

# SOCIAL HUMAN RIGHTS IN ISLAM AND THE UNIVERSAL DECLARATION ON HUMAN RIGHTS (U.D.H.R 1948): COMPARATIVE STUDY

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**Abstract:** The main purpose of this study is to reveal and disclose the similarities and dissimilarities in respect of social Human rights and freedoms in the Universal Declaration on Human Rights (UDHR 1948) from the Islamic political perspective by defining the concept of Human right and its characteristics in both Islamic and western perspectives, studying the U.D.H.R with a view to extracting the social human rights and freedoms contained therein and finally stating the similarities and dissimilarities between the Islamic law and the declaration in respect of such rights alongside the description on how such rights supposed to be in the declaration in particular and in the western ideology in general in the light of Islamic politics.

**Keywords:** Freedom, Islam, Social human rights, Western perspective.

## INTRODUCTION

Islam as a divine religion considers Human rights as all those personal benefits that have been legislated by the Islamic law specifically for human beings, while in Western perspective are regarded as the rights which belong to any individual as a consequence of being human, independently of acts of law [1]. Both these two perspectives consider human right as a basic provision that contributes immensely in the wellbeing of the society as they actualize welfare and comfort, guarantee the security of lives and property and above all recognize and

respect the personality of people irrespective of gender, race and social status.

It is against this background, Islam considers Human rights whether social, economic, religious, legal or political as religious acts and responsibilities that must be observed and carried out and in return, there is a provision for reward in the Hereafter.

However, The Universal Declaration of Human Rights, which was adopted by the UN General Assembly on 10 December 1948, contains 30 articles that cover so many aspects of Human right in which social Human Rights is not an exception.

## OBJECTIVES

(a) To describe and define the concept of Human Rights in Islamic and western perspectives. (b) To identify the major similarities and dissimilarities between the Universal Declaration on Human Rights and Islam in respect of social human Rights and freedoms.

## MATERIAL AND METHODS

The General Assembly had since 1948 proclaimed the Universal Declaration of Human Rights 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. Having considered the above mentioned fact, the U.D.H.R was studied with a view to extracting the social human rights and freedoms and compare them with the Islamic doctrines such as Qur'an and Sunnah with a view to arriving at a conclusion on whether or not Islam has accepted all such rights.

## DISCUSSION

A substantial number of social 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 social human rights in the U.D.H.R, 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.

### Characteristics of human rights in the Islamic perspective

Human rights in Islam have been distinguished with number of characteristics as follows: (a) Nothing can be regarded as Human rights unless if they have been legislated by Almighty Allah in the Holy Qur'an or the Prophetic tradition or the remaining sources of Shari'ah. (b) Human rights in Islam are geared towards ensuring the bundle of benefits of individual and groups without mere exception (c) Human rights exercise social functions that reflect sanity and humanity [2].

### Characteristics of human rights in the Islamic perspective

In western perspective, human rights have the following characteristics: (a) Universality: "(It

means that human rights goes along with the progress of human society and has always been a universal concern of human beings in various historical periods". (b) Particularity: "Human rights are related with the relationship between people and the nature, people and people and people and society, changes of human rights is certainly influenced and limited by the development of scientific technological and social development. The concept of human rights, as the theoretical reflection of practice, is a product of history, which is formed and perfected with the development of human society. Therefore the contents of human rights change in different historical periods". (c) Expansion: "The expansion of human rights is the combination of universality and particularity as well as the combination of continuity and periodic nature". (d) Relativity: "This means human rights concerns with relations between people and people. The rights of individuals Coexist and contradict each other, and therefore, the human rights of an individual are limited and relative to others' human rights and collective human rights [1]. So, Relativity of human rights is, in fact, the limitation of human rights". (e) Being inalienable: "Human rights cannot be taken away; no one has the right to deprive another person of them for any reason. People still have human rights even when the laws of their countries do not recognize them. So, Human rights are inalienable" [1].

### Types of human rights in Islamic perspective

In Islam, human rights have been divided into three as given below.

#### *Rights of an Adult on himself (حقوق المكلف على نفسه).*

This type of right consists of preventing and deterring an adult himself from destruction (*tahluka*).It is against this background the Qur'an reads: "And spend in the way of Allah and do not throw [yourselves] with your [own] hands into destruction [by refraining]. And do good; indeed, Allah loves the doers of good". [2:195]

"And do not kill the soul which Allah has forbidden, except by right. And whoever is killed unjustly - We have given his heir authority, but let him not exceed limits in [the matter of] taking life. Indeed, he has been supported [by the law]" [17:33]

"O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent. And do not kill yourselves [or one another]. Indeed, Allah is to you ever Merciful" [4:29]

### **Rights of adults upon other adults (حقوق المكلفين بعضهم بعضاً)**

There are so many Qur'anic verses that enjoy such kind of rights. Almighty Allah says in the Holy Qur'an:

“Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice. Excellent is that which Allah instructs you. Indeed, Allah is ever Hearing and seeing”. [4:58]

“And cooperate in righteousness and piety, but do not cooperate in sin and aggression. And fear Allah; indeed, Allah is severe in penalty”. [5:2]

O you who have believed, avoid much [negative] assumption. Indeed, some assumption is sin. And do not spy or backbite each other. Would one of you like to eat the flesh of his brother when dead? You would detest it. And fear Allah; indeed, Allah is Accepting of repentance and Merciful”. [49:12]

### **Rights of other creatures (حقوق بقية المخلوقات)**

Other creatures in this passage refer to all kind of creatures whom have not fall under the first and second categories mentioned above. This type of creatures consist of non-mukallaf and non- Human being such as children, insane and animals. However, animals have been described by the holy Qur'an as Umam, hence they deserve a right(s)

“And there is no creature on [or within] the earth or bird that flies with its wings except [that they are] communities like you. We have not neglected in the Register a thing. Then unto their Lord they will be gathered”. [6:38]

### **Types of human rights in western perspective**

In this perspective, Human rights have been divided into five as given below.

#### **Individual (civil) rights**

This type of right consists of rights to liberty, life, and security of the person, privacy and freedom of movement, freedom of thought, prohibition of slavery, torture and degrading punishment, ownership of property and religious belief and practice.

#### **Rights of political expression**

This type of right consists of freedom of expression, the right to take part in government, right to assembly and association, right to periodic and meaningful election with universal and equal suffrage.

#### **Rule of law**

This type refers to the rights of equal recognition before the law and equal protection by it, effective legal remedy for violation of rights and probation of arbitrary arrest.

### **Economic and social rights**

This type of right consists of the right to free choice of employment, adequate standard of living, protection against unemployment, free elementary Education and right to social security.

### **Rights of communities**

This type refers to the right to self-determination and protection of minority cultures [3].

Social Human rights in the universal Declaration on Human rights (UDHR-1948)

The UDHR OF 1948 consist of 30 articles which touch most of the basic elements of human rights socially, economically, religiously, legally and politically. Since our topic only affects social human rights, the articles concerning such rights are hereby extracted and mentioned below:

### **Similarities and dissimilarities of social human rights in the UDHR and Islam**

Islam and the Universal Declaration on Human rights (UDHR 1948) have Similar approach in the legislation of some social human rights as they defer and have dissimilarities as well. Therefore, the researcher will firstly mention and discuss those social Human rights that receive similar treatment from both Islam and the UDHR.

### **Similarities of social human rights in the UDHR and Islam**

These similarities affect the following aspects.

#### **The legislation of freedom as a basic and fundamental right of human being**

The UDHR has legislated such right in article 1 as follows. “**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”.

The statement in bold is the gist of the article where it has been obviously stated that all human beings are initially born with their full right of freedom.

However, Islam has concurred with this article as it called for such right and legislated it for over 1000 centuries ago. It also made a strategic provision for minimizing the number of slaves in the earth [4]. The following Qur'anic verses are worth of consideration. Almighty Allah says:

“And those who pronounce thihar from their wives and then [wish to] go back on what they said - then [there must be] the freeing of a slave before they touch one another. That is what you are admonished

thereby; and Allah is Acquainted with what you do”.  
[58:3]

“Allah will not impose blame upon you for what is meaningless in your oaths, but He will impose blame upon you for [breaking] what you intended of oaths. So its expiation is the feeding of ten needy people from the average of that which you feed your [own] families or clothing them or the freeing of a slave. But whoever cannot find [or afford it] - then a fast of three days [is required]. That is the expiation for oaths when you have sworn. But guard your oaths. Thus does Allah make clear to you His verses that you may be grateful”. [5:89]

“And never is it for a believer to kill a believer except by mistake. And whoever kills a believer by mistake - then the freeing of a believing slave and a compensation payment presented to the deceased's family [is required] unless they give [up their right as] charity. But if the deceased was from a people at war with you and he was a believer - then [only] the freeing of a believing slave; and if he was from a people with whom you have a treaty - then a compensation payment presented to his family and the freeing of a believing slave. And whoever does not find [one or cannot afford to buy one] - then [instead], a fast for two months consecutively, [seeking] acceptance of repentance from Allah. And Allah is ever knowing and Wise”. [4:92]

***Non distinction between human being in respect of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status in terms of enjoying rights and freedoms.***

This has been stated in article 2 of the UDHR as follows: “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, 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, whether it is independent, trust, non-self-governing or under any other limitation of sovereignty”.

However, Islam has also recognized such right as it a call and invitation extended to the entire world without mere discrimination. It is against this background, Almighty Allah sent down His message to the entire world without mere distinction as the prophet (PBUH), who is regarded as the conveyer of the legislation of rights, was not sent with the divine message specifically for some certain categories of people. Thus, he was sent to the entire Universe. Almighty Allah says:

“And we have not sent you except comprehensively to mankind as a bringer of good tidings and a warner. But most of the people do not know” [34:28]

“Say, [O Muhammad], "O mankind, indeed I am the Messenger of Allah to you all, [from Him] to whom belongs the dominion of the heavens and the earth. There is no deity except Him; He gives life and causes death." So believe in Allah and His Messenger, the unlettered prophet, who believes in Allah and His words, and follow him that you may be guided”. [7:158]

***Right to life***

This right has been mentioned in article 3 of the UDHR as follows: “Everyone has the right to life, liberty and security of person”.

Islam has also recognized such important right as it considered life as the most essential right that Human being maintains right from the initial stage of creation while in the womb. However, it also prohibited whatever contributes to his demise without a cogent and verifiable reason. It is against this background, the Holy Qur’an reads:

“And do not kill the soul which Allah has forbidden, except by right. And whoever is killed unjustly - We have given his heir authority, but let him not exceed limits in [the matter of] taking life. Indeed, he has been supported [by the law]”. [17:33]

In addition, the prophet (PBUH) was quoted saying in the Hadith of Abdullah bin Mas'ud (may peace be upon him): “It is not permissible to take the life of a Muslim who bears testimony (to the fact that there is no god but Allah, and I am the Messenger of Allah, but in one of the three cases: the married adulterer, a life for life, and the deserter of his Din (Islam), abandoning the community” SAHIH ALBUKHARIEY.

***Prohibition of subjecting one to torture***

This right was legislated in article 5 of the UDHR as follows: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.

However, Islam has preceded the UDHR in legislating such important right. It is also a reality that a judicial doctrine has been established in Islam reading (لا عقوبة بغير جريمة ولا عقوبة بغير نص), meaning: No punishment should be inflicted without an offence as no punishment should be inflicted without evident proof from the Shari’ah sources.

This has been legislated with a view to enlightening the entire world that all human beings are free of whatever charges labeled against them unless when it has been proved.

However, this also reflects the stand of Islam on the issue of punishment since the objectives behind it is to ensure and maintain peace and order in the society by preventing against the repetition of crimes and illegal acts as well as injecting moral acts in the entire community members [5]. Almighty Allah says:

“We have already sent Our messengers with clear evidences and sent down with them the Scripture and the balance that the people may maintain [their affairs] in justice. And we sent down iron, wherein is great military might and benefits for the people, and so that Allah may make evident those who support Him and His messengers unseen. Indeed, Allah is Powerful and Exalted in Might”. [57:25]

From the above mentioned, it has become palpable that Islam prohibits subjecting one to all forms of torture.

### ***Freedom of movement***

This right is mentioned in article 13 of the UDHR as stated below: (a) Everyone has the right to freedom of movement and residence within the borders of each state. (b) Everyone has the right to leave any country, including his own, and to return to his country.

However, Islam has recognized such right, legislated it and called for it in several Qur’anic verses and prophetic traditions as mentioned below:

Almighty Allah says: “It is He who made the earth tame for you - so walk among its slopes and eat of His provision - and to Him is the resurrection”. [67:15]

“And when the prayer has been concluded, disperse within the land and seek from the bounty of Allah, and remember Allah often that you may succeed”. [62:10]

### ***Right to flee from tyranny***

This has been legislated in article 14 of the UDHR as stated below: (a) Everyone has the right to seek and to enjoy in other countries asylum from persecution. (b) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

However, Islam has also recognized this right especially when referring to the historic events that occurred during the early emergence of Islam when the brutal tyranny of the Meccan disbelievers against the Muslims kept increasing, the prophet (PBUH) had instructed his sahaba (followers) to flee from Mecca to Ethiopia and later from Mecca to Madinah in order to save their lives and religion.

Moreover, Islam warns against those who refuse to flee from the brutal acts of tyrants as long there is the possibility for that. Almighty Allah says:

“Indeed, those whom the angels take [in death] while wronging themselves - [the angels] will say, "In what [condition] were you?" They will say, "We were oppressed in the land." The angels will say, "Was not the earth of Allah spacious [enough] for you to emigrate therein?" For those, their refuge is Hell - and evil it is as a destination” [4:97]

However, Islam does not only address this issue as per stated above but it goes further and commanded people to bestow and extend a helping hand to those whom may refuge to them and they are highly praised for that. Almighty Allah says: “[Charity is] for the poor who have been restricted for the cause of Allah, unable to move about in the land. An ignorant [person] would think them self-sufficient because of their restraint, but you will know them by their [characteristic] sign. They do not ask people persistently [or at all]. And whatever you spend of good - indeed, Allah is knowing of it”. [2:273]

“And whoever emigrates for the cause of Allah will find on the earth many [alternative] locations and abundance. And whoever leaves his home as an emigrant to Allah and His Messenger and then death overtakes him - his reward has already become incumbent upon Allah. And Allah is ever Forgiving and Merciful”. [4:100]

### ***Right for getting married***

This has been legislated in article 16 of the UDHR as follows: (a) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. (b) Marriage shall be entered into only with the free and full consent of the intending spouses. (c) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Islam considers this right as highly important as it legislated it and regarded it as one of the fundamental social right as long as the couples maintain a peaceful married life by recognizing and respecting the rights of one another [6]. The holy Qur’an reads: “And if you fear that you will not deal justly with the orphan girls, then marry those that please you of [other] women, two or three or four. But if you fear that you will not be just, then [marry only] one or those right hand possesses. That is more suitable that you may not incline [to injustice]”. [4:3]

Narrated Anas bin Malik: A group of three men came to the houses of the wives of the Prophet asking how

the Prophet worshipped (Allah), and when they were informed about that, they considered their worship insufficient and said, "Where are we from the Prophet as his past and future sins have been forgiven." Then one of them said, "I will offer the prayer throughout the night forever." The other said, "I will fast throughout the year and will not break my fast." The third said, "I will keep away from the women and will not marry forever." Allah's Apostle came to them and said, "Are you the same people who said so-and-so? By Allah, I am more submissive to Allah and more afraid of Him than you; yet I fast and break my fast, I do sleep and I also marry women. So he who does not follow my tradition in religion, is not from me (not one of my followers)." SAHIH BUKHARI[1]

In addition, Narrated 'Alqama: While I was with Abdullah, 'Uthman met him at Mina and said, "O Abu 'Abdur-Rahman ! I have something to say to you." So both of them went aside and 'Uthman said, "O Abu 'Abdur-Rah. man! Shall we marry you to a virgin who will make you remember your past days?" When 'Abdullah felt that he was not in need of that, he beckoned me (to join him) saying, "O 'Alqama!" Then I heard him saying (in reply to 'Uthman), "As you have said that, (I tell you that) the Prophet once said to us, 'O young people! Whoever among you is able to marry, should marry, and whoever is not able to marry, is recommended to fast, as fasting diminishes his sexual power. SAHIH BUKHARI[3]

"And when you divorce women and they have fulfilled their term, do not prevent them from remarrying their [former] husbands if they agree among themselves on an acceptable basis. That is instructed to whoever of you believes in Allah and the Last Day. That is better for you and purer, and Allah knows and you know not". [2:232]

#### **Dissimilarities in social human rights between the UDHR and Islam**

Although Islam and the UDHR OF 1948 have same approach towards the legislation of some certain rights as mentioned earlier, it has also been realized that there are some certain social rights which receive different approach as per as these two sources are concern. The major flaw of the UDHR is the absence of the legislation of some vital aspects of social human rights, these missing vital aspects can be illustrated as follows.

#### ***The Right of receiving dowry by the bride from her groom***

Islam considers dowry (Sadaq) as a right for the bride to be given to her by her husband. The dowry can be money or any valuable asset as no one is allowed to snatch, take away or benefit from such right against her wish. Almighty Allah says:

"And give the women [upon marriage] their [bridal] gifts graciously. But if they give up willingly to you anything of it, then take it in satisfaction and ease".

"O you who have believed, it is not lawful for you to inherit women by compulsion. And do not make difficulties for them in order to take [back] part of what you gave them unless they commit a clear immorality. And live with them in kindness. For if you dislike them - perhaps you dislike a thing and Allah makes therein much good". [4:19]

#### ***The Right to alimony***

In Islam, a husband is mandated to take full care of his wife according to his ability as it relates to her feeding and clothing among others even if her economic status is better than his. Almighty Allah says:

"And when you divorce women and they have fulfilled their term, do not prevent them from remarrying their [former] husbands if they agree among themselves on an acceptable basis. That is instructed to whoever of you believes in Allah and the Last Day. That is better for you and purer, and Allah knows and you know not". [2:232]

"Lodge them [in a section] of where you dwell out of your means and do not harm them in order to oppress them. And if they should be pregnant, then spend on them until they give birth. And if they breastfeed for you, then give them their payment and confer among yourselves in the acceptable way; but if you are in discord, then there may breastfeed for the father another woman". [65:6]

"Let a man of wealth spend from his wealth, and he whose provision is restricted - let him spend from what Allah has given him. Allah does not charge a soul except [according to] what He has given it. Allah will bring about, after hardship, ease". [65:7]

However, Narrated Abu Mas'ud Al-Ansari: The Prophet said, "When a Muslim spends something on his family intending to receive Allah's reward it is regarded as Sadaqa for him." SAHIH BUKHARI[263]

In addition, Narrated Abu Huraira: Allah's Apostle said, "The best alms is that which you give when you are rich, and you should start first to support your dependents." SAHIH BUKHARI[269]

#### ***The right to seek for divorce for a cogent reason***

This right guarantees for a wife that has been experiencing brutal and cruel married life to look for herself a room for relief and quick recovery by seeking divorce from her husband. In Islam, this is not the only cause for seeking divorce as she can seek so as a result of the long absence of her husband,

detention, disgraceful relationship with her parents among others [5]

All these vital social Human rights have escaped the attention of the Universal Declaration on Human Right (UDHR) and their absence therein is of course a gigantic flaw and deficiency. Hence there is need to address them and that is what Islam did as earlier illustrated.

### CONCLUSION

With these similarities and dissimilarities of social human rights in Islam and the Universal Declaration on 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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*وأخر دعوانا أن الحمد لله رب العالمين.*