Islam and the Reconsideration of Universal Human Rights

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Abstract

The greatest threat to universal human rights today is believed by many to be the religion of Islam. In reframing the perceived conflict between Islam and human rights, however, the threat of foundational, in particular, religious, beliefs to universal values diminishes. Rather than ask the question of whether Islam is compatible with human rights, the question that ought to be asked is: how can Islamic values contribute to universal human rights? Although this perspective appears to invite the problem of relativism, it is actually a reconsideration of the original intent behind the Universal Declaration of Human Rights (1948). From the view of Islamic thinkers, Islam should help to determine human rights; human rights ought not to determine Islamic beliefs. Influential Islamic scholars emphasize the right to democracy, tolerant societies, and freedom of conscience as the most important of human rights. Secondary rights, such as those dealing with social customs, are difficult to articulate on a universal basis because the living memory of colonialism in Muslim societies has resulted in sensitivity to forms of Western cultural domination. A multi-foundational and minimalist approach would offer the best framework for human rights because of its ability to accommodate diverse religious and philosophical worldviews.

The demise of universal human rights has often been blamed on Islam.[1] This simple assessment certainly belies the complexities of the religious tradition, but it also makes claims about universal human rights that require further examination. Part of the epistemic failure with regard to understanding universal values in relation to this religious tradition lies in our assumptive questions. The question that is typically, but erroneously, put forward is whether Islam is capable of supporting a universal notion of human rights. The more illuminating question that ought to be asked is: how do Islamic thinkers conceive of universal human rights? In reframing the question we begin not by measuring Islam against the yardstick of human rights, but by measuring human rights against the yardstick of Islam. This change in perspective is not, as it ostensibly appears, a validation of relativistic values. Rather, it attempts to reconsider foundational, especially religious, views of universal human rights for the 21st century.

The change in perspective is arguably a renewal of the original intent of the framers of the Universal Declaration of Human Rights (UDHR). Research into the history of this document indicates that much consideration was given to the inclusion of "non-Western" voices. Archived UNESCO documents suggest that the instigators of the UDHR expressed a self-consciousness of Western bias. They corresponded with the likes of Gandhi and Nehru, as well as representatives from nations in East Asia and South America. They established a

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[1] A plurality of Americans, French, Germans, and Russians hold unfavorable opinions towards Muslims and believe that Islam encourages violence. Pew Research Center for People and the Press, "A Year After Iraq War: Mistrust of America in Europe Ever Higher, Muslim Anger Persists, A Nine-Country Survey" (March 16, 2004); Pew Research Center for People and the Press, "Plurality Sees Islam as More Likely to Encourage Violence" (September 9, 2004).

Philosophers' Committee to explore non-Western cultures as part of its mandate to promote understanding among diverse traditions.[2] The Philosophers' Committee sent out queries to and examined the responses from scholars, philosophers, religious leaders, and politicians from non-Western, non-Christian societies. Delegates from Muslim-majority nations, including but not limited to Egypt, Syria, Iraq, Saudi Arabia, and Pakistan, asserted their opinions with regard to the articles of the UDHR in subsequent drafting committees as well as in the larger General Assembly meetings. When the UDHR was first officially formulated in 1948, it provided a basis for the articulation of human rights across cultures.

While the self-awareness and inclusive intent of the UNESCO Human Rights Committee were laudable, it was nonetheless a creature of its time. Although non-Western, non-Christian voices were welcome, they constituted a minority of active participants in the drafting of the UDHR. The majority of those involved with the project were American or Western European highly educated men (the notable exception to sex being Eleanor Roosevelt). Indian philosopher Jinnu Krishnamurti wrote a letter to the committee expressing concern that the document focused too heavily on lofty ideals that were of interest primarily to wealthy and powerful first world nations and that it failed to address sufficiently the most basic needs of the majority of the world's population. He suggested that UNESCO might want to concentrate their efforts towards "what ninety-nine percent of the human race want—food, shelter, a secure family life and to be left in peace by bosses and busybodies. Unfortunately the one percent who are interested in power and ideals and ideologies are the ones who call the tune."[3] These statements by Krishnamurti speak directly to the majority of the world's Muslims, who were neither then nor now adequately represented among the privileged classes of United States or Europe.

Despite the procedural imbalances evident during the creation of the UDHR, the most prominent Islamic thinkers of the last century readily assented to the idea of the human rights. This is clear not only in their adoption of the language of human rights (in Arabic, they coined the phrase *huquq al-insaniyya*, i.e., the Rights of Humans), but also in their depictions of Islam as the greatest proponent of human rights. The adoption of human rights as not only acceptable, but an articulation of Islam is all the more remarkable given the historical context of colonialism preceding the advent of the UDHR.

Islamic scholars were well aware of the irony that their former colonizers were now the vanguards of an ideological revolution purporting to assert the equal dignity of all humans regardless of race, class, creed, or geography. Instead of disclaiming human rights altogether, however, Islamic thinkers provided commentaries that clarified from their perspective what human rights entailed. They stressed the need for the most basic of human rights, but insisted that different cultures and traditions be allowed to interpret these basic rights as they saw fit. The most conservative and anti-Western thinkers, as well as the most liberal and Western-embracing thinkers, viewed the right to democracy, toleration, and freedom of conscience as the most important human rights, but determined also that these rights depended upon economic stability and security. Most importantly, Islamic scholars argued that basic human rights were entirely compatible with religious teachings.

Given the diversity of thought within any major religious tradition, the existence of disagreements among Islamic scholars with regard to human rights is unsurprising. The most glaring difference concerns not strictly theological issues about human rights, but political strategies for religious societies. Sayyid Qutb and Abdolkarim Soroush, two revered Islamic thinkers who have commented extensively upon Islam and human rights, offer views that

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[2] See, Memorandum dated 12 September 1947, UNESCO "Committee of Experts to consider a UNESCO Programme in the Field of Philosophy and Humanistic Studies," Part VI: Enquiries into Cultural Characteristics For International Understanding.

[3] Letter to J. Havet, dated 21 April 1947.

illustrate this point. To ensure that Muslims appreciate their own religious heritage in a post-colonial era, Qutb stresses the extraordinary value of Islamic resources in solving contemporary problems and dismisses the value of Western resources, particularly those that might be categorized as humanistic or social scientific.[4] Qutb asserts that for Muslims, human rights ought to be derived almost entirely from divinely revealed sources, such as the Qur'an and the documented teachings of the Prophet. Soroush, alternatively, sees problems that are found across cultures as problems that require cross-cultural solutions.[5] He seeks answers not only in Muslim authorities, but also in figures of the European Enlightenment and continental philosophy. Soroush believes that Islam provides an important perspective towards human rights, but that other sources of knowledge are required to ensure human rights. Although the inclusive approach of Soroush suggests that he would be more open to the idea of human rights than Qutb, this is actually not the case. Qutb offers a view of human rights that is certainly more wary of Western bias, but is in fact as insistent as Soroush upon the justice of Islam. Qutb's culturally exclusive approach is a reaction to Western colonial influence. The differences between Qutb and Soroush translate primarily into different practices of acquiring and sharing knowledge.

For Muslim thinkers, issues of basic human rights are best understood as religious responsibilities with political implications, rather than as primarily political issues with religious overtones. Islam provides a lens with which to view and solve political problems; Islam is not the problem to be solved with political solutions. Rather than approach human rights as a non-foundational, political concept, the most significant Islamic thinkers assume that human rights have religious foundations. With this in mind, the most important of these human rights include the right to democratic government, the right to live in a tolerant society, and the right to freedom of conscience.

Islamic scholars writing contemporaneously to and after the UDHR articulate the right to democracy as an expression of their religious faith. They employ different interpretive strategies to show how Islam requires that people participate in their governments. Some religious authorities, such as Abul Ala Maududi, who is typically understood as a conservative scholar, proclaim that Islam provides the best foundation for democratic government because it asks people to consider what God would want, rather than what they selfishly desire from their society.[6] Individuals in a democracy become their own caliphates in that they each become representatives of God in this world. Other scholars take the Qur'anic concept of *shura*, or consultation, to construct arguments for the necessity of public participation in government. Either by direct vote or by representative vote, the public "consults" the leader on issues of governance. Fazlur Rahman argues that the concept of *Sharia*, or divine law, has been confused with human law, and as a result numerous injustices have arisen. Humans must strive over time to create laws that approximate as much as possible divine law, which would respect the dignity of each person as a creation of God. However, unscrupulous religious leaders have convinced the public that their man-made version of *Sharia* is God's law and have, in effect, instituted policies that are unjust and go against Islamic teachings.

The right to live in a tolerant society and the right to freedom of conscience are defended as Islamic based on the Qur'anic injunction that "There shall be co coercion in matters of faith" (2:256). Scholars demonstrate the application of this verse with the historical category of *ahl al-kitab*, literally, people of the book, in reference to Jewish and

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[4] Sayyid Qutb, *Social Justice in Islam*, trans. John B. Hardie (New York: Octagon Books, 1970).

[5] Abdolkarim Soroush, *Reason, Freedom, and Democracy in Islam: Essential Writings of 'Abdolkarim Soroush* (New York: Oxford University Press, 2000).

[6] Abul A'la Maududi, *Human Rights in Islam* (Lahore: Islamic Publications, 1977).

Christian scripture, who were not required to convert to Islam and were granted freedom of religion under Muslim rulers in exchange for the payment of additional taxes. In nations where Muslims constituted a minority population, as in India, Islamic thinkers acknowledged that even those of non-Abrahamic faiths, such as Hindus, ought not to be converted forcibly. To take this injunction against religious conversion seriously requires that Muslims demand a religiously tolerant society both for others as well as for themselves.

Although these religious arguments seem to validate universal human rights, they can at times stand at odds with the principles of the UDHR. Maududi, for instance, while he defends the basic rights described above, also presents arguments in defense of Islamic morality that could severely mitigate freedoms. He argues for toleration, but also elaborates upon the necessity of "enjoining the good and forbidding the evil," without addressing the tensions that may arise between these two injunctions. He does not provide guidance as to which principle takes priority should the two come into conflict, in the case, for example, of a Muslim who denounces Islam. Qutb, who believes that virtually all non-scientific literature from the West poses a threat to young and impressionable Muslim minds, argues that Muslims may persecute non-Muslims who present "ungodly opposition" to Islam. These conditions mitigate, potentially severely, universal notions of human rights.

Even admitting these difficulties, Islamic views of human rights present a genuine challenge both non-foundational and elaborative human rights frameworks. If human rights activists and thinkers are to acknowledge and tolerate the presence of primarily religious, rather than political, worldviews, then they must concede that a foundational approach to human rights provides a possible framework for universal human rights. Moreover, a minimalist approach which articulates only the most basic of human rights would symbolize non-interference from former colonizers with regard to religious, cultural, and political elaborations of those basic rights. Although a foundational and minimalist human rights framework surely elicits concern from secularists and advocates of comprehensive approaches, it is the preferred option in that it respects the diversity of cultures and histories, while insisting upon core universal values. Moreover, a foundational basis for human rights offers a far more compelling argument for its necessity compared to arguments based upon political or economic expediency, particularly for those societies who have suffered under such schemes in the past. A minimalist and foundational framework provides a superior impetus for universal human rights.

A foundational framework recognizes diverse religious beliefs and traditions as potentially helpful, if not necessary, in upholding human rights. Given that religious beliefs inform our basic values and function as a source of moral imagination, any robust discussion concerning human rights norms cannot avoid analyses of religion. While acknowledging that religion has been used to justify horrific acts throughout history, a foundational approach to human rights also recognizes that, among other things, religion has inspired the abolition of slavery, women's right to vote, the end of colonial rule, and the establishment of civil rights. These examples of humanistic progress succeeded not as a result of political or economic motivations, although they certainly played a part. Rather, divinely inspired claims of justice provided the primary and enduring motivation for these progressive movements.

Proponents of non-foundational approaches to human rights claim that human empathy, more so than foundational religious belief, ought to serve as the motivation for human rights.[7] A shared recognition that humans ought not to suffer or to live in terror becomes the basis for universal human rights. Religion, as articulated by one non-foundationalist, impedes the progress of human rights because it suggests that "only if

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[7] See Michael Ignatieff, *Human Rights as Politics and Idolatry* (Princeton: Princeton University Press, 2001); Judith Shklar, "The Liberalism of Fear," *Political Thought and Political Thinkers*, ed. Stanley Hoffman (Chicago: University of Chicago Press) 3-21.

humans get down on their knees can they save themselves from their own destructiveness," while humanism requires that people "stand up on their own two feet."[8] This commonly held assumption that religion rewards the meek and discourages demands for justice presents one facet of complex and multi-dimensional religious worldviews. Moreover, it denouncing the role of religion in human rights altogether, it denies the religious oppressed a shared ground for making claims to a religious oppressor. Religion cannot be reduced to simple description; its dynamism lends itself to both brutal acts of injustice as well as to powerful demands for justice.

A minimalist framework establishes basic threshold criteria for meeting the most critical of human rights with the understanding that diverse societies, with localized traditions, histories, and cultures articulate and enforce human rights norms in different ways. Thus, while human rights norms remain the same across cultures at the core, these norms are blurry at the edges. This minimalist approach responds to claims that human rights are a form of Western cultural imperialism by distinguishing between those human rights that are uncontested across cultures and those that are widely perceived as forms of cultural imperialism. To illustrate, few societies, whether formerly colonized or colonizing, would contest the right to freedom from torture (UDHR Article 5), while many find the right to marry without restriction due to religion (UDHR Article 16) disrespectful of traditional customs. Article 16 proved, in fact, one of the most hotly contested articles of the UDHR. The delegates of Muslim-majority nations, in a rare act of intra-Islamic unity, found troubling the right to marry without restriction due to religion. They argued that their religious tradition required that Muslims marry Muslims, and that this restriction was completely different from discriminatory laws that prevented marriages due to racial differences. Islam, they argued, forbade any form of racism; however, Islam, as a religion, made distinctions between Muslims and non-Muslims. The article as originally drafted was ultimately approved in a General Assembly meeting, but the lingering fear of cultural imperialism remains unaddressed. The arguments surrounding this article and its final inclusion into the UDHR are representative of the incomplete way in which foundational approaches to human rights were addressed at the time.

Jacque Maritain, the French Catholic scholar who led UNESCO's Philosophers' Committee during the creation of the UDHR, famously reported that "we agree about the rights, *but on condition no one asks us why*."[9] Though characteristically wry and humorous, Maritain's comment also intimates a final exasperated failure to articulate the *why* of human rights. Working with a diverse group of thinkers, Maritain appears to have given up the goal of determining how people with utterly different worldviews can agree upon the ends of human rights, but not upon the means for determining those ends. Maritain's words also beg the question as to why the articulation of different means proved to be so challenging. Were the philosophers intent upon convincing each other of their reasons for determining human rights? Were they not able to accept each others' reasons as valid? Did these discussions become so hostile that Maritian imposed the condition that all philosophers avoid speaking of the "whys"?

Maritain's Committee left open the question of foundations and perhaps did so wisely, considering the uncertain political, economic, and philosophical milieu in which it was working. Unfortunately, the situation of global politics and economics is today still dangerously uncertain, but the repercussions of the World Wars and colonialism are clearer today than they might have been over fifty years ago. We are also aware today of the miscalculations of secularization thesis, which purported that humans would become less

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[8] Ignatieff, 85.

[9] UNESCO, *Human Rights, Comments, and Interpretations* (New York: Wingate), 9.

religious with the continued development of science, technology, and industry. With this bit of hindsight, a revisiting of the question of foundations may prove worthwhile.

Although Islamic thought serves as a useful and pertinent case study for determining both how foundational values contribute to universal human rights and how religious views affect post-colonial societies, it does not stand alone in its potential contribution to human rights. Other religious traditions that have been under-represented in human rights discussions, as well as post-modern philosophical thought, offer sources for critiques that question common assumptions about foundational views of human rights. Even the "dominant" religious traditions of Catholicism and Protestantism require a re-examination for their value in human rights debate, particularly as their faithful in the southern and eastern hemispheres begin to outnumber those in North America and Europe. The idea of *multi*-foundational human rights has much to offer in a diverse global society that seems to value human rights, but views the UDHR as a relic tainted by a context of Western cultural dominance.

(The essay submitted is the work of only the individual whose name appears on the front page as the author.)