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Does Islam Need Saving? An Analysis of Human Rights

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Introduction

It is a common argument, made both implicitly and explicitly in Islamophobic rhetoric, that Islam on the whole is antithetical to modern secular notions of human rights. Whether it is through the lens of the rights of women in Islam and the oppression of women in the Muslim world, or through cited components of the *shari'a* regarding issues such as adultery and apostasy, critics of Islam contend that the religion is inherently opposed to the sanctity of the individual, and the protection of his or her basic human rights. Even before the 9/11 era began, human rights violations of Muslims consistently made the headlines: death threats against authors like Salman Rushdie and Ayaan Hirsi Ali, stonings of criminals in the Muslim world, imprisonment of rape victims in Pakistan, sexual assaults on domestic workers in Saudi Arabia, and restrictions on freedom of speech and expression in the Arab world. All of these and more became part of a narrative in which Islam perpetuated a disregard for human life, rights, and freedoms. On the other hand, when placed in opposition to Islam, human rights as we know them today, both the idea and the body of international law, are understood to be agreed upon by the rest of the world in their principle and implementation. The conflict between Islam and human rights raises questions for Muslims and non-Muslims alike about the religion and, more specifically, about its compatibility with modern secular rights of the individual—questions that are closely tied to Islam's relationship to modernity as a whole.

In our current political moment, it is critical to discuss the role of modern secular human rights more broadly and transnationally, especially as it seems their position is becoming more and more precarious with the rise of neo-fascist and authoritarian rule. This is true not just under authoritarian rule in parts of the Muslim world, but also in the United States and Europe—historically assumed to be proud leaders and bearers of the banner of human rights globally. To understand the challenges to the true protection of human life and freedom is to envision a way forward based on equality and respect.

For this reason, the primary aim of this paper is to critique the binary described above—that between Islam and our modern day understanding of “human rights.” This critique challenges the mainstream discourse, explores how and why we have arrived at this false dichotomy, and what have been the consequences. It requires a critical study of the history of the modern secular human rights scheme itself, its origins, and its political usage across time and location. The fact that the promotion of human rights has been intertwined with the ongoing process of colonialism is important to understanding the discussion on the relationship between Islam and human rights. As Khaled Abou El Fadl writes,

...Political realities--such as colonialism, the persistence of highly invasive and domineering despotic governments, the widespread perception, and reality, of Western hypocrisy in the human rights field, and the emergence and spread of supremacist movements of moral exceptionalism in modern Islam--have contributed to modes of interpretation and practice that are not consistent with a commitment to human rights...Colonialism, and its accompanying institution of Orientalism, had not only played a pivotal role in undermining the traditional institutions of Muslim learning and jurisprudence, but it had also posed a serious challenge to traditional Muslim epistemologies of knowledge and sense of moral values. Although international human rights law was enshrined in various treaties during a period in which most Muslim countries had gained political independence, the experiences of colonialism and post-colonialism influenced the Muslim intellectual response in several important respects. Muslims did not first encounter Western conceptions of human rights in the form of the UDHR of 1948, or in the form of negotiated international conventions. Rather, they encountered such conceptions as part of the “White Man’s Burden” or the “civilizing mission” of the colonial era, and as part of the European natural law tradition which was frequently exploited to justify imperialistic policies in the Muslim world.¹

¹ Abou El Fadl, Khaled. “The Human Rights Commitment in Islam,” in In Joseph Runzo,, Nancy M. Martin and Arvind Sharma (Eds)., *Human Rights and Responsibilities in the World Religions* (pp. 1-25). Oneworld. 2003.

The political dimensions of human rights, which will be the focus of this paper, can be understood as the backdrop to the evolution of human rights discourse in Islam and the Muslim world, as well as to human rights discourse on Islam and the Muslim world. In Islamic thought, there has been a politicized view of human rights that has resulted in a discourse that is focused on compatibility and incompatibility. In other words, much of the discussion on human rights in Islam has become either apologetic—harmonizing Islam with modern secular human rights—or resistant—arguing that Islam inherently goes above and beyond Western human rights.²

Finally, this paper provides an introductory overview of the rights tradition in Islam, in an attempt to clarify Islam’s stance—through the Quran, Sunnah, and legal tradition—on human rights.

The Problem with the History of Contemporary Human Rights

When we think of human rights today an immediate and relatable association is the international commitment to them in the form of the Universal Declaration of Human Rights. The UDHR, established in 1948, set as its primary goal the advancement and protection of the basic rights of the individual.³ The United Nations itself had been founded just three years earlier in 1945, alongside increasing pressure to include in its Charter an international bill of rights. The global post-war, post-Holocaust context meant that world leaders, especially in the United States and Europe, were concerned with creating an international world order that would place limits on the state’s power over people, and that would ensure freedoms, respect, and dignity for all people after the horrors of the Nazi regime.⁴ But the idea of the rights-bearing individual did not, in fact, begin with the UDHR or the United Nations. In other words, the concept of human rights, of the sanctity of life, and the protection of human dignity and freedom, has roots much more vast and widespread than is commonly known or acknowledged. In order to

² Ibid.

³ Fagan, Andrew. “Human Rights.” *Internet Encyclopedia of Philosophy*.

⁴ Forsythe, David. Introduction. *Encyclopedia of Human Rights*. Volume 1. Oxford University Press. 2009.

truly understand the complexities of the debate on human rights and Islam, and more generally the critiques of contemporary human rights, we must investigate the roots of the history of the idea. When we do so, we will find these roots are expansive and intersecting and shed light on some of the current issues we face with regards to this topic.

Firstly, there is a distinction to be made between the concept of human rights, and the body of international human rights law. The idea of human rights comes from an amalgam of religious ideas, natural law, Roman law, Enlightenment values; all of these have influenced our current system of international human rights laws. The early understandings of human rights in the Western world did have strong religious underpinnings. As Thomas Jefferson declared in 1779,

*We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness.*⁵

Shortly thereafter, Alexander Hamilton wrote,

*The sacred rights of mankind are not to be rummaged for amongst old parchments or musty records. They are written, as with a sunbeam, in the whole volume of human nature by the hand of divinity itself, and can never be erased or obscured.*⁶

But international human rights law itself, as Paul Sieghart wrote, has gone beyond the ideas from which it originated:

...[It is] a superior international standard, established by common consent, which caused a disappearance of the need for standards founded on systems of divine law or natural law...To judge whether a natural law is good or

⁵ Runzo, Joseph. "Secular Rights and Religious Responsibilities." In Joseph Runzo, Nancy M. Martin and Arvind Sharma (Eds.), *Human Rights and Responsibilities in the World Religions* (pp. 1-25). Oneworld. 2003.

⁶ Ibid.

*bad, just or unjust, recourse is no longer necessary to the Creator or to Nature or to belief in either of them.*⁷

The period that is most often associated with the development of human rights is the Enlightenment, which began in the 17th century and lasted until the 19th century. Also known as the Age of Reason, the Enlightenment marked the end of the Middle Ages in Europe through the proliferation of scientific innovation, trade, global expansion, the emergence of a middle class, and the disintegration of feudalism. Another major feature of this period is what is now characterized as the beginning of secular, rational thought. While Europe was afflicted by the wars between Catholics and Protestants, a new class of secular thinkers, including notable figures such as Rene Descartes, Emmerich de Vattel, Samuel Pufendorf, and Hugo Grotius began to conceive of the notion of the secular individual, with freedoms and liberties transcending his or her religion. In 1625, Grotius wrote the *Rights of War and Peace*, in which he delineated that

*natural law derived from God and nature universally endowed all human beings with certain natural rights of protection and just and equal treatment irrespective of any religious or civil status.*⁸

A few years later in 1628, the English Parliament subsequently passed the Petition of Right, a constitutional document that laid out rights of the subject that the Crown could not transgress. In England during these years, tensions were high between Parliament and the King, because of Parliament's refusal to fund the war effort, and King Charles' subsequent seizing of funds and arbitrary imprisonment of those who did not comply with his decrees. It was in this context that, in the latter part of the 17th century, the English disseminated the law of habeas corpus, giving prisoners the right to be brought forth before a court of law. All of these developments and others constituted deliberate challenges to the absolute monarchy of the Crown; these challenges culminated in the establishment of the English Bill of Rights in 1689, which included the inalienable rights of representative government, free elections, freedom of speech, religious toleration,

⁷ Paul Sieghart, *The International Law of Human Rights* 15 (Clarendon Press, 1995).

⁸ Forsythe, David.

trial by jury, and prohibition against cruel and unusual punishment. In the 18th century, revolutionary causes in England, America, and France used this rapidly strengthening discourse of human rights to challenge the state's authority—whether monarchical or colonial—and to call for independence. “Dignity, liberty, equality, and fraternity,” the famous French revolutionary claim, became a common mantra for various Western struggles of independence.⁹ Ironically, while the French Revolution produced the Declaration of the Rights of Man and Citizen—a charter thought to be one of the founding documents of human rights—it was at the same time at least partly characterized by the Reign of Terror, a period of extreme violence in which the Revolutionary government brutally punished anyone suspected of not supporting the revolutionary cause. During this time, symbolized by the infamous guillotine, at least 300,000 people were arrested, 17,000 were executed, and 10,000 died in prison awaiting trial.¹⁰

There is, however, more to the history of human rights than its origins in the European Enlightenment:

The first steps in this direction began with the earliest thoughts and beliefs about the value of human life, what it means to be truly human, and whether people bear any responsibility for the well-being of others. Given these kind of profound, universal, and enduring issues, it is not surprising that some of the first significant philosophies concerning human rights would come from religious tradition. Virtually all of the world's greatest religions, despite their many differences, stress the worth and dignity of human life, the common kinship of humankind, and the responsibility that believers have to show compassion, to treat others as they would like to be treated, and to care for those who suffer. These early forms of religious belief may not have created legal or personal rights, but they established traditions and manifested principles that would inform later rights developments.¹¹

⁹ Ishay, Micheline R. *The Human Rights Reader*. Second Edition. Routledge. 2007. “Introduction.”

¹⁰ “Reign of Terror.” *Encyclopaedia Britannica*.

¹¹ Ishay, Micheline, R.

The role of non-Christian religions is often erased from the history of human rights, and the movement for human rights has sometimes been presented as a sort of civilizing mission to people of various religions and cultures around the world who must be introduced to the concept. In fact, in contemporary human rights discourse, religion is often designated as an enemy of human rights, as the cause of wars and human rights violations, as a green light for absolute authoritarianism, and as an obstacle to individual freedom.¹² As a result, the narrative of rights is largely centered on a Euro-Christian framework when in reality there exist other languages of rights. For example, in Asian cultures (Hindu, Buddhist, Jain, and Confucian), the building blocks of a just and free society are not the rights of individuals, but the obligations individuals have to the society they belong to.¹³ Although we will explore the tradition of human rights in Islam in depth later in this paper, it is useful here to also turn to examples of other religious and spiritual traditions and briefly summarize their discourses of human rights. This overview can widen the scope of the history of human rights and point to not only the presence of some overarching values in different faith traditions, but also to the breadth of debate within these traditions themselves over what human rights are and how they should be implemented.

In his article, “A Jewish Perspective on Human Rights,” Elliot Dorff makes a bold statement:

*One of Judaism’s fundamental theoretical convictions is that God both created the world and owns it. This immediately establishes a ground for moral claims completely different than secular alternatives. The whole drama of life, from the point of view of Judaism, is not played out on the stage of individuals with inherent inalienable rights, it is rather played on the stage of positive and negative duties to God.*¹⁴

Dorff goes on to explain that, while Judaism gives immense value to each individual as a unique creation, rights and responsibilities are based on a covenant

¹² Bloom, Irene, J. Paul Martin, and Wayne L. Proudfoot. *Religious Diversity and Human Rights*. Columbia University Press, 1996. Introduction.

¹³ Ibid.

¹⁴ Ibid. pp. 210-230.

between human beings and God. To give another example, in Buddhism there is extensive debate on whether modern human rights are compatible with the Buddhist tradition or not. Much of pre-modern Buddhist ideas were modeled after the early community of Buddhist monks, one of whose main characteristics was freedom from ego. This in turn became the basis for a Buddhist human rights discourse whose foundation was not rights at all, but rather duties. In other words, the Buddhist principles dictate duties of individuals towards other members of their society, duties which ultimately define the rights of others. For example, as James Fredericks writes,

*the [Buddhist] precepts establish the duty of a husband to support his wife, without stating explicitly that the wife has a right to be supported. However...the husband's duty establishes the wife's right.*¹⁵

Cultural Relativism and Universalism

Stemming from and closely related to the question of where the idea of human rights comes from—a question whose answer, as has been demonstrated by this short history of human rights, is neither succinct nor singular, and requires an acknowledgment of many secular and faith-based traditions in the West and the East—is the question of who defines what these human rights are. This critique is best illustrated by the debate between what are called the universalist and cultural relativist arguments on human rights. Jack Donnelly, in his seminal article, “Cultural Relativism and Universal Human Rights,” describes a spectrum on which these two can be understood. They are defined most clearly at the extremes: on one end of the spectrum, radical cultural relativism is a way of thinking about human rights that prioritizes the legitimacy of cultural norms and beliefs as the only source of authority on defining rights and their limits. Radical universalism on the other hand, contends that culture is extraneous to the question of rights afforded to

¹⁵ Ibid. pp. 248-267.

people simply by virtue of their being human, and that universal notions of morality are what lend validity to the definition of these rights.¹⁶

One obvious problem here concerns authority over morality—who decides what is best for a group of people and how they should live their lives? As Donnelly writes,

*Radical universalism requires a rigid hierarchical ordering of multiple moral communities to which individuals and groups belong. The radical universalist must give absolute priority to the demands of the cosmopolitan moral community over all other lower communities. This denial of national and subnational ethical autonomy is dubious at best.*¹⁷

In this way, a radical universalist framework of human rights rejects the agency of communities—national, religious, and cultural—to determine and follow their own conceptions of morality, of what it means to be human, and how humans should be treated. Of course, this is deeply problematic because these existential questions constitute the backbone and purpose of many communities and traditions, including Islam. What is more, this affects the process of human rights promotion and interventions, because both of these are necessarily based on a power dynamic whereby one group of people decides for another the best way to live their lives.

On the other hand, it is important to think about and critique the limitations of a cultural relativist argument as well, especially with regards to abuses of human rights. The danger here is that violations of the rights and freedoms of people can be justified by cultural or religious arguments. Donnelly argues,

For example, chattel slavery and caste systems, which implicitly deny the existence of a morally significant common humanity, are almost universally condemned, even in the most rigid class societies. Likewise, basic moral distinctions between insiders and outsiders have been seriously eroded by individual mobility and by an at least aspirational commitment to the idea of

¹⁶ Donnelly, Jack. “Cultural Relativism and Universal Human Rights.” *Human Rights Quarterly*. Vol. 6, No. 4 (Nov. 1984), pp. 400-419.

¹⁷ Ibid.

*a universal moral community. Relativism rests on the notions of moral autonomy and communal self-determination. To rely on internal judgments entirely would be to abrogate one's moral responsibility as a member of the cosmopolitan moral community.*¹⁸

We can take here as a relevant case study the debate over Muslim women and their various forms of covering to shed light on two important aspects of this discussion: first, the tension between relativism and universalism when evaluating human rights, and second, the way these tensions play out in specific political, cultural, and historical complexities in the case of Islam and the Muslim world today. Especially in the years immediately following the attacks of 9/11, with the advent of the Bush administration's War on Terror and US military intervention in Iraq and Afghanistan, the rights of Muslim women were a hot topic in US media, political, activist, feminist, and academic discourses. The war effort became in the eyes of many Americans tied to the liberation of Muslim women who were being oppressed in various ways—one of which was the forced covering of their hair and their bodies. This rhetoric fit neatly as a part of the larger case against Islam being employed by the administration, which can best and most concisely be conveyed by George W. Bush's post 9/11 speech in which he said about Muslims worldwide: "They hate us for our freedoms."¹⁹ The lack of freedoms and basic human rights afforded to Muslim women by a patriarchal and oppressive Islamic regime was just one example, albeit an exceptionally effective one, that justified support for US military force in Muslim lands, and fueled the feeling that this war was in fact a liberating and civilizing mission.

On this topic, Lila Abu-Lughod wrote in 2007 the important article, "Do Muslim Women Really Need Saving? Anthropological Reflections on Cultural Relativism and Its Others." In it, she analyzes the intersection of the Western liberal feminist movement for women's rights and the War on Terror and its early 2000s rhetoric, specifically as it was employed by Western women leaders. She writes,

¹⁸ Ibid.

¹⁹ "Text: President Bush Addresses the Nation." September 20, 2001. *The Washington Post Online*. http://www.washingtonpost.com/wpsrv/nation/specials/attacked/transcripts/bushaddress_092001.html.

Laura Bush's radio address on November 17...collapsed important distinctions that should have been maintained. There was a constant slippage between the Taliban and the terrorists so that they became almost one word—a kind of hyphenated monster identity: The Taliban-and-the-terrorists. Then there was the blurring of the very separate causes in Afghanistan of women's continuing malnutrition, poverty, and ill health, and their more recent exclusion under the Taliban from employment, schooling, and the joys of wearing nail polish. On the other hand, her speech reinforced chasmic divides, primarily between 'the civilized people throughout the world' whose hearts break for the women and children of Afghanistan and the Taliban-and-the-terrorists, the cultural monsters who want to, as she put it, 'impose their world on the rest of us.' Most revealingly, the speech enlisted women to justify American bombing and intervention in Afghanistan and to make a case for the War on Terrorism of which it was allegedly a part. As Laura Bush said, 'Because of our recent military gains in much of Afghanistan, women are no longer imprisoned in their homes. They can listen to music and teach their daughters without fear of punishment...' ²⁰

But Abu-Lughod's critique goes beyond the way that Muslim women are used as a tool in the binary between “us” and “them,” the “West” and the “other.” She also rightly identifies the problem of culture in the human rights agenda:

The question is why knowing the 'culture' of the region, and particularly, its religious beliefs and treatment of women, was more urgent than exploring the history of development of repressive regimes in the region and the US role in this history. Such cultural framing prevents the serious exploration of roots and nature of human suffering in this part of the world. ²¹

In other words, whereas the debate between cultural relativist and universalist arguments about human rights define culture—including religion—as a set of rigid,

²⁰ Abu-Lughod, Lila. “Do Muslim Women Need Saving: Anthropological Reflections On Cultural Relativism and its Others.” *American Anthropologist*. Vol. 104, No. 3. September 2002.

²¹ Ibid.

unchanging, and deterministic value systems and beliefs, Abu-Lughod draws attention to the global interconnectedness between cultures, and the role history and politics have had in shaping them and their shortcomings in the area of human rights.

Finally, Abu-Lughod's other primary argument is about the acceptance of difference—in this case, when it comes to Islam and Muslim women—and what it means for the endgame of the human rights agenda. She writes,

Can we only free Afghan women to be like us or might we have to recognize that even after 'liberation' from the Taliban they might want different things than we might want for them? Again, when I talk about accepting difference, I am not implying that we should resign ourselves to being cultural relativists who respect whatever goes on elsewhere as 'just their culture.' I have already discussed the dangers of cultural expectations; their cultures are just as much a part of history and an interconnected world as ours are. We may want justice for women, but can we accept that there might be different ideas about justice that different women might want or choose, different features from what we envision as best? We must consider that they might be called to personhood in a different language.²²

Violence and oppression in the name of human rights

To what extent is the discourse of 'human rights' selectively applied by forces in power? To what extent is the banner of human rights raised to justify campaigns that brutalize the "other" in order to secure and maintain the political interests of the elite?

A critique of the contemporary human rights agenda that is certainly relevant to Islam and the Muslim world is related to the notion of security, especially in the last two decades. The attacks of 9/11 triggered a forceful agenda surrounding international security, led by the US and which included an increase in American

²² Ibid.

military interventions abroad and a tightening of national security measures domestically. The subject of security raises a controversial debate over the tension between security and the protection of rights, whether political, social, civil, or otherwise, both at home and abroad. The effects of the newly emboldened security paradigm put in place in the early 2000s are still apparent both domestically and internationally, and are closely related to the issues of Islamophobia that fuel the “clash of civilizations”²³ rhetoric related to Islam and human rights. Above all, the debates on security raise the questions of whose human rights are included in, or worth, international indignation and protection, and for what purposes is the sacrifice of these rights deemed justifiable.

The justification of torture

The past US Presidential election campaign saw a contentious debate on the use of torture, with then Republican candidate Donald Trump advocating for the use of torture all the way through to his victory, declaring in his first presidential interview, “[Torture] absolutely works...we have to fight fire with fire”²⁴ and promoting a re-opening of CIA black site prisons, secret facilities around the world that were used to detain suspects in George W. Bush’s War on Terror—much to the displeasure of not only Democrats and human rights activists, but even many in his own party. On one side of the debate, torture is a violation of the Universal Declaration of Human Rights’ Article 5, “no one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.”²⁵ The argument for torture, then, is rooted primarily in its characterization as a necessary evil used for the security and protection of the country, its citizens, and its interests. Rhetoric aside, in reality we need to look no further than the incidents at Abu Ghraib and Guantanamo Bay to know that torture is a tactic alive and well. Nonetheless, the debate on torture is illustrative of the dynamic between human rights and security, and the tendency of the latter to trump—for lack of a better word—the former.

²³ Huntington, Samuel. “The Clash of Civilizations?” *Foreign Affairs*. Vol. 72, No. 3. (Summer, 1993). Published by Council on Foreign Relations.

²⁴ Withnall, Adam. “Donald Trump says torture ‘absolutely works’ in first major interview as President.” *The Independent*.

²⁵ UDHR. Article 5.

Alan Dershowitz, a legal scholar at Harvard University until his retirement, argued for a prioritizing of security in his article, “Tortured Reasoning,” published in 2004. Claiming that he was against torture “as a normative matter,” Dershowitz argued that it is sometimes necessary in the case of a “ticking bomb terrorist case.”

²⁶ The ticking time bomb symbol has become prevalent in discussions on torture and terrorism, even disseminated in popular culture on television and in movies—the pressure of time, the threat of a terrorist attack, and the certain guilt of the suspect combined create circumstances in which torture is seen as a necessary and justifiable tool.²⁷

The erosion of civil liberties

Another example of the rights of certain groups being undercut in the name of security that is perhaps closer to home, is the recent civil rights struggles of certain minorities in the United States, namely immigrants and Muslim Americans. The Patriot Act, passed after September 11, was intended to combat terrorism, and raised many questions and concerns about violations of the rights of Americans, including their right to privacy. David Cole wrote in his critical piece on the Patriot Act in 2003, “Let’s Fight Terrorism, Not the Constitution,”

*...The USA Patriot Act...violates core constitutional principles, rendering immigrants deportable for their political associations, excludable for pure speech, and detainable on the attorney general’s say-so. And by reserving its harshest measures for immigrants—in the immediately foreseeable future, Arab and Muslim immigrants—it sacrifices commitments to equality by trading a minority group’s liberty for the majority’s security.*²⁸

Since then concern for the civil liberties of Arabs and Muslims in America has only increased, as measures to counter violent extremism domestically have

²⁶ Dershowitz, Alan. “Tortured Reasoning.” See *The Human Rights Reader* edited by Micheline R. Ishay.

²⁷ Alsultany, Evelyn. *The Arabs and Muslims in the Media: Race and Representation After 9/11*. New York University Press. 2012.

²⁸ Cole, David. “Let’s Fight Terrorism, Not the Constitution” in *Rights vs. Public Safety After 9/11: America in the Age of Terrorism* (A. Etzioni and J. Marsh, eds.) (2003).

expanded to use strategies like undercover surveillance and entrapment in Muslim American communities.²⁹

These contemporary and domestic examples of the inconsistencies of human rights are not unrelated to the historically rooted problem of the West and those it conceives of as “others”—whether within the borders of the nation-state or beyond. Chandra Muzaffar writes,

*But what is sad is that while Europe built the edifice of the individual within its own borders, it destroyed the human person on other shores. As human rights expanded among white people, European empires inflicted horrendous human wrongs upon the colored inhabitants of the planet. The elimination of the native populations of the Americas and Australasia and the enslavement of millions of Africans during the European slave trade were two of the greatest human rights tragedies of the colonial epoch.... Though formal colonial rule has ended, Western domination and control continues to impact upon the human rights of the vast majority of the people of the non-Western world in ways which are more subtle and sophisticated but no less destructive and devastating.*³⁰

With regards to Islam, from the beginnings of colonialism, the relationship between colonizing powers and the Muslim world included a discourse on human rights that was unequal in its power distribution. In his book *Islam in Liberalism*, Joseph Massad extends this point to make the argument that Islam became the necessary “other” Western colonial powers needed to define themselves and justify their imperial expansion. He quotes Paul Kahn, who describes an American attitude of exceptionalism regarding liberal principles including human rights:

Our contemporary missionaries preach democracy, free markets, and the rule of law—all institutions founded on our belief in the equality and liberty of every person. This dogged commitment to a universal community is a part

²⁹ Simon, Caroline. “The FBI is manufacturing terrorism cases on a greater scale than ever before.” Business Insider. June 9, 2016. And Lichtblau, Michael. “FBI Steps up Use of Stings in ISIS Cases.” The New York Times. June 7, 2016.

³⁰ Muzaffar, Chandra. “On Western Imperialism and Human Rights” See “From Human Rights to Human Dignity.” 1999.

*of our Christian and Enlightenment traditions. We experience this simultaneously as a kind of open-ended love and as a faith in the capacity of each individual to enter into a rational debate that will result in mutual agreement. No one, we believe, is beyond conversion to our values. When we dream of a global world order, we project our own values onto it. We do not imagine that the global community of the future will be led by an Islamic cleric.*³¹

This serves as an introduction to the problem of human rights and Islam in a transnational and colonial sense—a problem that we continue to see play out in Western foreign policy and military engagement in the Muslim world. Historically, the argument used in the mainstream discourse for the spread and protection of liberal values—including human rights—for all people has been instrumental in justifying wars, occupation, torture, against groups of those people.

Human Rights in Islam

Finally we turn to a description of what the Islamic position on rights actually is. Although the question of compatibility requires a proper critique—why do we perceive such an incompatibility between Islam and human rights and what are the inconsistencies in our understanding of human rights in the first place?—it is at the same time important to note Islam’s care and concern for the dignity and freedoms of the individual and for a just and tolerant society. Today, some of the biggest controversies over Islam and human rights come from questions that have been written about in depth by scholars at the Yaqeen Institute for Islamic Research, especially concerning [apostasy](#), [the rights of women](#), and the [rights of people of other faiths](#). In this section, I will not cover the details of these debates; rather, I will address the broader themes that influence how we can think about human rights in Islam. This section is by no means a comprehensive exposition of an

³¹ Massad, Joseph. *Islam in Liberalism*. 2015. The University of Chicago Press.

Islamic human rights theory, but instead its purpose is to simply show that Islam and the concept of human rights are not at odds.

In his article, “The Dilemma of Islamic Rights Schemes,” Ebrahim Moosa argues that a moral approach towards humankind is in fact the foundation of the Islamic calling:

From its very inception in the seventh century Arabia, the message of Islam demonstrated a preoccupation with the social, moral, and spiritual condition of human beings. The deity proclaimed by the Prophet Muhammad to the world was both the ‘Lord of the Worlds’ and ‘Lord of the People.’ The subject of the prophet’s revelation, the Quran, was not exclusively a self-revelation of God to humanity, but an instant where humanity became the very leitmotif of revelation.³²

He goes on to give the example of the Prophet Muhammad ﷺ’s methods of governance in Medina, citing the Compact of Medina as an agreement between the various faith communities in the city, by the standards of which all signatories agreed to certain rights and responsibilities. The Prophet ﷺ’s example extended to the coming generations of Muslims and Muslim expansion, who protected the rights of their subjects regardless of faith.³³

Khaled Abou El Fadl characterizes this as the core value of justice in Islam. In that sense, the role of the state, he argues, is to uphold justice in society by protecting its subjects. Abou El Fadl quotes Ibn al Qayyim, who states:

God sent His message and His books to lead people with justice...Therefore, if a just leadership is established, through any means, then therein is the Way of God...In fact, the purpose of God’s Way is the establishment of

³² Moosa, Ebrahim. “The Dilemma of Islamic Rights Schemes.” *Journal of Law and Religion*. Vol. 15, (2001), pp. 185-215.

³³ Ibid.

*righteousness and justice...so any road that establishes what is right and just is the road [Muslims] should follow.*³⁴

At an early point in Islamic jurisprudence, Muslim scholars and jurists identified three categories of rights: the rights of God, the rights of persons, and dual rights. Moosa describes the rights of God as:

*those rights and duties that have a revealed imperative and a religious rationale. They can be both mandatory obligations of a devotional kind such as ritual obligations or they could involve acts that benefit the entire community.*³⁵

He includes in this category acts such as observing the five pillars of Islam and providing services that result in the protection of the community from harm and the promotion of good in society. The next category, and perhaps the one most relevant to the topic at hand, is that of the rights of persons. These rights deal with “individual and social interests,” and address the worldly concerns and affairs of people, including secular and civil issues like the right to health, to family, to safety, and to property. Finally, the category of dual rights is the site of overlap between the the rights of God and the rights of people.³⁶

In the broadest sense, there clearly exists in Islam the concept of the human being as an autonomous entity. First and foremost, Allah (swt) says in the Quran, “We have indeed honored the Children of Adam”;³⁷ that is, God has given dignity to human beings. This dignity is irrespective of religion, race, gender, socioeconomic status—in short, it is inalienable and universal. One story that demonstrates this inherent respect for the God-given dignity of the human being occurred during the time of the caliphate of Umar (ra). The son of Amr ibn Al ‘As, one of the governors of the caliphate, harshly berated a Coptic man during a game of sports, and did not face any consequence. Umar (ra) wrote to Amr ibn al ‘As and asked

³⁴ Abou El Fadl, Khaled. “The Human Rights Commitment in Islam.” in In Joseph Runzo,, Nancy M. Martin and Arvind Sharma (Eds)., *Human Rights and Responsibilities in the World Religions* (p 1-25). Oneworld. 2003.

³⁵ Moosa, Ebrahim. “The Dilemma of Islamic Rights Schemes.” *Journal of Law and Religion*. Vol. 15, (2001), pp 185-215.

³⁶ Ibid.

³⁷ The Quran (17:70).

him, “Since when have you enslaved a people, O Amr, when their mothers have given birth to them in freedom?” In some narrations, Umar (ra) authorized the Copt to retaliate in kind to Amr ibn al ‘As himself, rather than to his son.³⁸ The lessons that can be drawn from this incident are multiple: first, there is a clear acknowledgment of the freedom of the individual, regardless of his or her transgressions, which are in this story irrelevant. The conditions for his freedom were simply that he was born a free man, and this in itself afforded him the right to be treated with respect and dignity. What is more, once these rights were transgressed upon, the figure of authority was held accountable, pointing to the limitations on Muslim ruling powers when it came to the rights of individuals.

As in other faith traditions, the sanctity of life is a vital principle in Islam. At multiple points in the Quran, Allah (swt) prohibits the taking of life:

For this reason, We prescribed for the Children of Israel that whoever slays a soul—unless it be for another soul or working corruption upon the earth—it is as though he slew mankind altogether, and whosoever saves the life of one, it is as though he saved the life of mankind altogether. Our messengers have certainly come unto them with clear proofs. Yet even after that, many of them are prodigal on the earth. (The Quran, 5:32).³⁹

And slay not the soul that God has made inviolable, save by right. And whosoever is slain unjustly, We have appointed authority unto his heir. Then let him not be excessive in slaying. Verily, he shall be helped. (The Quran, 17:33)⁴⁰

Say, Come, I will recite that which your Lord has forbidden you: that you ascribe nothing as partner unto Him, and that you be virtuous toward parents, and that you slay not your children for fear of poverty—We will provide for you and for them—and approach not indecencies, whether outward or inward, and slay not the soul that God has made inviolable, save

³⁸ Ibn ‘Abd al-Hakam, *Futuh Misr wal-Maghrib* 225-226. (Abd al Mun’im Amir ed., Cairo: Isa Babi al-Halabi 1961).

³⁹ Nasr, Seyyed Hossein. (2015) *The Study Quran: A New Translation and Commentary*. HarperOne.

⁴⁰ Ibid.

by right. This He has enjoined upon you, that haply you may understand.
(The Quran, 6:151)⁴¹

Allah (swt) commands not only that each person has the right to life, but also to its enjoyment:

O Children of Adam! Put on your adornment at every place of worship, and eat and drink, but be not prodigal. Truly He loves not the prodigal. Say, Who has forbidden the adornment of God, which He has brought forth for his servants, and the good things among His provision? Say, These are for those who believe, in the life of this world, and on the Day of Resurrection they are for them alone. Thus do We expound the signs for a people who know. Say, My Lord has only forbidden indecencies—both outward and inward—and sin, and tyranny without right, and that you should ascribe partners unto God, for which He has sent down no authority, and that you should say of God that which you know not. [The Quran, 7:31-33].⁴²

Beyond the broader values of the sanctity of life and respect for human dignity, Islam does clearly decree more specific basic and inalienable rights for all people. Both through the example of the Prophet ﷺ and from directives given in the Quran, Islamic tradition values equality for people in terms of their civil, social, and political well-being. On the right to shelter and food, it is narrated by Uthman (ra) that the Prophet ﷺ said:

There is no right for the son of Adam in other than these things: A house which he lives in, a garment which covers his nakedness, and a piece of bread, and water.⁴³

What is more, however, is that Islamic tradition goes beyond advocating for equal access to life and sustenance; it places responsibility on people to ensure these rights for others:

⁴¹ Ibid.

⁴² Ibid.

⁴³ *Sunan al-Tirmidhī* 2341

And in whose wealth is acknowledged due for the beggar and the deprived.
[The Quran 70:24-25]⁴⁴

Among the other rights afforded to individuals simply by virtue of their being human are the right to freedom of belief, the right to knowledge, and the right to differ.

On freedom of belief:

There is no coercion in religion. Sound judgment has become clear from error.
(The Quran 2:256).⁴⁵

On the right to knowledge:

Whosoever is rightly guided is only rightly guided for the sake of his own soul, and whosoever is astray is only astray to its detriment. None shall bear the burden of another. And never do We punish till We have sent a messenger. (The Quran 17:15).⁴⁶

On the right to differ:

And We have sent down unto thee the Book in truth, confirming the Book that came before it, and as a protector over it. So judge between them in accordance with what God has sent down, and follow not their caprices away from the truth that has come unto thee. For each among you We have appointed a law and a way. And had God willed, He would have made you one community, but He willed otherwise, that He might try you in that which He has given you. So vie with one another in good deeds. Unto God shall be your return all together, and He will inform you of that wherein you differ. (The Quran 5:48)⁴⁷

⁴⁴ Nasr, Seyyed Hossein. (2015) *The Study Quran: A New Translation and Commentary*. HarperOne.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

Conclusion

In 1990, a set of Muslim states came together to ratify the Cairo Declaration on Human Rights in Islam. The states had previously criticized the Universal Declaration of Human Rights of 1948 for not taking into account cultural and religious frameworks of human rights in non-western contexts. As a result, these states wrote a Declaration that largely reinforced the universalist assertions made in the UDHR itself, but used the language of Islam to convey and justify its tenets. This example raises the question: is there, or does there need to be, a separate Islamic framework of human rights? And is it necessarily different from, or at odds with, the modern secular framework of human rights? Clearly, the signatories of the Cairo Declaration felt the need to assert an Islamic version of, or at least affirm an Islamic compatibility with, the set of human rights deemed to be morally acceptable and protectable by the United Nations.

In reality, the question of whether Islam and modern human rights are compatible is important because, in order to address it, we must look at the roles of not just religion, but of history, of power, and of morality itself. This intersection sheds light on the problems with our current understanding of human rights and how they are protected. As this paper has shown, modern human rights are rife with contradictions, contradictions that are very acutely connected with the manipulation of Islam for political ends. On the one hand, Islamic texts and history show a deep concern for the sanctity and enjoyment of life, and for individual freedoms in every sense: from respect for the individual on an interpersonal level, to the protection of the individual from corrupted authority, religious or otherwise. On the other, Islam is at the center of many agendas concerning resources, military expansion, security, and culture, and this fact has been instrumental in creating a problem of Islam and human rights that has little to do with the religion itself.