in such a way that provided the chance for all beliefs to live together along with Muslims in a peaceful way and gave them the freedom to observe their rites provided that no other is annoyed. It also stated the need for*

unity against any outsider who may attack al-Medina.” In fact it was the first written ‘*Magna Carta*’ of the World after the Quran and *Sunnah* of the Prophet (SAW). The objectives of the Constitution was to maintain peace and mutual aid, to protect the life and property of all citizens, to ensure freedom of religion and movement, and to eliminate aggression and injustice regardless of tribal or religious affiliations. The Constitution of Medina gives special attention to the rights of the Jewish citizens of Medina. It not only granted them protection but also ensured complete liberty in observing their religious rites.

Now we would like to point out some important articles of the Charter of Medina which has played a laudable role for upholding human rights –

- i. Muslims and Jews, the parties of this agreement, shall form one community (Article 2 of the Charter of Medina) i.e., the Jews have the same status as the parties making the pact.
- ii. A believer shall not slay a believer for the sake of an unbeliever, nor shall he aid an unbeliever against a believer (Article 14 of the Charter of Medina).
- iii. The security of God is equal for all groups (Article 14 of the Charter of Medina).
- iv. Muslim state protects all its citizens regardless their beliefs as long as they do their duties and fulfill their promises (Article 16 of the Charter of Medina).
- v. Whoever is convicted of killing a believer without good reason shall be subject to retaliation unless the next of kin is satisfied (with blood-money), and the believers shall be against him as one man, and they are bound to take action against him (Article 21 of the Charter of Medina). Therefore, the Charter guaranteed social security, justice and compensation and put an end to the pre-Islamic vendetta which is resulted in prevalent stability and security over the society.
- vi. Non-Muslim members have equal political and cultural rights as Muslims. They will have autonomy and freedom of religion (Article 25 of the Charter of Medina). The proposition of this clause is that each one is free to choose his or her religion. In this regards the Holy Quran declares: “*There is no compulsion in religion. Verily, the Right Path has become distinct from the wrong path...*” (al-Baqarah, 2 : 256).
- vii. The contracting parties are bound to help one another against any attack on Medina (Article 44 of the Charter of Medina). Besides, non-Muslims will take up arms against the enemy of the *Ummah* and share the cost of war. There is to be no treachery between the two (Article 37 of the Charter of Medina). But non-Muslims will not be obliged to take part in religious wars of the Muslims (Article 45 of the Charter of Medina).
- viii. Islam is a religion of peace. When the contracting parties are called to make peace, they should make it and maintain it (Article 45a of the Charter of Medina).
- ix. Security is the right for all (Article 47 of the Charter of Medina) except the unjust and the sinner.

Human Rights : The Farewell Sermon of Prophet Muhammad (SAW)

The Last Sermon of the Prophet (SAW) was delivered in front of a large gathering of people, on the Ninth Day of *Dhul-Hijjah* 10 A.H. (during the Hajj), in the 'Uranah valley of Mount Arafat' in *Makkah*. This sermon was contained much guidance and instructions on many issues particularly human rights issues. This sermons emphasized on sacredness of right to life, dignity and property; rights of women over men and rights of men over women, treatment of women with kindness, and modesty and chastity of women; equal treatment to all and other issues.

Rights of Life and Property

Life and property are the most precious gift of Allah (SWT) and the first and foremost right of every individual. Islam has encouraged and motivated people to earn, so that wealth may be generated. Property according to Islam has been created by Allah (SWT) for the benefit of all and not for just a few people. Human blood is sacred and cannot be spilled without justification. In the address which the Prophet delivered on the occasion of the Farewell Hajj, he said: "*Your lives and properties are forbidden to one another till you meet your Lord on the Day of Resurrection* (Bukhari and Muslim)." As regard right to life, dignity and property (narrated by Abu Bakra) the Prophet (SAW) said: "*O People, just as you regard this month, this day, this city as Sacred, so regard the life and property of every Muslim as a sacred trust. Return the goods entrusted to you to their rightful owners. Hurt no one so that no one may hurt you. Remember that you will indeed meet your Lord, and that He will indeed reckon your deeds*" (Muslim, Book 16, no 4160).

Right of Women

The right of women is highly appreciated in Islam. A husband must extend just treatment to his wife and household. A husband must demonstrate care, kindness and solve any problem within his means and consult with his wife concerning their life and future needs and plans. In the last sermon, Prophet (SAW) taught men to treat their spouses in the best way. This *hadith* was narrated from Ibn 'Abbb that the Prophet said: "*The best of you are those who are best (in treatment) to their wives*" (Ibn Majah, 2007). In a famous incident (narrated by Abu Huraira and Mu'awiyah Ibn Hayadah), a man came to the Prophet (SAW) and asked: *O Messenger of Allah, who amongst the people is most deserving of my good treatment? He said: Your mother, again your mother, again your mother, then your father, then your nearest relatives according to the order (of nearness)* (Bukhari, Book 8, no 2; Muslim, Book 32, no 6181; Abu Dawood, Book 41, no 5120). In upholding the right of women the Prophet (SAW) declared: "*O People, it is true that you have certain rights in regard to your women, but they also have rights over you. Remember that you have taken them as your wives, only under Allah's trust and with His permission. If they abide by your right then to them belongs the right to be fed and clothed in kindness. Do treat your women well and be kind to them, for they are your partners and committed helpers.*"

And it is your right that they do not make friends with anyone of whom you do not approve, as well as never to be unchaste.”

Equality of Human Beings

Equality before law is one of the corner stones of the Islamic Constitution. All human beings are equal and belong to one universal brotherhood. It announces that all human being in the world have sprung from the parents (al-Huzurat, 49:13). Therefore, they are called brothers-sisters and are equal in their status as human beings. As regards equality of mankind just three months before his death, during the farewell of final hajj, he said: *“All mankind is from Adam and Eve, an Arab has no superiority over a non-Arab nor a non-Arab has any superiority over an Arab; also a white has no superiority over a black, nor a black has any superiority over a white - except by piety and good action. Learn that every Muslim is a brother to every Muslim and that the Muslims constitute one brotherhood. Nothing shall be legitimate to a Muslim, which belongs to a fellow Muslim unless it was given freely and willingly. Do not therefore, do injustice to yourselves”* (Ibn Hisham, 1971). Eventually, we can say that the *hadith* of Prophet (SAW) has played a laudable role for the elimination of racial discrimination through the world.

Enforcement of the Rights in Islam

If we look at the enforcement mechanism of all the international instrument of western human rights such as UDHR, ICCPR, ICESCR, we will see the enforceability is very poor and weak e.g. only creating international pressure to the violated countries. This gives unfair advantage to the economically and militarily dominant countries over weaker countries. Islam not only guarantees to ensure human rights but at the same time provides procedures for the enforcement of these rights. The enforcement procedures are dual in natures which are given below:

- A. One will be conducted and enforced by the State machinery i.e., the Court and
- B. Another will be conducted in the next world or hereafter.

The first enforcement procedure the Court has played important role for the protection of human rights in Islamic countries. If any right is infringed by any party the aggrieved person has the right to petition before the Court for the enforcement (Patwari, 1995). However, the second enforcement procedure is spiritual one. In Islamic point of view, the human existence of this worldly life is temporary and only meant to be a trial. This period of trial will give way to a period of accountability followed by eternal rewards and punishments. So if anybody infringed the right of other, he/she not only punished today but also punished hereafter. It is evident that Islam recognizes human rights and fundamental freedoms. So the Bosworth Smith rightly remarks in his *Mohammed and Mohamadanism*: *“It recognized individual and public liberty, secured the person and property of the subjects, and fostered the growth of all civic virtues. It communicated all the privileges of the conquering class to those of the conquered who conformed to its religion, and all the protection of citizenship to those who did no...”* (Galwash, 1945).

Conclusion

Unlike any modern system of human rights, Islam recognizes human rights as a one of the core concepts of social justice and provides strong enforcement measures to ensure peace and prosperity of the human race. It is evident from the life and teachings of the Prophet Mohammad that he was in the forefront of eliminating social injustice and the greatest proponent of human rights. There is need for Muslim countries to fully implement the Islamic provisions on human rights and make further study with a view to inculcating moral obligations and norms in the Muslim communities and beyond.

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