



Islam, Shari'a Laws and International Human Rights Compatibility for Expatriate Business Managers

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Abstract

Human rights issues are an important topic for discussion in all countries and religions. Naturally, these issues become important for business managers who work as expatriates in foreign countries that are predominantly Islamic. Due to stereotypes and misinformation, many fear that human rights are being violated due to religious responses in Islamic countries. However, Islam is compatible with international human rights. Some people claim that international human rights objective is an imperialist agenda that should be rejected; and others state that Islam is incompatible with international human rights. The responses are discussed from the perspective of Shari'a, the Islamic Law, in this paper so business managers and expatriates who work with Muslims have a better awareness of the facts.

Keywords: Islamic fundamentalists, Human Rights, Islamic Law, Shari'a.

Introduction

The most rapidly growing religion of the world, Islam, influences the way of life for about two billion people of the world.⁴ Muslims, living in different parts of the world constitute one fourth, according to Rehman⁵ and one fifth according to Ahmed⁶, of the global population (Kaifi and Mujtaba, 2012). Many Islamic states, while ratifying international human rights treaties, enter reservations on the basis of Shar'ia, Islamic law, while others do not; hence we see different Islamic responses to international human rights, which this paper critically analyzes. For

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⁴ Mashood A. Baderin, *International Human Rights and Islamic Law*, (Oxford University Press, New York 2005) 2

⁵ J. Rehman, *International Human Rights Law*, (2nd edn Pearson, Harlow 2010) 353

⁶ Abdullahi Ahmed An-na'im, 'Why should Muslims abandon Jihad? Human Rights and the future of international law' (2006) 27: 5, *Third World Quarterly*, 785

example, the Afghan Constitution in Afghanistan serves as the underpinning pillars “For creation of a civil society free of oppression, atrocity, discrimination, and violence, based on rule of law, social justice, protection of human rights, and dignity, and ensuring fundamental rights and freedoms of the people” (Afghan Constitution, 2004; Mujtaba, 2007a, p. 64). It states that it is created for:

- “Ensuring a prosperous life, and sound environment for all...” and
- “Regaining Afghanistan’s deserving place in the international community.”

The second bullet point demonstrates that Muslim nations do want to align with the international community and international human rights. Article 6 of the 2004 Afghan Constitution discussed the creation of a “prosperous and progressive society based on social justice, protection of human dignity, protection of human rights,...ensuring national unity and equality among all ethnic groups and tribes and to provide a balanced development in all areas of the country.” Article 22 prohibits any kind of discrimination and privilege between the citizens of the country (Mujtaba, 2007a). The successful application and implementation of these Articles are critical for the compatibility of laws as well as ethical business dealings across borders and continents (Mujtaba, Sikander, Akhtar and Afza, 2012; Mujtaba, 2013). Thus, it is necessary to shed some light on the necessity and means of ethical education for current and future citizens about international human rights around the world (Mujtaba, 2014a).

For convenience of the readers the paper deals with two responses jointly in one part; (i) International human are not compatible with Islam, and (ii) it is an imperialist agenda and should be rejected. After critically analyzing these points of views, it is argued in part one that they do not have sound footings, and should not be adopted in the discourse of international human rights and Islam to reject the former.

Part two of the paper argues that Islam, being the religion for all men and all times, is fully compatible with international human rights, which are the rights of all human beings wherever and whoever they may be. This part also points out the problematic fields but again it is argued the ‘problems’ and ‘differences’ never ever mean incompatibility. The paper focuses on gender equality in family life and freedom of religion, and not on all problematic issues.

After having compatibility established between Islam and international human rights and pointing out problematic issues in part two, concluding part of the essay gives some suggestion to effectively deal with the differences in a way that can be beneficial and acceptable.

Are international human rights Compatible with Sharia?

The emphasize on ‘Western values’ in the human rights discourse and non-consideration of the contribution and understanding of other cultures results in fear of a neo-colonialism in the developing countries, including the Islamic states⁷, most of which have been under the ‘repressive’ colonial governments of the West (Cavico and Mujtaba, 2014). Thus, they consider international human rights as an imperialist agenda that should be rejected otherwise they might be colonized by the same Master and same Laws in a different disguise. This fear-based view is further strengthened by the double standard and gap between the words and deeds of some capitalistic governments in the West (Mujtaba, 2014). For example, democracy can be promoted but not if it brings religious fundamentalists to power; in some cases, nonproliferation

⁷ Mashood A. Baderin (n.1) 14

is preached for Iran and Iraq but not for Israel; human rights are an issue with China, (*Iran, Libya and Syria*)⁸ but not with Saudi Arabia and Israel.”⁹

Another reason, why Muslims condemn Western criticism of human rights situation in the world is that they see ‘sinister designs’ in such criticism. It is considered as a conspiracy to tarnish the image of Islam, Islamic culture and institutions and to establish that Western culture is inherently superior and beneficial to mankind.¹⁰ For example, when the Cartoons presenting Prophet Muhammad as a terrorist were published in Danish newspaper in 2005, they were responded with strong and violent protests in many countries. Their republication in 2006 in a number of European countries, were considered as a deliberate provocation to spite the Muslims. Freedom of expression on one side, but some Western states played with the issue to gain their own political objectives. As the Bush administration shifted its policy from condemnation of republication of cartoons to condemnation of violent response of Muslims, it was perceived that the shift of policy, which targeted particular countries, was intended to provoke chaos and instability in Middle East¹¹. This is how human rights are considered as a hypocritical imperial agenda that must be rejected.

The Islamic states should not, however, make the above points as an excuse for their poor performance in international human rights’ field. International human rights are the rights which are common to all human beings, whether in the West or in the East; it permits no derogation. To believe that such rights and freedoms belong only to the people of the West, is to commit oneself to perpetuating the belief that Islam is a static and uniform system and should not be intruded by foreign ideas such as human rights and democracy.¹²

The proponents of non-compatibility do not reject the rights *per se*. They seem to be disappointed and protesting against Western hegemony and thus opposing any ideology championed by the West.¹³ Non compatibility approach has been adopted mainly by Muslim conservative scholars and based on their writings by Muslim governments.¹⁴ Several arguments are put forward by them which can be summarized as: every society has its own way of life which is influenced by its history, culture, religion, etc. Concept of human rights and morality in a given society depends on those religious and cultural contexts and cannot be interpreted without paying a due regard to them. Therefore, for realization of human rights in a Muslim society, due consideration to Islamic law and culture is a pre-requisite, which is missing in international human rights instruments. It is pointed out that the words “general principles of law recognized by civilized nations” in article 238(c) of Statute of International Court of Justice, “consideration...to the representation of different forms of civilization and of the principal legal systems” in article 31(2) of International Covenant on Civil and Political Rights and similar words in other international instruments admit the need of considering, along with the Western, other cultures and legal systems as well.¹⁵ It is also argued that in Islam rights and duties are divine and not the product of human’s mind. International human rights are anthropocentric, in which everything revolves around human being, while Islamic scheme of rights is theocentric, i.e. everything belongs to God, and man is to serve Him. In Islam rights are permanent and

⁸ Words in parenthesis and italicized are added by the present author

⁹ Huntington, S.P., *The Clash of Civilizations and the Remaking of World Order*, quoted by Mashood Baderin, 15

¹⁰ A. Elizabeth Mayer, *Islam and Human Rights: Tradition and Politics* (3rd edn, Westview Press Colorado 1999) 6

¹¹ Above (n.3)

¹² Elizabeth Mayer (n.7) 7

¹³ Mashood Baderin (n.1) 15

¹⁴ Niaz A. Shah, ‘Women’s Human Rights in the Koran: An Interpretative approach’ (2006) 28, *Human Rights Quarterly*, 868

¹⁵ Mashood Baderin (n.1) 27

eternal since they are granted by God, while international human rights law is man-made and susceptible to changes so the two systems are incompatible.¹⁶

Non-compatible approach cannot be agreed with, however. Critical analysis of this approach based on cultural/Islamic relativism shows that “it is prone to abuse and may be used to rationalize human rights violations by different regimes.”¹⁷ For example, the blasphemy laws in Pakistan, enacted by a military dictator, General Zia Ul Haq, have at times been used to initiate politically motivated prosecutions, mostly against Ahmadis and Christians. One of the most notorious cases was that of Dr. Akhtar Harold Khan, a distinguished writer and sociologist, who was charged with blasphemy for writing a poem. The poem was about a simpleton who was devoured by a lion that he had raised. The poem was referring to Zia’s military coup d’état and execution of Zulfukar Ali Bhutto, an elected prime minister, to whom he owed his high military position. Dr. Akhtar was accused to slur the fourth caliph Ali, the cousin of the Prophet, who was also known as the lion of God.¹⁸

Global acceptance of international human rights, as revealed by an increasing number of ratifying states, requires that international human rights standards should not be modified or restrained on the ground that they are not according to the wish of a particular culture or religion. Since Muslim governments have “reaffirmed” their “faith in the fundamental human rights”¹⁹ and are resolved to achieve, promote and encourage them.²⁰ “It is surprising” says Elizabeth Mayer, “when governmental spokesperson invoke “Islam” and “Eastern Culture” to justify their violations of human rights.”²¹

Differences of opinion among the Islamic states themselves as to what contradicts Shari’a and what does not makes it difficult to denounce international human rights in the name of Islam. For example, Article 18 of Universal Declaration of Human Rights, which guarantees, inter se, right to change one’s religion was condemned by Saudi Arabia as contradictory to Islamic law and abstained from voting on it but Pakistani ambassador fully supporting it argued that Quran stated that “neither faith, nor conscience which gave birth to it, could have an obligatory character.” Quran says “Let he choose to believe, believe and he who choose to disbelieve, disbelieve.” Islam condemns not lack of faith, but hypocrisy.²²

Last but not the least; proponents of non-compatibility ignore that Islam is a religion for all men and all times. Quran does not regulate the relationship between man and God only, it also provides for relations between man and man (*muawalat*); true, man is servant of God but not servant of man.²³ According to Ebrahim Moosa, from the very start, Islamic teachings have been deeply concerned with the social, ethical and religious conditions of man. The deity introduced by Prophet Muhammad (PBUH) to the world was both the “Lord of the World” and “Lord of the People.” Quran was not meant only to reveal the God; human being has been also the main theme of Quran’s revelation.²⁴ Whatever definition is ascribed to human rights, the

¹⁶ Above (n.11)

¹⁷ Mashood Baderin (n.1) 27

¹⁸ Elizabeth Mayer (n.7) 164

¹⁹ Preamble to United Nation Charter, 1945

²⁰ Article 1(3) of UN Charter

²¹ Above (n.7) 12

²² U.N. GOAR, 3rd Comm., 3d Sess., Pt. I, Plenary Mtg., 890; also see John Kelsay, *Saudi Arabia, Pakistan and the Universal Declaration of Human Rights*, in *Human Rights and the Conflict of Cultures: Western and Islamic perspectives on Religious Liberty*, ed. David Little, J. Kelsay, and Abdulaziz Sachedina (University of South Carolina Press Columbia 1988) 35, 36

²³ Barbara Stowasser quoted by Niaz A. Shah, above (n.11)

²⁴ Ebrahim Moosa, ‘The Dilemma of Islamic Human Rights Schemes’ (2000-01) 15, *J. L. & Religion*, 187

ultimate purpose is the protection of human dignity; hardly there would be any civilization today which would not ascribe to it.

Compatibility of Islamic Laws with Human Rights

General theme of the Islam is reformation, emancipation and equality.²⁵ Elizabeth Mayer says that even without studying the question of how Islam relates to human rights issues. Her experience and work in the field of human rights have convinced her that Islam is not the cause of human rights problems endemic to the Muslim world.²⁶

The official position of most of the Islamic states as expressed by their ratification of UN Charter, UDHR, other human rights treaties and Charter of Organization of Islamic Conference whereby they reaffirmed “their commitment to the UN Charter and fundamental human rights and international law”, signifies that they deem international human rights as compatible with Islamic law.²⁷ Therefore, when the Muslim governments take the plea of Shari’a for any reservation they put on human rights treaty or for violation thereof the justifications they offer must be carefully looked into to see whether there is any political motive involved. For example, General Zia, having overthrown an elected government and suspending the fundamental human rights guaranteed by the Constitution of Pakistan, took the plea of Islam to justify and consolidate his unconstitutional government. Analogizing himself with an Amir, Zia in an address said:

One of the fundamental points indicated by study of Quranic verses and hadiths of Prophet Muhammad (PBUH) is that obedience to Amir or the Head of the State becomes mandatory for his subjects irrespective of the personal dislikes that someone may harbour for him or his actions as long as the Amir abides by injunctions of God or his Prophet (PBUH). Not only I say but the legal experts and scholars also agree with me that my Government is a constitutional government which has been acting upon and in accordance with the tenets of Islam.²⁸

Islamic law is argued to be compatible with international human rights in many aspects; however, the differences cannot be ignored, especially in the fields of gender equality, freedom of religion, freedom of expression, and rights of children.

On gender equality, articles 2 of UDHR, 2, 3 and 26 of ICCPR and various articles of Convention on the Elimination of All Forms Discrimination Against Women, 1979,²⁹ especially article 16, all imply that man and women are equal in all walks of life, including in family matters and there shall be no discrimination against them. Human Rights Committee in its comment on Article 3 of ICCPR said that “equality during marriage implies that husband and wife should participate equally in responsibility and authority within the family.”³⁰ And that “States parties should ensure that traditional, historical, religious and cultural attitudes are not used to justify violations of women’s rights to equality before law and equal enjoyment of all

²⁵ S. S. Ali, ‘Women’s Human Rights in Islam: Towards a Theoretical Framework’ (1997-98), 4 Y. B. Islamic and Middle E. L. 117

²⁶ Elizabeth Mayer (n.7) preface

²⁷ See preamble to the Charter of OIC, 1972; also see the preamble to UN Charter and UDHR which have been signed by almost all Islamic states.

²⁸ Address of General Zia quoted by E. Mayer (n.7) 33, 34

²⁹ Entered into force in 1981

³⁰ General Comment No. 28, para 25

Covenant rights.”³¹ These provisions and interpretations are in clear contrast to Islamic schemes of human rights.

Article 6 of OIC Cairo Declaration on Human Rights in Islam, for example, strikes equality between man and woman in human dignity and gives her civil entity and right to financial independence but “the husband is responsible for the support and welfare of the family.”³² It seems ambiguous and less than equality in family life. Similarly article 19 of Iran’s Constitution says that “All people of Iran, whatever the ethnic group or tribe to which they belong, enjoy equal rights; and colour, race, language and the like, do not bestow any privilege.” It overlooks to ensure equality between man and woman and people of different religions. This overlooking of equality between man and woman in family life and reservations made by different Muslim states to provisions striking gender equality are claimed to be based on the Islamic law. For example, Bangladesh, while ratifying the CEDAW, put reservation to articles 2, 13(a) and 16. 1(c) and (f) saying they conflict with Sharia law.

This attitude of Muslim governments, as said earlier, is based on political motives and conservative interpretation of Quran and Sunnah, the primary sources of Sharia. However it must be borne in mind that Quran is an ethical cum religious revelation and not a legal code.³³ Only 500 out of its total 6,666 verses have a legal element, majority of which deal with worship rituals. In the strict sense only 80 verses deal with legal subject matter.³⁴ Why and how the verses, which are not more than six, that establish dominance of male over female, overweigh the whole text of Quran, is difficult to understand.³⁵ The status of women and family laws in Islam, even today, is determined by the interpretation of these verses in second and third centuries of Islamic calendar, by men who, “were heavily influenced by the socio-economic, political and indigenous tribal values of the prevailing times,”³⁶ and who “frequently adopted male-centric approach.”³⁷ For example, conservative scholars justify dominance of men, amongst other, on the ground of verse 4:34 which says that: “Men are the protectors and maintainers of women because God has given the one more (strength) than the other and because they support them from their means.”³⁸

But the moderate scholars challenge the narrow interpretations of the verse. As Al-Hibri says that the verse has no reference to physical or mental superiority of men. She says men are *qawwamun* over women in matters where some of men are given by God more than some of women and in what men spend of their wealth over women. Men as a whole are not superior to women as a whole.³⁹ Esposito also agrees that it is basically economic and financial superiority that gives some males a degree of preference.⁴⁰ Since in the present day world Muslim women are not, very often, lagging behind men in almost all walks of life; the concept of gender equality should, in accordance with true spirit of Quran, prevail now. As Quran says that “the believers, men and women, are *awlia*, one of another.”⁴¹ *Awlia* can be translated as protector or guide.

³¹ Ibid, para 6

³² Article 6 of OIC Cairo Declaration on Human Rights in Islam, 1990

³³ J. Rehman, ‘The Sharia, Islamic Family Laws and International Human Rights Law: Examining The Theory and Practice of Polygamy and Talaq’ (2007) 21, International Journal of Law, Policy and the Family, 108

³⁴ A. Rahim, *Muhammadan Jurisprudence* (Mansoor Book House Lahore 1995) quoted by S. Ali, (n.22)

³⁵ S. Ali, (n.22)

³⁶ J. Rehman (n.31)

³⁷ Ibid

³⁸ The Quran, verse 4:34

³⁹ Al-Hibri quoted by S. Ali (n.22)

⁴⁰ Quoted by S. Ali, *ibid*

⁴¹ The Quran, verse 9:71

Similarly a liberal interpretation of verses providing for of polygamy, talaq, etc. can abridge the differences between international human rights and Islamic family laws.

As for freedom of religion and apostasy, international human rights law does not allow any restriction on a person's religious beliefs.⁴² Article 18 of UDHR gives an absolute right to adopt or manifest any religion or belief and includes the right to change one's religion. Article 18 of ICCPR says that everyone has the right to freedom of thought, conscience and religion which includes the right to adopt a religion or belief of one's choice, and that no one shall be subject to coercion which would impair his / her freedom to have or to adopt a religion or belief of his / her choice. It is pointed out that unlike UDHR, article 18 of ICCPR, does not include the right to change one's religion. Saudi Arabia, which had failed in 1948 when UDHR was being drafted, was this time successful along with Yemen, Egypt and Afghanistan, to delete the right to change one's religion from article 18 of ICCPR. However, HRC observed that freedom "to have or adopt" includes the freedom "to replace one's current religion or belief with another or to adopt atheistic views."⁴³

Freedom of right to change one's religion or to hold atheistic views has been controversial among Muslim scholars; Quranic verses have been interpreted differently. For example Quran says that "there is no compulsion in religion: truth stands out clear from the error"⁴⁴ In another verse Quran says that whoever accepts it (Islam) does so for his own good and whoever rejects it does so at his own loss and none may be compelled.⁴⁵ In the presence of these and other such verses advocating religion by coercion is "to temper with the process of intellection (and) constitutes threat to man's integrity and authenticity" which is unacceptable from Islamic point of view.⁴⁶ Muslims are required to present their faith to humanity rationally through intellectual persuasion, wise argument and fair preaching.⁴⁷ However, the traditional scholars such as al-Tabri, say that "no compulsion" verse is meant only for the 'people of the book' and not for idolaters.⁴⁸ Ibn Hazm argues that 'no compulsion' verse has been abrogated by verse 9:36 which says that "fight the polytheists altogether as they fight you altogether, and you know that God is with those who keep their duty to (Him) and thus according to him compulsion is allowed in religion."⁴⁹ Compulsion in religion is controversial; however moderate jurists opine that Islam prohibits it.⁵⁰

Apostasy for which the traditional practice has been death penalty is also controversial among Muslim jurists and conflicting to international human rights law. Death penalty for apostasy is based on a saying of the Prophet, "Anyone who changes his religion, kill him."⁵¹ Traditional scholars like Maudidi and Hamidullah are of the view that since Islamic state is based on religion hence apostasy constitutes politico-religious rebellion.⁵² This is why it is penalized with death punishment. However, this saying has been identified as solitary and weak in its transmission so it lacks the authority to become a source of law. Pakistan's representative

⁴² Elizabeth Mayer (n.7) 149

⁴³ General Comment No. 22, para 5

⁴⁴ The Quran, verse 2: 256

⁴⁵ The Quran, verse 10: 108

⁴⁶ Al-Faruqi, quoted by Mashood Baderin (n.1) 120

⁴⁷ The Quran, verse 16: 125

⁴⁸ Quoted by Mashood Baderin (n.1) 121

⁴⁹ Ibid 122

⁵⁰ Also see the Article 10 of OIC Cairo Declaration on Human Rights in Islam and Article 2-A of Pakistan's Constitution, 1973 for the changed trend.

⁵¹ Reported by Al-Bukhari quoted by Mashood Baderin (n.1) 124

⁵² Hamidullah, Muslim Conduct of State (Rev 7th edition) 174

to UN, when article 18 of UDHR was being drafted, opposing the objections of some Muslim countries, argued that “the Moslem [sic] religion was a missionary religion: it strove to persuade men to change their faith and alter their way of living...but it recognized the same right of conversion for other religion as for itself.”⁵³ Neither in Quran is there any punishment for apostasy in this life, nor Prophet sentenced anyone with death penalty for apostasy but some of his companions consider it a sin for which there is ta’azir punishment, to be regulated by the state.⁵⁴

Human Rights in Islam

In summary, we can say that Islam does not discriminate based on any physical differences such as nationality, race, color, or gender (Kaifi and Mujtaba, 2012). In Islam, all human beings are substantially the same, and no persons should be discriminated against based on their physical appearance, ethnicity or place of birth (Mujtaba, 2007b, pp. 171-174). All human beings are the same, and thereby related to one another to form a community as friends, family members, brothers, and sisters. A country may have geographical boundaries and may be located in any part of the Earth, Islamic rules and guidelines regarding human rights and privileges are not restricted to such limitations. Islam has clarified some universal rights that are basic and applicatory to all humanity without regard to circumstances or man-made territorial borders. These rights apply to all human beings, whether a person is Muslim or not, these rules should be obeyed for the sake of the society in general. Human life is sacred in all of its forms, and human blood should not be spilled without justification. The Quran (5:32) equates killing of one person without just cause to the killing of entire human race.

Whoever slays a soul not to retaliate for a soul slain, nor for corruption done in the land, should be as if he had slain mankind altogether and whoever saved a human life shall be regarded as though he had saved all man-kind (5:32).

Islam does not allow anyone to mistreat women, children, older people, or people who are sick or wounded badly in any sense whatsoever. As a matter-of-fact, Islam encourages respect for women, feeding the hungry, treating the injured, and educating children without considering their religious beliefs or cultural backgrounds. The fundamental human rights in Islam are things that have been granted to all people from God, and not from an ad hoc task force or a legislative assembly that has been appointed by human beings. Things that have been, or will be, created by people can be taken away just as easily as they were created because they can prove to be harmful in different situations or as time changes. However, in Islam, human rights are fundamental to all human beings and they are granted to everyone from God. They will always stay unchanged and will be applicable universally, regardless of race, gender, nationality, and so on. All Muslims have to accept, live by, and enforce these fundamental human rights. No one should deny them, change them, violate them in any situation or circumstances because the verdict of Quran for such a person or society is clear: “Have no fear of man; fear Me, and do not sell My revelations for a paltry end. Those who do not judge by what God has sent down are the disbelievers” (5:44).

⁵³ See UN Doc A/PV. 182 at 890 (1948)

⁵⁴ El-Awa quoted by Mashood Baderin (n.1) 124

The following human rights for an Islamic State have been stated and clarified by the Islamic scholars, World Assembly of Muslim Youth (WAMY) and the Institute of Islamic Information and Education (IIIE):

1. *The Security of Life and Property*: Prophet Mohammed (PBUH) has stated that, “One who kills a man under covenant (i.e. Dhimmi = non-Muslim citizens of a Muslim state) will not even smell the fragrance of Paradise.”
2. *The Protection of Honor*: The Holy Quran (49:11-12) says: I) You who believe, do not let one (set of) people make fun of another set. II) Do not defame one another. III) Do not insult by using nickname. IV) Do not backbite or speak ill of one another.
3. *Sanctity and Security of Private Life*: The Quran has laid down the injunction, I) Do not spy on another (49:12). II) Do not enter any houses unless you are sure of the occupant’s consent (24:27).
4. *The Security of Personal Freedom*: Islam has laid down the principle that no one can be or should be imprisoned without being proven guilty in an open court. Arresting people on the basis of subjective suspicions, imprisoning people without proper court documents, and without giving people a reasonable opportunity to defend themselves is not permissible in Islam.
5. *The Right to Protest against Tyranny*: In Islam, all powers belong to and come from God, and people have only been empowered with this trust. Everyone who becomes a recipient of such a power has to stand in an “aweful” reverence before his people towards whom and for whose sake he will be called upon to use these powers. People can protest against government’s tyranny, because the Quran (4:148) says, “God does not love evil talk(harsh words) in public unless it is by someone who has been injured thereby. God hears all and knows all. Whether you do good openly or in private, whether you forgive an injustice.”
6. *Freedom of Expression*: Islam says that everyone has the right to freedom of speech and the right to express themselves, so long as it is for the propagation of virtue and truth, and not for spreading of evil and wickedness. Islam does not allow the propagation of evil and wickedness under any circumstances. Islam does not give anyone the right to use abusive offensive language as means of criticism.
7. *Freedom of Association*: Islam has given rights to people to associate with whomever they choose to and to form parties or organizations. This right is subject to certain general rules and must not be formed for evil or wickedness.
8. *Freedom of Conscience and Conviction*: Quran (2:256) says, “There should be no coercion in the matter of faith. True guidance is now distinct from error. He that renounces idol-worship and puts his faith in God shall grasp a firm handle that will never break. God hears all and knows all.” On the contrary, most totalitarian systems deprive the individuals of their freedom. In the past history, slavery meant total control over another man and today it has been totally abolished, but in its place totalitarian societies impose a similar sort of control over people.
9. *Protection of Religious Sentiments*: Islam has also given people the right that their religious sentiments will be given due respect, and nothing will be said or done which may encroach upon their rights.
10. *Protection from Arbitrary Imprisonment*: The Quran (35:18) says, “No bearer of burdens will be made to bear the burden of another. If a laden person cries out for help, not even a near relation shall share its burden.” In Islam, people are not to be arrested or imprisoned for the offenses of other people or other societies.

11. *The Right to Basic Necessities of Life*: Islam has given rights to the needy individuals who may be in need of help financially, socially, psychologically, or physically. The Quran (51:19) states, “And in their wealth there is acknowledged right for the needy and the destitute.”
12. *Equality Before law*: All individuals have been given the right to absolute and complete equality in the eyes of the law.
13. *Rulers are Not Above the Law*: Prophet Mohammed (PBUH) has clearly stated that none can be above the law. Even if family members of the King commit a crime, they should be punished according to the law.
14. *The Rights to Participate in the Affairs of State*: Islam says that all leaders of the government should be elected by the people of the society without coercion. The Quran (42:38) says, “...And to conduct their affairs in mutual consent among themselves.”

Islam tries to achieve these human rights, and many others mentioned in the Quran, by providing certain legal safeguards, but mainly by asking all human beings to transcend the lower level of animal life, and to be able to go above and beyond the mere ties fostered by the kinship of blood, racial biases, linguistic arrogance, and economic privileges. Islam invites people to learn to reason with each other, and speak by speaking a language that is understandable to all parties (Mujtaba, 2007b).

Summary

International human rights’ too much reliance on Western legal systems and philosophies and overlooking other systems and cultures, accompanied by double standards of some Western countries makes them doubtful among the non-Western people, especially Muslims; hence they often reject it all together. While other Muslims do not reject the rights *per se* but consider them incompatible with Shari’a. This approach is mainly followed by conservative jurists and Muslim governments. Therefore, whenever they put reservation to human rights treaties or are criticized for violation thereof, they take the plea that this is inconsistent with Islamic law.

Moderate scholars, argue that since Islam is a dynamic religion meant for all people at all times and who interpret Quranic verses and hadiths according to the needs of present time and not in 1400 years old Arabian fashion, consider international human rights compatible with Islam. They admit the existence of problems and differences in some fields but differences do not mean incompatibility. They believe that differences can be evolved. Evolving a universally accepted concept of human is difficult but not impossible; it needs a “sincere and justificatory cross cultural evaluation of human dignity with a view to evolving international moral values which no repressive regime may find easy to circumvent in the business of State governance.”⁵⁵ According to Baderin this common understanding can be evolved by getting international human rights law engaged in dialogue with Islamic law. The “adoption of ‘margin of appreciation’ by international human rights law and *maqasid al-Sharia* (overall objective of Shari’a) and *maslaha* (welfare) by Muslim states in their interpretation and application of Islamic law” can harmonize the differences between the two systems.⁵⁶

An-Na’im suggests a drastic reform of Shari’a to resolve its differences with international human rights law. He says that Quranic verses and hadiths which are inconsistent with universal human rights should be explained in historical context, while those which are supportive of

⁵⁵ Mashood Baderin (n.1) 29

⁵⁶ Ibid, preface

human rights should be cited as the basis of legally applicable principles and rules of Islamic law today.⁵⁷ He also suggests setting aside the Madani verses and implementation of the Meccan. However, it is controversial as abrogating a Quranic verse is solely the right of God.⁵⁸ Awareness of such issues and culturally appropriate discussion of them are important for managers and expatriate who work with Muslims across the globe.

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⁵⁷ Abdullah Ahmad An-Na'im quoted by Niaz A. Shah (n.11)

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